

SCHEDULE A: Applications with Recommendation

15/0469

Item No: 04

Date of Committee: 10/07/2015

Appn Ref No:
15/0469

Applicant:
Highways Agency
Historical Railways Estate

Parish:
Carlisle

Agent:
Jacobs UK Ltd.

Ward:
Multiple Wards

Location: Waverley Viaduct, River Eden, Willowholme, CA2 7NY

Proposal: Temporary Consent For Retention Of Existing Steel Palisade Security Fences Located At Each End Of Viaduct For A Further 3 Years

Date of Receipt:
28/05/2015

Statutory Expiry Date
23/07/2015

26 Week Determination

REPORT

Case Officer: Stephen Daniel

1. Recommendation

- 1.1 It is recommended that this application is approved with conditions.

2. Main Issues

- 2.1 Impact On The Character Of The Area And On The Listed Viaduct

3. Application Details

The Site

- 3.1 Such a proposal has been the subject of previous applications respectively considered by the Development Control Committee in March 2010, December 2011 and January 2013; and a site visit was undertaken prior to the determination of the December 2011 application.
- 3.2 Waverley Viaduct is now owned by the Secretary of State and managed by Highways England, having been transferred from BRB (Residuary) Ltd. It is a six span viaduct constructed entirely of masonry, which was built to carry The Waverley Railway Line across the River Eden and as a consequence

only has low parapet walls along its edges. The structure was listed (Grade 2) in 1994.

- 3.3 Fencing was put in place at either end of the Viaduct in 1983/4 in order to prevent public access. This was as a result of vandalism to the parapet, when approximately 70m in length was pushed into the river. When the viaduct was listed, two rows of back to back palisade fencing, which varied in height from 1.8m to 2.1m, was in place at either end of the viaduct. BRB tried to open up the viaduct to the public in 2008 and erected timber fencing along the edge of the viaduct but this was vandalised straight away. Following this, BRB reverted back to maintaining barriers at either end of the viaduct in order to prevent public access.
- 3.4 Highways England has recently undertaken some repairs to the structure. These include re-pointing, reinstating the parapet wall that was pushed into the river and installing new tie bars to stabilise the structure.
- 3.5 The barriers that are currently in place consist of dark green steel sheeting, fixed to palisade fencing. The maximum height of the fencing is 2.1m. The steel sheeting has been successful in reducing public access to the viaduct.
- 3.6 The County Council's Definitive Map of Public Rights of Way identifies Rights of Way adjacent to Waverley Viaduct on the north and south sides of the River Eden, but does not identify a Right of Way across the viaduct.

Background

- 3.7 In March 2010, December 2011 and January 2013, temporary planning permission and Listed Building Consent were granted by the Development Control Committee for the retention of existing steel palisade security fences located at each end of the viaduct. The latest permission expired on 31st January 2015.
- 3.8 Highways England is keen to transfer ownership of the viaduct to another body and would be prepared to pay a lump sum for future maintenance. Alternatively, Highways England would be happy to retain the structure and enter into a lease with an organisation. Any organisation that entered into a lease with Highways England would be able to apply for funding from various bodies to maintain and repair the viaduct.

The Proposal

- 3.9 The proposal is seeking temporary retrospective planning permission for the retention of the existing steel palisade security fences located at each end of the viaduct for a further 3 years.

4. Summary of Representations

- 4.1 This application has been advertised by means of site and press notices as

well as notification letters sent to one hundred and five properties. In response three letters of objection, two letters of support and one letter of comment have been received.

4.2 The letters of objection make the following points:

- the Waverley Viaduct Route has been a defacto right of way for around 30 years;
- the steel barriers are totally unnecessary and should never have been erected;
- the barriers should be removed a.s.a.p. so that pedestrians are not prevented from easily accessing the public footpaths on both sides of the river;
- when the Waverley Line was closed in 1968, measures should have been taken then to develop the existing viaduct for walking and cycling;
- the erection of barriers has rendered useless for years what is potentially a very useful, beneficial asset;
- there is no need for the barriers - the bridge itself is safe and if the parapets are unsafe this could be dealt with by providing fencing lengthways along the viaduct;
- the barriers give a totally negative impression of Carlisle;
- as a Listed structure, the viaduct is in danger of falling into serious disrepair the longer the fences are in situ;
- the barriers have been partly instrumental in hindering the development of a foot/cycleway network in Carlisle in recent years;
- proposals are underway to do essential repairs to the viaduct and to develop a footway across the viaduct to connect two public footpaths and these proposals are very popular locally;
- the bridge could become the nucleus of a walking and cycling network that could replace a number of car journeys;
- the City Council should be more proactive and helpful to The Waverley Viaduct Trust in achieving its aims by providing officer time and publicly giving their support to the scheme, helping The Trust with grant applications etc;
- the proposal could be allowed with the proviso that as soon as The Trust has completed its work the barriers should be removed without further delay.

4.3 The letters of support want the security fences at either end of the viaduct to remain in place.

5. Summary of Consultation Responses

Cumbria County Council - Highways & Transportation: - no objections;
Kingmoor Parish Council: - no objections;

Cumbria County Council - (Archaeological Services): - no objections;
Natural England: - no objections;
Historic England: - no objections;
Cumbria County Council - (Highway Authority - Footpaths): - there are two footpaths which run underneath the northern arch and southern arch of the viaduct and they must not be altered or obstructed;
Cumbria Constabulary - North Area Community Safety Unit: - no comments received.

6. Officer's Report

Assessment

- 6.1 The relevant planning policies against which the application is required to be assessed are Policies CP5, LE2, LE4, LE7, LE12, LE13 and LC2 of the Carlisle District Local Plan 2001-2016.
- 6.2 Carlisle's emerging new Local Plan 'The Carlisle District Local Plan 2015 - 2030' was published as a proposed submission draft for consultation, in accordance with Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012, on the 4th March 2015. Consultation on the Plan closed on 20th April and the Council submitted the Plan for independent examination in June 2015.
- 6.3 Paragraph 216 of the National Planning Policy Framework identifies that:
- "From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:*
- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
 - the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
 - the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)".*
- 6.4 Carlisle City Council resolved at their meeting of the 10th February 2015, with regards to the emerging Local Plan, that *"once published for consultation, weight be given to the Carlisle District Local Plan (2015 – 2030) as a material consideration when exercising Development Management policy decisions, in accordance with paragraph 216 of the National Planning Policy Framework"*.
- 6.5 In exercising a decision on the proposal regard has therefore been had to the relevant policies and proposals within the emerging Carlisle District Local Plan 2015 - 2030. The particular weighting afforded to policies and proposals

of relevance has been arrived at by considering each in turn and by way of reference to the provisions of paragraph 216 of the NPPF. The policies of particular relevance to this application in the CDLP 2015-2030 are Policies HE1, HE3, GI3, SP6 and SP8.

6.6 The proposal raises the following planning issues:

1. Impact On The Character Of The Area And On The Listed Viaduct

6.7 Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 highlights the statutory duties of Local Planning Authorities whilst exercising of their powers in respect of listed buildings. The aforementioned section states that:

"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".

6.8 Paragraph 133 of the NPPF states that Local Planning Authorities should refuse consent for any development which would lead to substantial harm to or total loss of significance of designated heritage assets. However, in paragraph 134, the NPPF goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

6.9 Policy LE13 (Alterations to Listed Buildings) of the adopted Local Plan states that any proposals which have an unacceptable impact on listed buildings will not be permitted. This requirement is also contained within Policy HE3 (Listed Buildings) of the emerging Local Plan.

6.10 The steel sheeting looks very unsightly. The fencing is clearly visible from the surrounding area, including from the public footpaths that run in close proximity to the northern and southern ends of the viaduct. It has a significant adverse impact on the character of the area and on the listed viaduct, which is constructed of stone and only has a low parapet wall along its edge. The retention of this fencing in the long-term would not be acceptable.

6.11 The Council's Heritage Officer has been consulted on the application. He welcomes the works that are currently being undertaken by Highways England to repair the structure. He acknowledges that the barriers have been placed on the viaduct in order to limit public access and that in the past the Viaduct has attracted anti social behaviour to the area and vandalism to the structure but considers that the barriers continue to detract from the appearance of this important structure. He considers that in advance of giving a further temporary permission for retention of the barriers, the applicant is invited to produce a timetable establishing milestones by which the issues regarding establishment of a management trust, arrangement of access to the north side, and a target opening can be set out.

- 6.12 A long-term solution for the future of the structure is still being explored. Various discussions have taken place over the last few years between the owners of the viaduct and the City Council, Councillors and interested individuals about the future of the viaduct but to date no suitable way forward has been agreed. A key issue which would need to be resolved if public access is to be provided across the viaduct is that of land ownership on the north side of the River Eden. The owner of the land adjacent to the viaduct, which the public would have to cross in order to get from the viaduct onto the public footpaths on the north side of the river, supports the retention of the security fences and does not want public access over the viaduct. Unless this issue can be resolved then the provision of public access over the viaduct would not be appropriate, given that it would lead to issues of trespass on the north side of the river.
- 6.13 A Waverley Viaduct Trust has recently been established and this is seeking to re-open the viaduct for public access. Discussions are currently taking place between representatives of The Trust and Highways England. One of the directors of The Trust has written to the City Council to confirm that he does not object to the retention of the current barriers until the work on the parapets, which is currently being undertaken by Highways England is complete and until The Trust has agreed a lease with Highways England and created a safe crossing over the viaduct. Highways England has confirmed that once this has been done the barriers would be removed.
- 6.14 Given that there are still outstanding issues to be resolved, the granting of a further temporary consent is considered to be appropriate. This would prevent public access onto the viaduct, which would reduce the risk to members of the public and reduce the risk of vandalism to the viaduct, which is currently being repaired. The Heritage Officer has requested that the applicant should produce a timetable that sets out milestones by which the issues regarding establishment of a management trust, arrangement of access to the north side, and a target opening, can be set out. This would, however, be difficult as the majority of these issues are outside the control of the applicant.
- 6.15 Highways England wants permission to retain the security fencing for a further three years. A temporary permission for another three years seems excessive, but a further permission for two years would allow The Trust to continue to work with Highways England and the landowner on the north side of the river to reach a solution that would allow the viaduct to re-open to the public. If a solution is reached earlier the barriers can be removed at that time.
- 6.16 If Members are minded to refuse planning permission and Listed Building Consent for the current proposals, Highways England would revert back to the palisade fencing which was in place when the structure was listed in 1994. Members should also be aware that anybody going onto the viaduct is trespassing, given that there is no public right of way over the structure.

Conclusion

- 6.17 Whilst the current fencing is unsightly and has an adverse impact on the character of the area and on the listed viaduct, its retention for a further temporary two year period would be acceptable, whilst a long-term solution is sought.

7. Planning History

- 4.1 In September 2000, planning permission and Listed Building Consent were granted for maintenance work to the bridge, including masonry repairs, re-pointing, tie bars and patress plate installation, painting and fencing works (00/0459 & 00/0466).
- 4.2 In March 2010, temporary planning permission and Listed Building Consent were granted for the retention of existing steel palisade security fences located at each end of the viaduct (09/1094 & 09/1135).
- 4.3 In July 2010, temporary Listed Building Consent was granted for additional palisade outstands to existing palisade fencing located at each end of viaduct (10/0471).
- 4.4 In December 2011, temporary planning permission and Listed Building Consent were granted for the retention of existing steel palisade security fences located at each end of the viaduct (11/0595 & 11/0701).
- 4.5 In January 2013, temporary planning permission and Listed Building Consent were granted for the retention of existing steel palisade security fences located at each end of the viaduct for a further two years (12/0942 & 12/0943).

8. Recommendation: Grant Permission

1. The approved documents for this Planning Permission comprise:
1. the submitted planning application form received 19th May 2015;
 2. the Site Plan (drawing number B12360-AR-002) received 19th May 2015;
 3. the Bridge Location Details received 19th May 2015;
 4. the Block Plan (drawing number B12360-AR-002) received 19th May 2015;
 5. the Palisade Fencing Elevation (drawing number B12360-AR-003) received 19th May 2015;
 6. the Design Statement received 19th May 2015;

7. the Notice of Decision; and
8. any such variation as may subsequently be approved in writing by the Local Planning Authority.

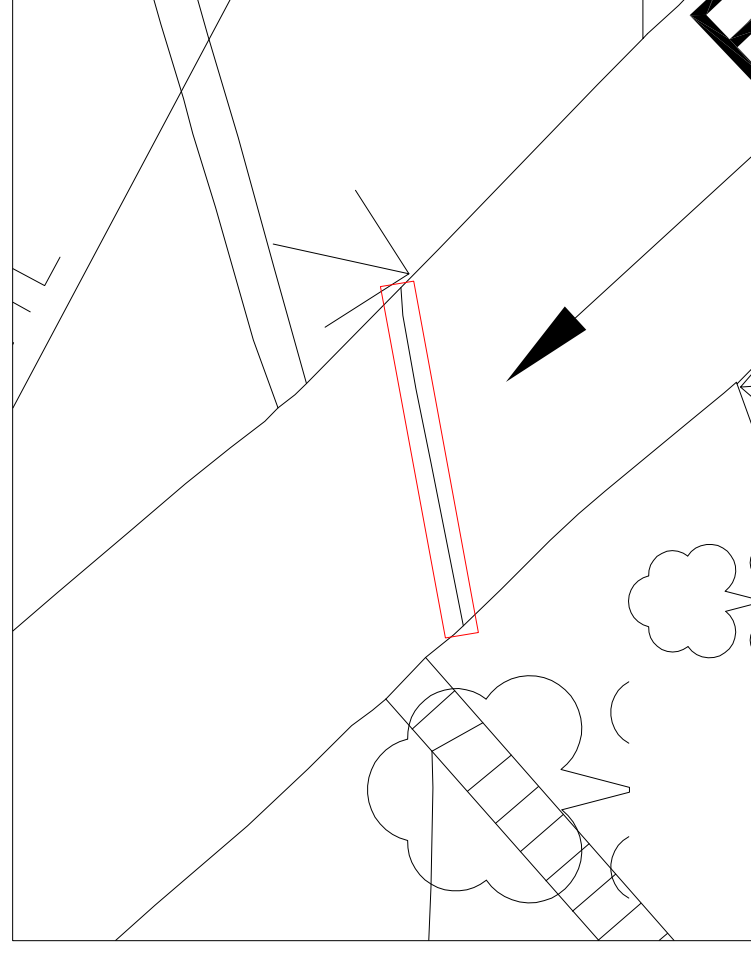
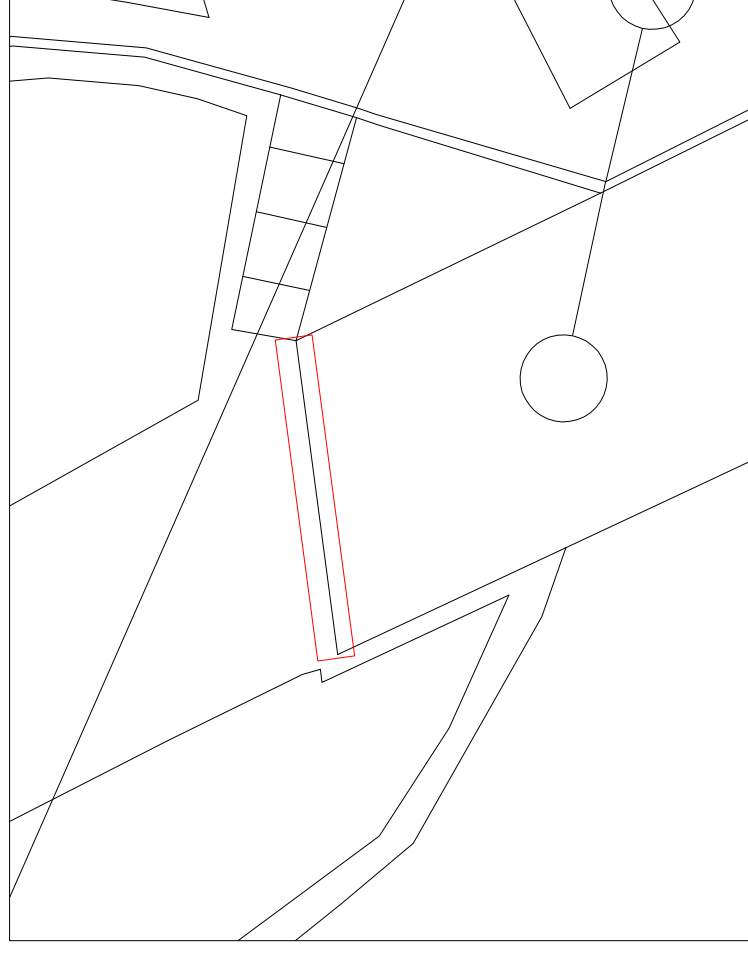
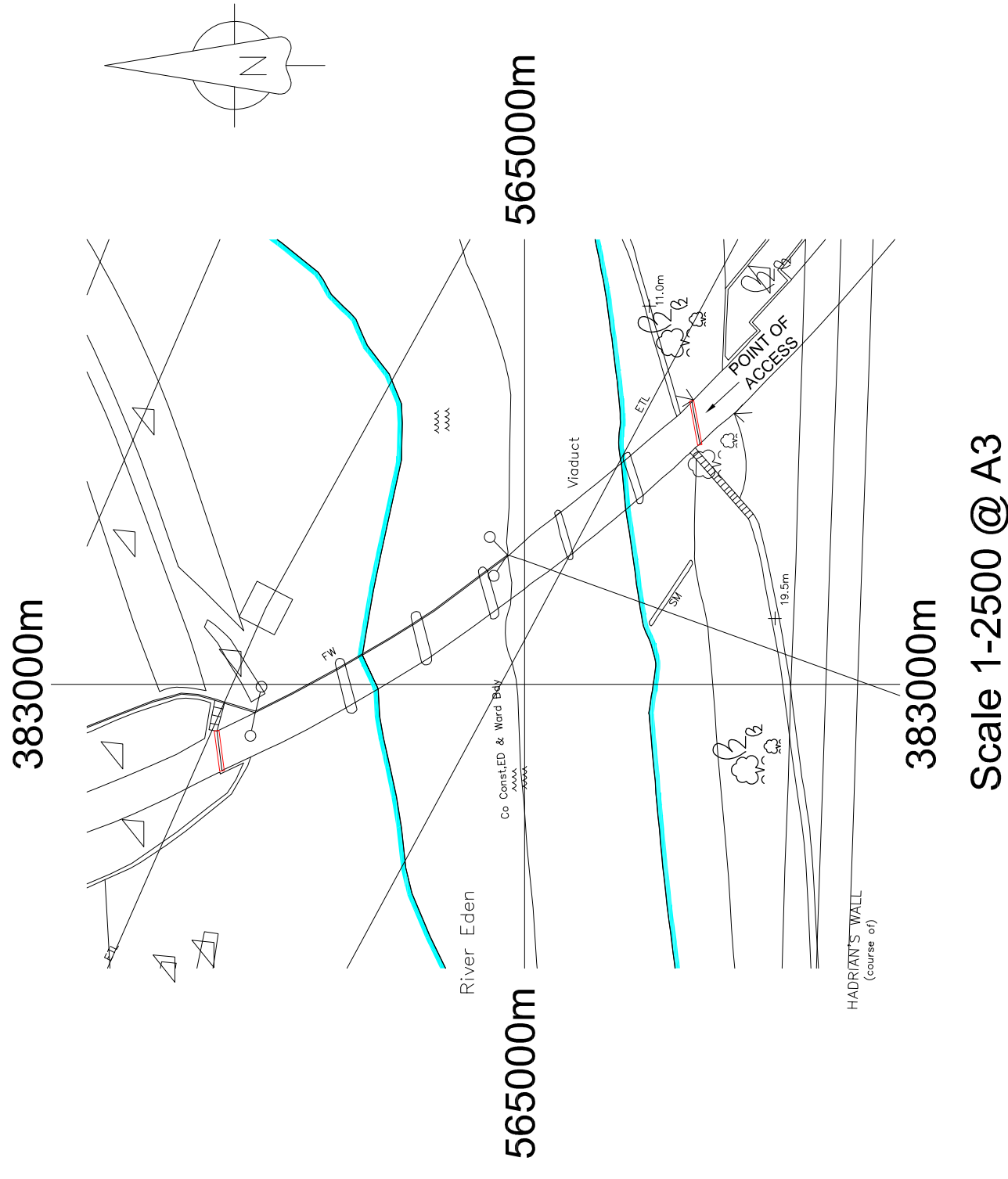
Reason: To define the permission.

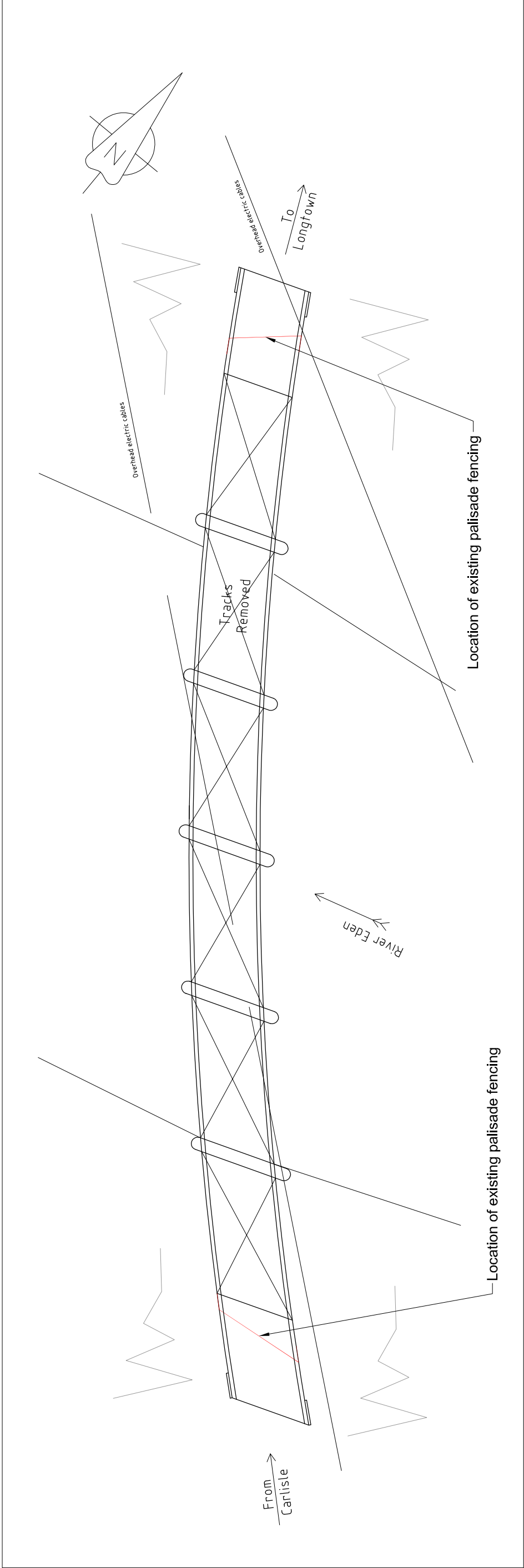
2. The fences hereby approved shall be removed and there shall be carried out such works as may be required for the reinstatement of the land to the satisfaction of the Local Planning Authority by not later than the 31st July 2017 or when an alternative solution to the fences has been approved and implemented whichever is the sooner.

Reason: The Local Planning Authority wish to review the matter at the end of the limited period specified.

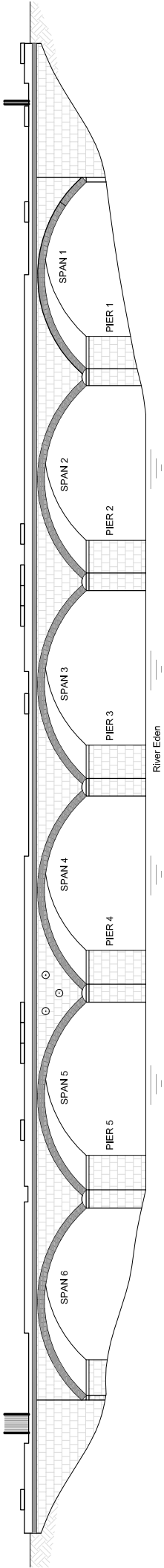
3. The security fences hereby approved shall be retained a dark green colour and shall be maintained in a tidy and graffiti free manner thereafter.

Reason: To reduce the visual impact of the fence, in accordance with Policy CP5 and LE12 of the Carlisle District Local Plan 2001-2016.





PLAN
SCALE 1:500



EXISTING EAST ELEVATION
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Historical Railways Estate on behalf of the DfT

PROJECT

MAJOR WORKS PROGRAMME 2012-15

DRAWING TITLE

STRUCTURE ETC/265
BLOCK PLAN

DRAWING STATUS

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CLIENT No. ETC/265

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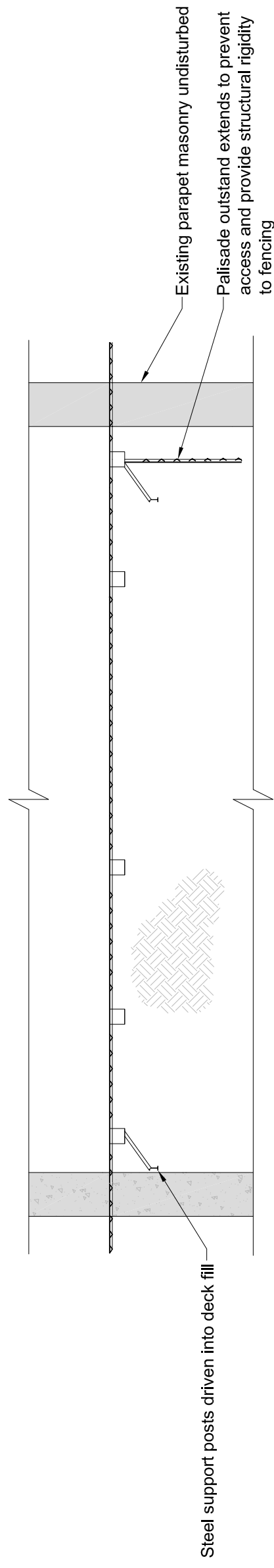
B12360-AR-002

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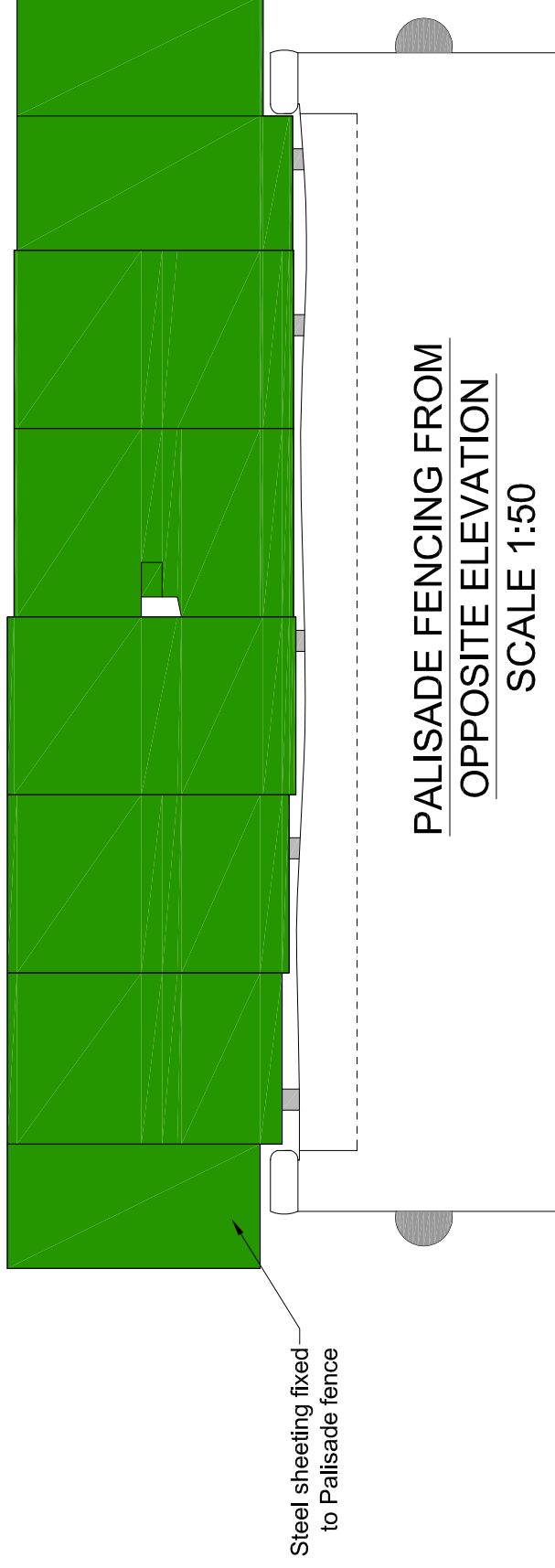


PALISADE FENCING PLAN

SCALE 1:50



**PALISADE FENCING FROM
BRIDGE DECK LOOKING OUT**
SCALE 1:50



**PALISADE FENCING FROM
OPPOSITE ELEVATION**
SCALE 1:50

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