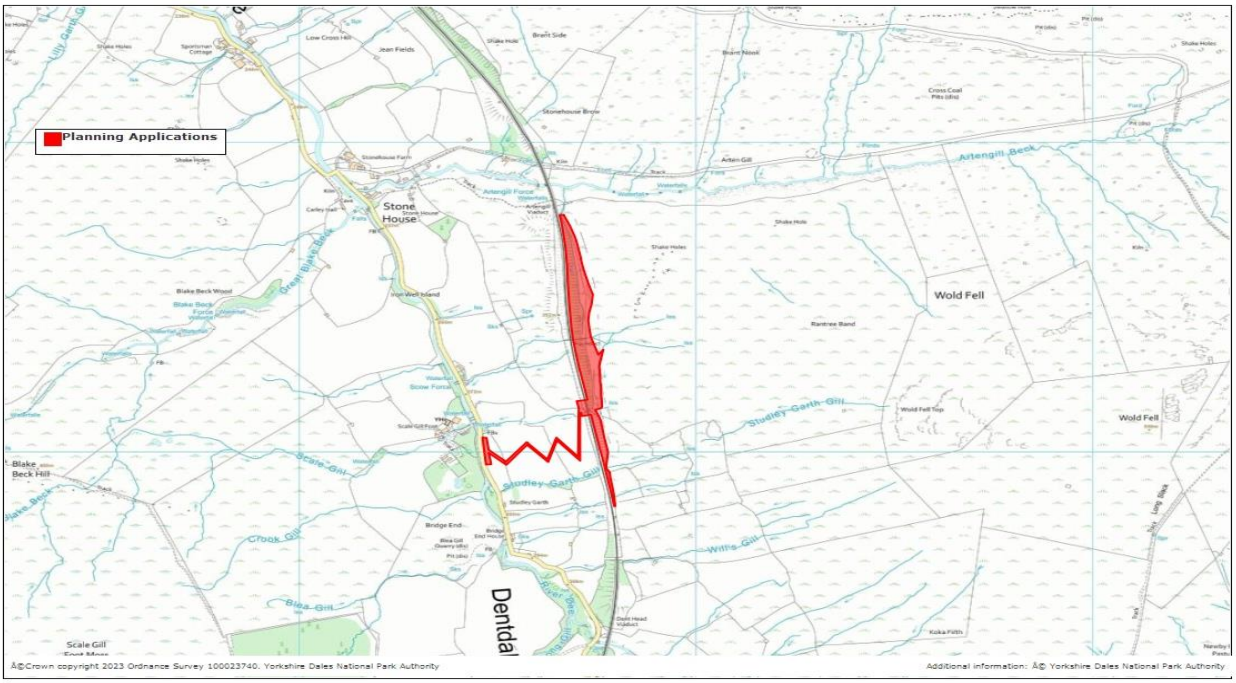
YORKSHIRE DALES NATIONAL PARK AUTHORITY

Committee:	Planning	**Parish:**	Dent
Date:	11 July 2023	**Officer:**	Mark Williams
Applicant:	Network Rail	**Application No:**	S/01/341
Site Address:	Settle-Carlisle railway line and adjacent land, off Cowgill, Dent, Sedbergh		
Proposal:	Full planning permission for rail cutting stabilisation works, associated temporary site access, haul road and compounds		



REASON FOR COMMITTEE CONSIDERATION

1. This application is reported to Committee for the following reason: the Parish Council recommendation is contrary to the decision which the Head of Development Management proposes to take.

APPLICATION SITE

2. The application site is a cutting on the Settle-Carlisle railway, south of Cowgill in Dentdale. The railway line and cutting sit above the minor road running north towards Dentdale. It lies between two viaducts; Dent Head to the south and Stone House to the north.

3. The cutting comprises soil and weathered rock cuttings. The land on either side of the cutting is farmland and moorland, rising to the east. The application site includes farmland down the slope from the railway line to the minor road in the valley bottom.

PROPOSAL

4. It is proposed to carry out stabilisation works to the cutting which is showing evidence of slope instability. The proposed works would comprise soil nail installation and netting across the site in order to stabilise the higher priority areas of the cutting. These works are within the current Network Rail boundary and so would be permitted development under Class A, Part 8 of the General Permitted Development Order, which allows: '*Development by railway undertakers on their operational land, required in connection with the movement of traffic by rail'*.

5. However the proposed works extend beyond Network Rail operational land, on farmland immediately to the east, and so planning permission is required for the work on that land. These works comprise the installation of a new 'crest ditch', designed to capture any surface water and take it to an outfall at Artengill Beck to the north. The existing ditch is in poor condition and this may have contributed to the recent landfall. The new ditch would include the installation of crossings to allow the farmer quad bike access to the moor. A stockproof post and wire fence would be erected to the north of the new ditch.

6. The application includes the construction of an improved access and temporary work compound on the east side of the minor road in the valley bottom. Also included is the haul road from the compound up to the cutting. The haul road would follow a similar route to a previous haul road (see below) but avoiding some of the steeper gradients.

7. The temporary compound would measure 75m long and 10m wide, with a 500mm deep stone base and would be bounded by stockproof fencing. It would house staff welfare units, generators and storage areas for machinery and equipment.

8. The temporary haul road would be 400m long and 5m wide, again with a 500mm base. The road would 'zigzag' up the slope in order to reduce the gradient. It would terminate in a hardcore area for material laydown close to the track, measuring 50m by 10m. A drainage ditch would be installed along the length of the haul road.

9. The haul road, compound and laydown area would be temporary features. They would be removed at the end of the construction phase (approximately 15 months) and the ground reinstated.

10. The proposed works are required in order to avoid a landslip onto the track. Such an event occurred in 2019, which resulted in the temporary closure of the line while emergency works were carried out. The remnants of the temporary haul road used to facilitate those emergency works are still evident on the hillside, together with the temporary compound to the east of the cutting, which was not satisfactorily restored.

RELEVANT PLANNING HISTORY

11. There is no relevant planning history.

CONSULTATIONS

12. The comments of statutory and non-statutory consultees are summarized below:

Area Ranger (Western Dales) - This application does not have an impact on the public right of way network.

Historic Environment Team - There are no real historic environment implications to this. There is a record for the aqueduct and care should be taken not to damage this. Otherwise the work area does not cross historic environment features. Given the lack of known historical features, archaeological monitoring is not required.

YNDPA Trees & Woodlands - The tree report supplied with the application is acceptable.

Considering the scale of the operation, suggest that an updated AIA, a Tree Protection Plan and Arboricultural Method Statement are needed.

In addition, it is noted that there is a loss of biodiversity within the metric. The loss of trees will contribute to this. As such we request some details of compensatory planting/landscaping.

YDNPA Wildlife Conservation Officer – The works will lead to biodiversity loss unless measures are secured that lead to creation of habitat to mitigate for the loss and deliver a biodiversity net gain.

The relevant measures are set out in the report prepared by NLG Ecology Ltd entitled 'Shale Cutting - V3 Habitat Calculation Supporting Document' (Amended 20/10/22).

It is recommended that habitat creation within the application site and biodiversity enhancement on two separate parcels of land owned by Network Rail are secured through the permission.

Other conditions are recommended:

• If works (including construction of the track) are to be carried out during the bird nesting season, a prior check is undertaken for ground nesting birds;

• trees that require felling are taken down in accordance with the methods outlined in Section 4.2.6 of the Preliminary Ecological Appraisal Report;

• Water pollution controls are implemented as per sections 4.2.11, 4.2.12 & 4.2.13 of the Preliminary Ecological Appraisal Report.

Environment Agency - No objection to the development as proposed.

The submitted Flood Risk Assessment prepared by Aecom (dated July 2021) is appropriate to the nature and scale of the development. Therefore satisfied that the proposed development would be safe and that it would not be at an unacceptable risk of flooding or exacerbate flood risk elsewhere.

Highways – No objections subject to conditions with regard to:

- Reinstatement of boundary walls, fences and gates
- Compliance with a Construction Management Plan (CMP)

Lead Local Flood Authority - The LLFA would normally expect that cut-off drains would be constructed in an unlined ditch (or lined with a permeable geotextile material),

with possibly a small, perforated pipe and then backfilled by granular drainage filter medium for the crest ditch. This would aid infiltration during low or normal flows into the ground but also allow for a higher capacity drainage route to prevent overtopping risk and erosion of the cutting.

In terms of increased flood risk to the road, it is noted that the intention is to provide trackside ditches draining to the stoned hardstanding area.

It is noted that it is now proposed to discharge the track-side surface water cut-off drainage to the existing watercourses instead of the stoned compound area. This is considered a more suitable arrangement and will reduce the flood risk to the highway.

These modified proposals satisfy previous concerns and the LLFA have no objections to the proposal.

Dent PC (dated 27.08.2021) – "The Council believes that this application is a long way from being fit for approval.

There has been no formal consultation with residents of Stonehouse hamlet who are likely to be adversely affected by these plans, the plans seem to have been drawn up very quickly with no proper consideration given to survey of land and assessment of water flow. There has been no consideration of the sometimes extreme weather conditions which have an adverse effect on the flow of water through Arten Gill Beck.

Furthermore, the replacement of a dry stone wall with a fence cannot be condoned as this is very likely to see the disappearance of stone over the coming years. The dry stone walls are an important feature of the dale and every effort must be made to protect them.

The Parish Council is of the opinion that it cannot support this application and, at the very least, would like to see this go to committee. The council would like to see further expert surveys and assessments completed along with a consultation of residents in the surrounding area."

Environmental Health - No objection in principle to the above proposal. Note the main compound and works access is located in proximity to a residential dwelling. Therefore recommend the following conditions are attached to any permission granted.

- Method Statement, to include measures to reduce dust, dirt, parking, un/loading
- Construction Noise
- Construction hours

PUBLIC RESPONSES

13. Advertised by site notice. Expiry date: 12th August 2021. Representations received from 5 local residents, objecting to the proposed development.

Grounds of objection:

- Increased flood risk
- Construction traffic
- Unsuitable road access
- Noise pollution during construction
- Light pollution from construction compound
- Restricted access to farmland

- Use of fencing instead of dry stone walls
- Boundary disputes

ASSESSMENT

14. Key Issues:

- Planning policy
- Highways
- Drainage
- Residential amenity
- Heritage
- Biodiversity
- Farm Access
- Parish Council comments
- Equality Act

PLANNING POLICY

15. Local Plan Policy SP2 states that development will be permitted that furthers the statutory National Park purposes of:

a) conserving and enhancing natural beaty, wildlife and cultural heritage;

b) promoting opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

16. Local Plan Policy SP4 sets out design criteria for all development proposals. Development should conserve or enhance the archaeological, architectural and historical character and appearance of a site and its setting. Development should also maintain or enhance the ecological value of a site.

HIGHWAYS

17. Local Plan Policy SP4 states that development proposals should not prejudice highway safety.

18. The Highway Authority has no objections to the proposed development but has recommended conditions covering the construction phase. These include the agreement of a Construction Management Plan (CMP). The CMP would include a pre-construction photographic survey of the lorry route(s) to act as a guide for post construction repairs as necessary. The CMP would also include details of construction vehicle routing and wheel-washing facilities. Finally, the CMP would include details of measures to be taken to prevent surface water discharging onto the highway. Although in that regard the Highway Authority and LLFA are satisfied with the arrangements shown on the latest submitted plans.

DRAINAGE

19. Local Plan Policy CC2 (Flood Risk) states that with the exception of minor developments, all developments will demonstrate that they have incorporated measures to attenuate surface water run-off in accordance with a drainage hierarchy for rainwater.

20. The application is accompanied by a Flood Risk Assessment (FRA). The section of wall due to be removed to facilitate the widening of access lies on the periphery of

Flood Zone 3, the zone of highest flood risk. The remainder of the works are predominantly in Flood Zone 1, the zone of lowest flood risk from fluvial and tidal sources.

21. The proposed temporary access lies c18m to the east of the River Dee, which flows approximately south to north. There are two other watercourses flowing off the fellside to the east. Artengill Beck, c900m north of the application site, discharges into the River Dee at Stone House. Studley Garth Gill lies c100m to the south of the application site. The gill flows under the road and into the River Dee.

22. The FRA concludes that the proposed development, including the temporary works, are not expected to increase surface run-off. While there is potential for overland flood routes close to the access to change, surface water will still discharge into the ditch alongside the length of the temporary access road and similar points along Studley Garth and into the River Dee.

23. The new crest ditch, which would run along the north side of the cutting, would discharge into Artengill Beck. There is concern locally that this new ditch would accelerate the amount of water discharging into the beck, leading to an increased risk of flash flooding. In order to attenuate the speed of discharge the ditch would be fitted with baffles to slow the movement of water.

24. Notwithstanding these concerns, both the Environment Agency and LLFA are content with the submitted FRA.

RESIDENTIAL AMENITY

25. Policy SP4 requires development proposals to be designed to respect the amenity of neighbours.

26. The proposed works to the cutting itself, together with the crest ditch, are far removed from any residence and will not impact on residential amenity. The proposed temporary works however are closer to houses and have the potential to detract from their residential amenity through noise, dust, light pollution and heavy construction traffic.

27. In recognition of these impacts the EHO has recommended conditions requiring the prior approval of a Method Statement to include measures to reduce dust and dirt and control noise levels. The Method Statement would also set out proposals for parking, loading and unloading.

28. The EHO has also recommended that construction hours be limited to between 08.00 - 18.00 Mondays to Fridays and 08.00 - 13.00 on Saturdays and at no time on Sundays, Public or Bank Holidays. However a consultation letter sent to local residents by Network Rail suggests that some night-time work will be necessary when the trains are not running. This would entail working from 2200 hours on a Saturday until 0800 on a Sunday morning. It is not yet clear how many night-time working sessions will be required but an update will be given at the meeting, together with a recommendation of how such sessions can be controlled and the impacts on neighbours mitigated.

29. Having regard to the temporary nature of the construction works (albeit over an extended period) and subject to conditions, it is considered that the proposed construction phase would not cause undue harm to the residential amenities of local residents.

HERITAGE

30. Policy L1 (Heritage assets) states that development affecting a designated heritage asset will be permitted provided they conserve or enhance its significance.

31. The railway line, cutting and associated infrastructure, lie within the Settle-Carlisle Railway Conservation Area (CA). The temporary works (compounds and haul road) lie outside the CA, though the laydown area lies adjacent.

32. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, with respect to any buildings or other land in a Conservation Area, special attention should be paid to the desirability of preserving or enhancing the character or appearance of that Area.

33. The permanent works proposed involve the stabilisation of an existing cutting and are necessary to maintain the reliability of the working line. No railway infrastructure would be affected by the proposed works and subject to reinstatement and landscaping, the stabilised cutting would not harm the character or appearance of this extensive CA. Indeed, by helping to maintain the working railway line the proposed development could be considered to be necessary to preserve the CA as a working railway.

BIODIVERSITY

34. Local Plan Policy W2 (Biodiversity enhancement) states that new development that would have an impact on biodiversity will be required to make a proportionate on-site contribution to wildlife enhancement in accordance with Table 7 and the Yorkshire Dales Design Guide.

35. The Preliminary Ecological Appraisal Report (NLG Ecology Ltd, June 2021) which accompanies the application makes several recommendations concerning mitigation of the scheme. These include measures to be taken on and off- site on Network Rail land.

36. Within the application site itself 0.2ha of new heathland habitat would be created and managed for at least 30 years in accordance with an agreed management plan.

37. Outside of the application site on two pieces of land owned, managed and/or controlled by Network Rail (Rise Hill Tunnel and Garsdale Station) measures will be implemented to enhance the biodiversity value of the land in accordance with an agreed management plan. These areas are intended to improve the habitat for butterflies and the plans have been drawn up in consultation with Butterfly Conservation.

38. The Authority's Ecologist has also been involved in these discussions and has agreed in principle to the proposed measures. As both parcels of land involved are owned by Network Rail, the implementation of approved management plans can be secured by means of a condition. Subject to such a condition the proposed development would be in accordance with Policy W2.

FARM ACCESS

39. The proposed development includes the creation of a new 'crest ditch' running parallel to the cutting to the north. There has been some concern from local farmers as to how this would affect their access to farmland on the fell to the east. Amended plans were submitted in an attempt to resolve this potential conflict, which show crossings over the ditch suitable for quad bikes. However, notwithstanding any continued concerns of the farmers this is essentially a private matter between neighbouring landowners, and

not a planning consideration. These access arrangements could be secured via agreement/covenant between Network Rail and the relevant farmers.

PARISH COUNCIL COMMENTS

40 Two sets of responses have been received from Dent Parish Council, the second (see above) in response to amended plans. The Parish Council was notified of a further set of amended plans and any further comments will be reported at the meeting.

41. The main concern of the Parish relates to flooding, particularly during extreme weather conditions which have an adverse effect on the flow of water through Arten Gill Beck to the north. This matter has been addressed above.

42. The Parish Council has also objected to the proposed replacement of a dry stone wall with a fence. The current boundary consists of a mixture of dry stone walls and timber post and wire fencing. While it is considered disproportionate to insist that the whole of the new boundary be drystone wall, existing stretches of walling could be retained as part of an approved scheme of landscaping.

43. Finally, the council has concerns that the plans also relate to land not owned by the applicant. However the landowners have been property notified of the planning application and have been involved with discussions on the design of the project since.

EQUALITY ACT

44. The Authority has a duty under s.149 of the Equality Act 2010 to have regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant characteristic and persons who do not share it. The relevant characteristics are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

45. It is considered that there are no overt reasons why this proposal would affect anyone with the protected characteristics such that the application should be permitted or refused on equality grounds.

CONCLUSION

46. The proposed works are required in order to ensure the continued safety of this section of railway line, ensuring operational resilience. While there will inevitably be some disruption during the extended construction phase the significant public benefits of preserving the reliability of this part of the rail network are considered to outweigh any short-term temporary inconvenience.

47. Whilst the concerns of local farmers and residents are acknowledged, particularly with regard to flooding during the construction and operational phases, none of the relevant statutory undertakers have raised objections in this regard.

48. Subject to conditions, the loss of habitat resulting from the works can be adequately compensated on land owned by Network Rail, both on and off-site.

49. Having regard to the need for the proposed development and the significant public benefits provided, it is recommended that permission be granted subject to conditions.

RECOMMENDATION

50. It is recommended that permission/consent is GRANTED subject to conditions based on the following.

-Time limit

-Works in accordance with approved plans, FRA and other details.

-Works in accordance with Construction Management Plan, Construction Noise levels and Construction Hours

-Reinstatement of boundary walls/fences/gates

-Landscaping, including retention of dry stone walls

-Biodiversity Net Gain: habitat creation on and off-site

-Submission and approval of Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement.

-Approval of details of any external lighting

-Restoration of site in accordance with approved plans and details

INFORMATIVE: Check for Nesting birds and work to stop if found