

Greystone Cottage
Bere Ferrers
Devon PL20 7JX

Tel 01822 841309
Mob. 0752 7449539
E mail Briankay1@tiscali.co.uk

8th March 2011

Mr Richard Sheard
Chief Executive
West Devon Borough Council
Kilworthy Park
Tavistock
PL19 OBZ

Dear Mr Sheard,

**Railway Communications System
Masts at Bere Alston and Bere Ferrers**

I refer to our recent discussions and would now be grateful for your assistance in establishing some of the key facts relating to the above developments.

I understand that West Devon Borough Council Planning Authority was approached in 2010 by Network Rail for an opinion as to whether the above proposals should be considered Permitted Development under the Town & Country Planning (General Permitted Development) Order 1995. I believe West Devon have subsequently provided an opinion (either formally or informally) that they consider that the above development falls within Part 17 – Development by Statutory Undertakers, Class A – Railway or light railway undertakers, Permitted Development, relying on the assumption that the proposed development meets the following definition of Permitted Development:

A. Development by railway undertakers on their operational land, required in connection with the movement of traffic by rail.

In trying to understand the Council's position, I can appreciate that the proposed development:

- is on '**operational land**', and
- that the requirement for the development to be '**in connection with the movement of traffic by rail**' is now encompassed by an amendment to the

Railway Act 1993, in terms of section 82 - Meaning of "railway services", which now includes 'the installation, operation, maintenance or renewal of a railway signalling system or of **any other railway communication equipment**'.

However, what I do not understand is how the Council has arrived at the opinion that the proposed development should be deemed as **'required'**. My understanding of the relevant EU Directive is that it specifically names the Gunnislake (Tamar Valley) Branch Line as being one of the Branch Lines where the provision of this Railway Communication System is considered **'discretionary'**. If this development is only considered as 'discretionary', how can it then meet the definition of permitted development, where it clearly states that the development has to be **'required'**.

1) Would you please clarify the Council's position in relation to this point.

While the above considerations would appear to negate the status of this proposal as 'Permitted Development', I would also ask what consideration was given by the Authority to the following clauses under Part 17:

A1 – Development is not permitted by Class A if it consists of, or includes:
(c) the construction or erection otherwise than wholly within a railway station
(ii) or other building or structure provided under transport legislation.

As the actual developments that Network Rail have commenced are in locations outside the railway stations, would not this also rule out its consideration as Permitted Development?

2) I would be grateful for your observations on this point.

3) In clarifying the key facts relating to these two concerns, I would be grateful if you could also provide me with copies of:

- **The information provided by Network Rail to the Planning Authority as the basis for seeking their opinion in relation to Permitted Development.**
- **The opinion provided by the Local Planning Authority to Network Rail presumably confirming that, in their opinion, this development falls within the context of Permitted Development.**

4) Finally, when you have had an opportunity to consider the above concerns in relation to the validity of Network Rail's proposals being considered as Permitted Development, I would be grateful for your comments on whether the Council might wish to review its current position. However, you will appreciate that this matter is somewhat urgent as contractors have commenced development.

I am sure you will also appreciate that there are likely to be a number of follow-up

questions, depending on your response to the above concerns. However, I think we need to establish the relevant key facts as soon as possible.

Yours sincerely

Brian Lamb
on behalf of TRAM
(TAMAR RESIDENTS AGAINST MASTS)