

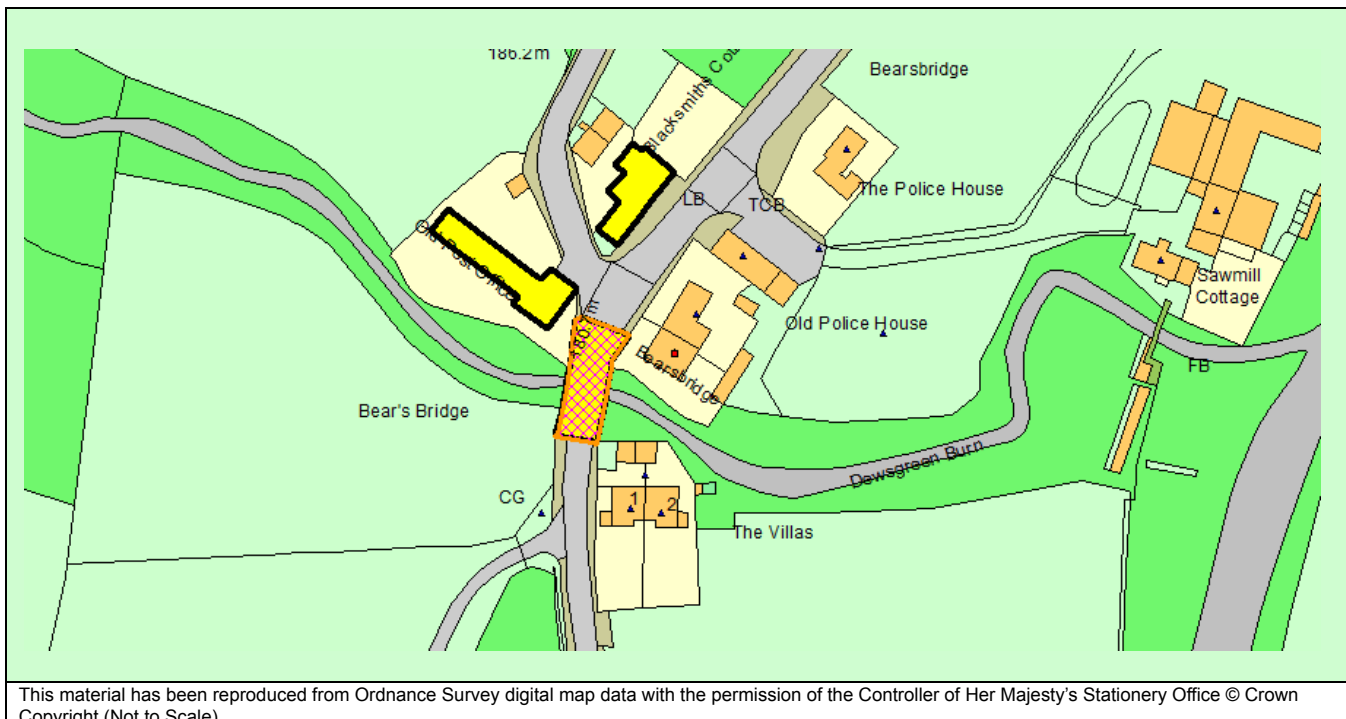


Northumberland County Council

Tynedale Local Area Planning Committee 14 May 2019

Application No:	19/00488/LBC		
Proposal:	Listed Building Consent for the laying of a fibre optic cable within the footway of Bear's Bridge.		
Site Address	Bearsbridge, Whitfield, Hexham, Northumberland, NE47 8HA		
Applicant:	Mr Zayo Group UK Ltd C/o Agent, The Estates Office, Norman Court, Ashby de la Zouch, LE65 2UZ	Agent:	Miss Antonia Wyatt The Estates Office, Norman Court, Ashby de la Zouch, LE65 2UZ
Ward	Haltwhistle	Parish	Plenmeller With Whitfield
Valid Date:	12 February 2019	Expiry Date:	15 May 2019
Case Officer Details:	Name: Miss Rachel Campbell Job Title: Planning Officer Tel No: 01670 625548 Email: Rachel.Campbell02@northumberland.gov.uk		

Recommendation: That this application be GRANTED permission



1. Introduction

1.1 This application falls to be determined by members of the Tynedale Local Area Council Planning Committee, in accordance with the Council's current Scheme of Delegation, as the bridge is owned by Northumberland County Council.

2. Description of the Proposals

2.1 Listed Building Consent is sought for the installation of a fibre optic broadband cable beneath the footpath of Bear's Bridge, Whitfield.

2.2 The proposed works include laying a fibre optic cable below ground and within the north western footpath of Bear's Bridge. The trench excavations would be 300mm in width with 450mm of cover on a 100mm single duct. The proposal would be entirely below ground and the footpath would be fully reinstated upon completion of the works.

2.3 The supporting information states the proposed works are part of a wider scheme undertaken by Zayo Group Ltd in order to facilitate the upgrading of the existing below ground fibre optic network. Bear's Bridge is owned by Northumberland County Council; however, the proposed works would be undertaken by Zayo Group Ltd.

2.4 Bear's Bridge is a Grade II Listed Building situated within the North Pennines Area of Outstanding Natural Beauty. The application site is within an area of archaeological interest.

3. Planning History

Reference Number: T/79/E/198

Description: Renewal of temporary permission for a timber 'bus shelter'.

Status: Permitted

4. Consultee Responses

Plenmeller With Whitfield Parish Council	No objection.
County Archaeologist	No objection.
Building Conservation	No objection.

5. Public Responses

Neighbour Notification

Number of Neighbours Notified	4
Number of Objections	0
Number of Support	0
Number of General Comments	0

Notices

Site notice for Listed Building Consent – Displayed on 15th March 2019
Press notice in Hexham Courant - Published on 28th February 2019

Summary of Responses:

None received.

The above is a summary of the comments. The full written text is available on our website at:

<http://publicaccess.northumberland.gov.uk/online-applications//applicationDetails.do?activeTab=summary&keyVal=PMRDA5QSLYO00>

6. Planning Policy

6.1 Development Plan Policy

Tynedale LDF Core Strategy (2007)

Policy BE1 – Principles for the Built Environment

Tynedale District Local Plan (2000)

Policy BE21 – Alteration and Extension to Listed Buildings

Policy BE27 – Regional and Locally Important Archaeological Sites and Settings

Policy GD2 – Design Criteria for Development

6.2 National Planning Policy

National Planning Policy Framework (NPPF) (2019)

National Planning Practice Guidance (NPPG) (2018, as updated)

6.3 Other Documents/Strategies

Northumberland Local Plan (Publication Draft Plan) (Regulation 19) (January 2019)

Policy ENV 7 – Historic Environment and Heritage Assets

7. Appraisal

7.1 The main issue in the determination of this application falls on whether the proposed development would preserve or enhance the listed building and its features of architectural and historic interest, having regard to Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), relevant policies in the development plan and the aims of the NPPF.

Impact on the Character of the Listed Building

- 7.2 Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act requires the local authority to have special regard to the desirability of preserving the listed building, its setting and any features of special or historic interest which it possesses. The NPPF also places emphasis on the preservation and enhancement of heritage assets.
- 7.3 Proposals that would result in harm to or loss of the significance of heritage assets will not ordinarily be permitted. Policy BE21 of the Tynedale District Local Plan sets out the criteria which must be met in order for development to listed buildings to be granted consent. This includes criteria such as the retention of the character of the building and its special features, that architectural details and methods match or are in keeping with those found on the listed building and the materials used are traditional and sympathetic.
- 7.4 Policy BE27 of the Tynedale District Local Plan relates to regionally and locally important archaeological sites and settings. This policy states *“development, which would be detrimental to regionally or locally important archaeological sites and their settings, will not be permitted unless the proposed development is considered to be of overriding regional importance and no alternative site is available”*.
- 7.5 Policy ENV 7 of the emerging Northumberland Local Plan (Publication Draft Plan) relates to the historic environment and heritage assets. Policy ENV 7 states *“development proposals will be assessed and decisions made that ensure the conservation and enhancement of the significance, quality and integrity of Northumberland’s heritage assets and their settings”*.
- 7.6 Bear’s Bridge, which spans across the Dewsgreen Burn, is a Grade II Listed structure which is dated 1759 with the initials W.O. (William Ord) on the internal face of the east parapet wall. The bridge is constructed of coursed rubble, with squared stone parapet walls and piers. The bridge has an elliptical arch with arch ring and chamfered parapet wall terminating in plain square piers with a band. Bear’s Bridge is located within an area of archaeological interest.
- 7.7 The Council’s Building Conservation Team has been consulted of this application to assess the impact of the proposed development upon the character and appearance of the listed building. The works propose to install a fibre optic broadband cable below ground and within the north western footpath of the bridge. It is acknowledged that other options for the positioning of the cabling have been considered and dismissed and are detailed in the Planning, Design and Access Statement with Heritage Impact Assessment which accompanies this application. The proposed development would be entirely below ground and would not be visible, therefore, would not adversely impact upon the significance of the heritage asset. The Building Conservation Officer has no objection to the proposal.

7.8 The Council's Archaeology Team has been consulted on this application and based on the available information, it is concluded that the proposed works would not impact on the historic fabric of the bridge. Therefore, the Council's Archaeologist has no objections to the application and no archaeological work will be required in this instance.

7.9 The proposed works would not harm the significance of the heritage asset. The Council's Building Conservation Officer has raised no objection to the proposed development. The proposal is considered to adhere to Policy BE1 of the Tynedale LDF Core Strategy, Policies BE21, BE27 and GD2 of the Tynedale District Local Plan, Policy ENV 7 of the Northumberland Local Plan (Publication Draft Plan) and the principles of Chapter 16 of the NPPF.

Equality Duty

7.10 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

Crime and Disorder Act Implications

7.11 These proposals have no implications in relation to crime and disorder.

Human Rights Act Implications

7.12 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

7.13 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.

7.14 Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article

6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

8. Conclusion

8.1 National and local planning policies have been taken into consideration when assessing this application. The proposal would preserve and enhance the listed building, thereby according with Policy BE1 of the Tynedale LDF Core Strategy, Policies BE21, BE27 and GD2 of the Tynedale District Local Plan, Policy ENV 7 of the Northumberland Local Plan (Publication Draft Plan) and the principles of Chapter 16 of the National Planning Policy Framework.

9. Recommendation

That this application be GRANTED permission subject to the following:

Conditions/Reason

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

02. The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans. The approved plans for the development are:

1. Block Plan-Proposed, Drawing No: 105109-011-013 (Date: February 2019) (Received on: 11/02/2019)
2. Planning, Design & Access Statement including Heritage Impact Assessment Revision: 001 (Date: February 2019) (Received on: 11/02/2019)
3. GENERAL ARRANGEMENT AND DETAILS OF PROPOSED PIPE SADDLING, Drawing No: B/A686/11/4 (Date: July 1988) (Received on: 19/03/2019)
4. Location Plan (No Date) (Received on: 19/03/2019)
5. Information in Response to Archaeology's Comments (No Date) (Received on: 19/03/2019)

Reason: To ensure that the approved development is carried out in complete accordance with the approved plans.

Informatives

1. It is for the applicant to make sure the necessary permission is obtained from the owner of the bridge before carrying out the approved work. Listed Building Consent does not override the need to obtain any such private permission that may be required.

2. All species of bat and their roosts (whether occupied or not) are strictly protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017. Similarly, all wild birds and their nests are protected whilst in use and it is an offence to recklessly or intentionally destroy nests or dependent young when on or near the nest, or to kill or take them.

Applicants and contractors should note that the protected species legislation operates independently of the planning system, planning consent does not override the legislation relating to protected species and that they should be aware that there is a small chance of encountering protected species during works.

If protected species such as bats or nesting birds are encountered during the development then works should cease immediately and professional advice should be sought straight away. In this case no holes, cracks or crevices in the structure should be covered – any existing holes must be left free of obstruction.

Applicants and contractors can obtain advice on bats by telephoning Natural England's bat advice line on 0345 1300 228.

The Chartered Institute of Ecology and Environmental Management (CIEEM) has an online professional directory should assistance be required:

<http://events.cieem.net/ProfessionalDirectory/Professional-Directory.aspx>

Further information about protected species and the law can be found on the government website:

<https://www.gov.uk/guidance/bats-protection-surveys-and-licences>

3. The applicant is advised to contact the Council's Traffic Management Section at highwaysprogramme@northumberland.gov.uk before and during the construction period in respect of the traffic management arrangements for the duration of the works.
4. The applicant should note that Technical Approval of Highways Structures may be required. The applicant should contact Highway Development Management at highwaysplanning@northumberland.gov.uk
5. In accordance with the Highways Act 1980 mud, debris or rubbish shall not be stored or deposited on the highway.

Date of Report: 24.04.2019

Background Papers: Planning application file(s) 19/00488/LBC