

Cllr Derek Mortimer  
Chair, Communities, Housing & Environment Committee  
Maidstone Borough Council  
Maidstone House  
King Street  
Maidstone  
ME15 6JQ

05 November 2018

Dear Cllr Derek

**NETWORK RAIL & ORS / HIGH-LEVEL CROSSING / BUCKLAND HILL & ST PETER STREET AREA**

I write to ask that the matters raised within this letter are placed on the agenda for next meeting of the Council's *Communities, Housing & Environment Committee*, which I understand is due to be held on 13 November 2018.

***Parties***

The matters concern anti-social behaviour from two commercial entities occupying premises in the Buckland Hill & St Peter Street area of mine and Cllr Harvey's Ward. These are: -

- Network Rail Ltd, who own both Maidstone East station and track & trainlines running to that station. This includes the High-Level Crossing running from beside the station and into the bottom of Buckland Hill complete with steps et cetera.
- Jewson Ltd, who own & operate from premises on the corner of Buckland Hill & St Peter Street, opposite the lower-end of the High-Level crossing.

***Issues***

The first issue concerns both of these entities. It is their failure to remove a sizeable expanse of graffiti. In the case of Network Rail and the High-Level Crossing, this graffiti runs for a length of more than two hundred (200) yards. Since my first raising this after the election, the resulting inaction has led to the graffiti spreading and deepening. This further deterioration is particularly noticeable on the Jewson site.

The second issue concerns only Network Rail. It relates to the trees lining the track from Maidstone East station in the direction of London. The track runs alongside a small residential development, Lesley Place, meaning that their trees overhang the development and in particular the common parts such as the car park. This unfortunately means that all manner of debris, bird mess and sap falls on to the residents' parked cars. This matter pre-dates my becoming a Borough Councillor.

There was a third issue concerning overgrowth (often nettles) from the trackside creating a hazard at the Bridge Ward end of the High-Level Crossing. After various correspondence with their Community Relations Manager, Network Rail did *eventually* rectify that matter. Quite bafflingly however, they

eventually replied to me on 22 October 2018 stating that they would *not* take any action. Whilst this third issue does not now require any action from Maidstone Borough Council ("MBC"), it should be noted as an example of just how difficult Network Rail can be to deal with.

### ***Narrative***

- I first wrote to Mr Thierry Chaldecott of Jewson Ltd on 19 June 2018 asking them to clean up the graffiti from outside their Maidstone branch. I never received a reply.
- I first emailed MBC's Environment Department on Friday 22 June 2018 at 13:31hrs concerning the graffiti issue. I enclosed the photos shown within Annex A. I received two responses, one later that day (at 15:47hrs) and the second on the Monday (at 10:45hrs). These responses explained how "Network Rail...have stated that we must report all graffiti on their land directly to them and not to try to remove the graffiti" but assuring me that they would "chase the landowners to deal with their property".
- I raised the issue again verbally on Friday 20 July 2018 with the Waste Crime Team during the Committee's visit to the depot. I followed this up with an email to the Waste Crime Manager on 22 July 2018 timed 21:15hrs.
- I raised the graffiti issue again by email to the Environment Department on 15 August 2018 at 16:12hrs. This email contained a list of quite a number of other issues, and I received a full response to the various issues by email on 17 August 2018 timed 13:55hrs. In respect of the graffiti issue, I was told that "I have a contact with Network Rail that I have passed this complaint onto."
- In parallel with this correspondence, I emailed Network Rail's Community Relations Manager Andrew Mackinnon on 22 July 2018 at 19:16hrs raising both the graffiti issue and the matter of the trees overhanging Lesley Place. I received a response on 30 July 2018 timed 13:18hrs stating that nothing could be done about the overhanging trees currently as it was bird-nesting season, and claiming not to be able to see any graffiti. In support, they enclosed pictures of the wrong station, Maidstone Barracks.
- I responded the same day (at 14:28hrs) enclosing both the map and photos now exhibited in Annex A in respect of the graffiti issue. In respect of the Lesley Place issue, I asked for a date when the matter might be addressed given bird-nesting season ended on 31 August 2018. When I received no reply, I chased this on 17 August 2018 at 11:35 hrs.
- I eventually received a response from Network Rail on 06 September 2018 timed 17:19hrs. This stated that two "service requests" had been raised: one in respect of the graffiti issue, the second in respect of the overgrown plants/nettles afflicting the High-Level Crossing. I then received an email generated from the "service request" in respect of the plants/nettles.
- I responded to Network Rail on 10 September 2018 at 20:41 hrs pointing out that I did not receive a service request email in respect of the graffiti issue, and that their email was silent on the matter of trees overhanging Lesley Place. I did not receive a response until 11 October 2018. This stated that Network Rail's policy was only to remove offensive graffiti and not "just normal tagging" as "Network Rail does not have the resources."
- On 28 September 2018, I was copied-in to an email thread from the Lesley Place Residents Association to Network Rail's Mr Mackinnon. This dated back to an email from Network Rail on

22 May 2018 that alluded to their having received correspondence from Mrs Helen Grant MP.

- I have this morning been told by the Lesley Place Residents Association that they have not heard from Network Rail since 28 September 2018, and that the matter very much remains outstanding.

In summary, Network Rail have been asked nicely to address the graffiti issue by both myself and (I believe) MBC's Environment Department on multiple occasions since at least June. They have similarly been asked nicely by both me and Lesley Place residents to rectify the trees overhanging Lesley Place on multiple occasions over many months.

Whilst the issue of plants/nettles overgrowing and impacting the High-Level Crossing appears to have been rectified as a result of all this contact, the issues of the graffiti and trees overhanging Lesley Place have not. Indeed, they appear to be refusing to act on the graffiti.

### ***Desired Outcome***

The primary outcome sought is that the graffiti is removed from the High-Level Crossing and the trees are cut back away from Lesley Place. With the first issue (of graffiti), a secondary desirable outcome is that Network Rail agrees to allow MBC to remove any future graffiti on the High-Level Crossing.

### ***Council Powers***

Local authorities were given the power to require graffiti to be removed from premises, including private land, in the years of the Blair Government. The *Anti-Social Behaviour Act 2003* created a power for local authorities to issue 'Graffiti Removal Notices' [s.48] where they considered the graffiti to be "detrimental to the amenity of the area". The effect of a notice was that, in the event of a default, the local authority was empowered to remove the graffiti itself (without being liable for damage or trespass [s.52]) and to recover the cost of doing so from the owner [s.49].

This power was subsequently consolidated into the power to issue a 'community protection notice' in s.43 of the *Anti-Social Behaviour, Crime & Policing Act 2014*. This requires the council to first issue a written warning that a notice will be issued [s.43(5)]; in the current context, use of this alone might suffice to secure the desired outcomes from Network Rail and/or Jewsons. Where a formal Notice is then issued, default is technically an offence [s.48] allowing for the issue of a fixed penalty notice [s.52]. More importantly, default of such a Notice allows the Council to carry out the work [s.47], without liability in trespass et cetera [s.54], and to bill the relevant party accordingly [s.47(6)].

In respect of Network Rail, it may be that the Council's senior officers have an additional 'soft power' or influence with their senior management on account of the regeneration work surrounding the (other sides of) Maidstone East station.

### ***Notice of Motion***

I would propose to move a motion, the effect of which is for the Committee to require the Council's officers to procure the desired outcome set out above, and whilst they might opt to use senior officers' soft-power in the first instance, the issues should not be outstanding at the end of 2018 for want of the Council having threatened and attempted to use its statutory powers.

I believe that worded along these lines, the motion will not be an actual decision to levy a notice on any particular party, but will set policy for Officers to use (or threaten to use) these powers if needed to procure the desired outcome.

### **Conclusion**

The corner of St Peter Street & Buckland Hill looks a real state, as does the wider walk from Town into my Ward across the rest of the High-Level Crossing. This is an open invitation from criminal and anti-social elements to operate: crime is high in this corner of our Ward, and the Committee will have heard me previously remonstrate over crime washing-over from Brenchley Gardens into this area.

Residents in my Ward, and those surrounding, pay millions of pounds a year to the various Railway companies such as Network Rail. It is frankly offensive for Network Rail to take months before claiming they do not have the resource to remove graffiti, and indeed to take months to respond at all.

Local Authorities regularly use their various powers to pick-on householders mixing up recycling et cetera, and this Council has a history of using sub-contractors to zealously police even minor litter infractions against single parents, children et al.

I believe that it would be a proportionate, timely and reasonable response for MBC to now use its powers to compel these large corporations to tidy-up their property and to get Network Rail to cut back the trees blighting the lives of my residents.



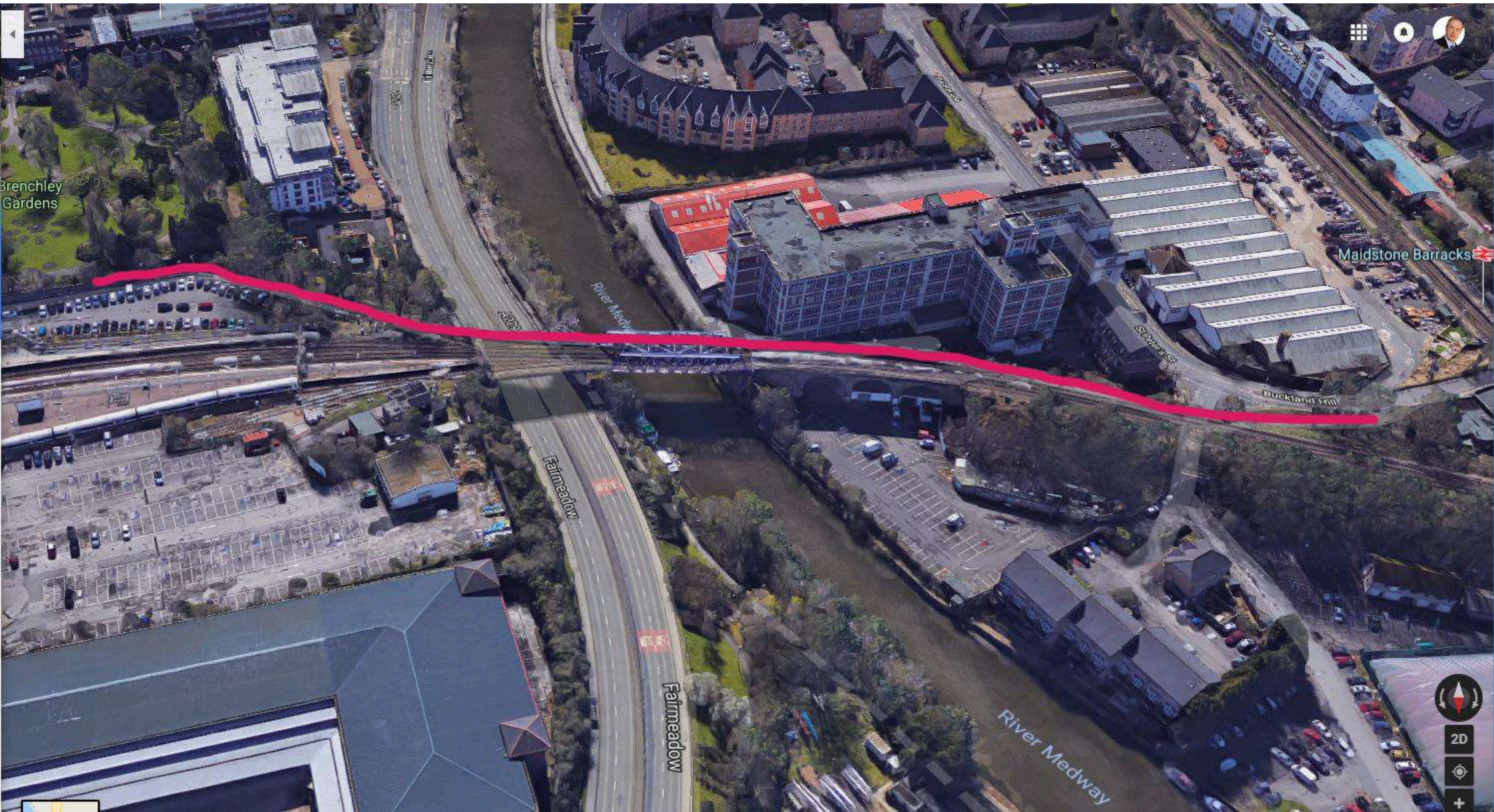
**Jonathan Purle**  
**Conservative Councillor for Bridge Ward**

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**ANNEX A**

**IMAGES OF SUBJECT GRAFFITI TAKEN IN JUNE 2018  
& PREVIOUSLY PRESENTED TO NETWORK RAIL**







































**ANNEX B**  
**FURTHER IMAGES OF SUBJECT GRAFFITI**  
**TAKEN IN NOVEMBER 2018**











