

Application to the Aarhus Convention Compliance Committee

Response to United Kingdom comments on the preliminary admissibility of

PRE/ACCC/C/2016/136 2 March 2016

1. The correspondent would like to address some of the points raised by the Other Party and to provide more evidence to assist the Committee.

First Turn Bridge

2. The Other Party asserts paragraph 6 that:

“Contrary to paragraph 12 of the communication, the demolition and reconstruction of First Turn Bridge was authorised by the TWA Order and deemed planning permission. This had been considered as part of the Environmental Statement prepared in 2009 and made publicly available as part of the TWA Order application process.”

3. The Other Party has not provided any corroborating evidence for this from any document provided to the public inquiry, for example, the Environmental Statement or the Inspector’s Report (Appendix 3). As far as I am aware, nowhere in the documents before the public inquiry, is there any mention that First Turn Bridge would be demolished and rebuilt. The Inspector’s Report only mentions that there will be (Appendix 3, page 117, 6.9.8):

“temporary closure of the road bridge at First Turn.”

4. During the public consultation, residents were told repeatedly that the works to First Turn Bridge would involve increasing the heights of the parapets and lowering the track underneath. No-one mentioned demolishing the bridge. The Environmental Statement mentions First Turn Bridge several times and the work to First Turn Bridge is described as “strengthening” and on maps highlighted as “Strengthen First Turn Bridge”. Elsewhere in the Environmental Statement, where structures are to be demolished (and in some cases replaced), it is stated clearly that they will be demolished. It is entirely reasonable to conclude that, in the absence of an explicit statement or plan that First Turn Bridge would be

demolished and replaced, there was no intention at the time of the public inquiry to demolish and rebuild First Turn Bridge. As stated in paragraph 13 of my communication the works to First Turn Bridge are described in the TWA Order as “remedial works”. At some stage, after the TWA Order came into force, a decision was made to demolish and replace First Turn Bridge.

5. The Other Party mentions that the TWA Order, in its definition for “maintain”, includes “remove, reconstruct and replace”. Maintain in the English language usually implies that the original will be preserved. Network Rail has only preserved its function as a road bridge. All decisions relating to the demolition and rebuild have been made in the absence of public consultation and an environmental assessment. Appendix 11 shows both the original bridge and the replacement bridge.

Operating trains

6. The Other Party in paragraph 10 says:

“The communicant refers, at paragraph 23 of the communication, to the Planning Committee commenting that limiting the services would be outside the scope of the application to partially discharge the planning condition. This comment appears to have been in response to representations wanting the pattern reduced from that which had already been assessed under the TWA Order.”

7. The Other Party has misunderstood. Residents wanted the operating pattern to be the one set out in the Noise and Vibration Mitigation Policy, which Network Rail asserts is a reasonable planning scenario, on which mitigation for noise and vibration has been assessed. Whilst the capacity of the track allows for more trains, mitigation has been assessed only on those services Network Rail claims will operate.
8. The Other Party in paragraph 12 has failed to consider the contrary evidence about HS2 traffic provided in Appendix 6 and also in Network Rail’s CP5 Enhancements Delivery Plan published in March 2015 (Appendix 12). These trains would be in addition to those services listed in the Noise and Vibration Mitigation Policy on which mitigation has been based.

Domestic remedies

9. As already stated in my communication, paragraphs 52 – 56, the correspondent could not have foreseen, on the evidence presented to the public inquiry, at the time the TWA Order was granted that:
- First Turn Bridge would be demolished and rebuilt; and
 - More freight trains than predicted in the Noise and Vibration Mitigation Policy, upon which mitigation is based, would use East West Rail.
10. Residents do not know when the decision to demolish and rebuild First Turn Bridge was made. Network Rail asserts this was made before the TWA Order was granted although there is no evidence for this.

Conclusion

11. For the reasons stated above and in my communication, please find my communication to be admissible.

Caroline Robertson

4 March 2016

Appendix 11: Photos of First Turn Bridge before and after demolition

Appendix 12: Page 41