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From: Wilson, Jennifer
Sent: 25 May 2018 09:09
To: TRANSPORTANDWORKSACT
Subject: FAO Mr Chris Grayling MP - Proposed Rother Valley Railway (RVR) - Transport and Works Act Oder Application
Attachments: Environment Agency Response to Rother Valley Railway TWA0 May 2018.pdf

Dear Mr Grayling MP

Please find attached our response to the above consultation on the proposed Rother Valley Railway.

Kind Regards,

Jennifer Wilson
Planning Specialist
Sustainable Places – Kent and South London

kslplanning@environment-agency.gov.uk
External: 020 8474 6711



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Secretary of State for Transport
C/o Transport and Works Act Orders Unit
General Counsel's Office
Department for Transport
Zone 1/18
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Our ref: KT/2018/124176/01-L01
Your ref: DG/19/03/18 TWAO
Date: 24 May 2018

Dear Mr. Chris Grayling MP

Proposed Rother Valley Railway (RVR) (Bodiam to Robertsbridge Junction) Transport and Works Act Order Application - Robertsbridge

Thank you for consulting us on the above proposal. We have reviewed the Order for the proposed Bodiam to Robertsbridge Junction. We have significant concerns about the disapplication of legislative provisions as outlined in Part 1- Sc5. (1) (a), (b) and (c) and **object** to the above Transport and Works Act Order on this basis.

In previous correspondence with the Local Planning Authority and the Transport and Works Act Order Unit we outlined that there are further considerations that require additional evidence (our letter RE the Environmental Statement dated 9 June 2017 ref KT/2017/122923/01-L01)

- Demonstration that flood risk is not increased in agricultural land
- Demonstration that ecology will not be adversely affected

The applicant, Rother Valley Railway, is yet to satisfy these considerations.

Disapplication of legislative provisions

We **object** to the Disapplication of Legislative Provisions as specified Sc5. (1) (a), (b) and (c).

We do not consider that sufficient evidence has been produced in order to demonstrate that the proposed works will not create or exacerbate flood risk. The current Flood Risk Assessment (FRA) identifies increases in flood depths and it is therefore essential that further work is undertaken in the form of an appropriate flood storage compensation scheme to ensure that in the post-development scenario, there is, as a minimum, no adverse impact on flood risk compared to the baseline scenario.

We requested conditions of planning to this effect in our letter ref KT/2014/118770/03-L01 dated 19th December 2016 and would expect these conditions to be met in full before any Flood Risk Activity Permits (FRAPS) associated with the proposal could be properly considered.

Given the number of structures (bridges, culverts etc) that are integral to the scheme but

Environment Agency
Orchard House Endeavour Park, London Road, Addington, West Malling, Kent, ME19 5SH
Customer services line: 03708 506 506
Email: enquiries@environment-agency.gov.uk
www.gov.uk/environment-agency



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have yet to be fully assessed in the context of a site wide FRA, we are not in a position to approve the disapplication of FRAPS as this could lead to an increase in flood risk to adjacent land and property and have a significant impact on ecology. It is also essential that sufficient access is retained for essential maintenance and improvement works to main rivers and any structures therein.

To date ecological surveys have not been undertaken and therefore the impact of the development on surrounding biodiversity cannot be fully assessed. FRAPS are bespoke and so we will need to analyse surveys and mitigation at every required location in assessing the risks to the environment.

Discharge of Water

We do not agree to the wording of Part 2 Sc16. (6) and wish to amend the clause to read *The Company must take steps to secure any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is free from fine or coarse suspended solids (silty water), oil or matter in suspension.*

We welcome Part 2 Sc16c (7) EPR permit for discharges (7) *Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016.*

Access to Assets

We have a number of sites that provide real time data for the abstraction management, flood warning systems, drought monitoring and regulation of watercourses, which may be impacted by proposed reinstatement and ancillary works of the RVR between Robertsbridge and Junction Road (B2244).

We welcome discussions at the earliest opportunity to decide how we can continue to have access rights for maintenance, installation and data gathering from our assets.

Informative

Developers are reminded that it is their duty under planning law to ensure safe and sustainable developments and under separate environmental legislation to not cause or knowingly permit pollution of the environment, harm to human health or detriment to the amenity of the area around the development.

If any unexpected contamination is discovered during development the LPA may need to re-appraise the site proposals and re-consult us if there are risks to controlled waters identified.

We recommend that the applicant:

- Applies the risk-based framework set out in the Model Procedures for the Management of Land Contamination (CLR 11) and follows the guidance in that document so that the best decisions are made for the site,
- Refers to the Environment Agency guidance on requirements for land contamination reports
- Uses BS 10175 2001, Investigation of Potentially Contaminated Sites – Code of Practice as a guide to undertaking the desk study and site investigation scheme
- Uses MCERTS accredited methods for testing contaminated soils at the site, and
- Consult our website at www.environment-agency.gov.uk for further information about any permissions that may be required.

Pollution Prevention

You are reminded that it is an offence under Regulation 38 of The Environmental Permitting (England and Wales) Regulations 2010 to cause or knowingly permit a water discharge activity or ground water activity. Care must be taken to ensure that neither the watercourse nor groundwater becomes polluted, particularly by, for example diesel fuel, petrol and oil from machinery. All fuels, oils and chemicals must be stored securely and any large containers left on site must be banded. Care should also be taken when filling machinery to ensure that diesel/petrol/oil is not spilt on the ground. Spillages must not be washed away, but absorbed by some medium and then removed from site to a suitable licensed waste facility. Any such incidents must be reported to the Environment Agency immediately (Emergency Tel No 0800 807060). Copies of the Environment Agency's Pollution Prevention Guidelines (PPG5) and (PPG6) are either attached for your information or if not available upon request.

Any waste generated in the course of the works must be disposed of in accordance with the provision of the Environmental Protection Act 1990. Persons carrying waste are required by law to register with the Environment Agency as a Waste Carrier (subject to certain exceptions). The deposit, keeping, treating or disposal of waste should only take place at premises licensed by the Environment Agency to receive the waste (subject to certain exceptions and exemptions). When you give waste to someone else, details of the transfer of waste should be described on a document called a Duty of Care Transfer Note.

If the waste contains any properties that are hazardous to health or the environment, the waste will be classed as 'Hazardous Waste' as defined in the Hazardous Waste Regulations 2005. These Regulations place specific requirements on the producer and carrier of such waste. Further information can be found on the Agency's website (www.environment-agency.gov.uk) or by contacting the National Customer Contact Centre on 03708 506506.

Please note

It is conceivable that mitigation may also be required and warn that it may be needed on land not included in boundary of the Order.

Overcoming our objection

As they stand, the Protective Provisions outlined in Schedule 8 Part 3 do not meet our requirements. For our objection to be lifted it is vital that the Protective Provisions provide the equivalent of our permitting remit for the proposed works in and around the River Rother and the surrounding land. Without the flexibility of extensive amendments we will maintain our objection; as the impact of flooding as a result of the railway cannot be quantified.

Please do not hesitate to contact me should you wish to discuss the above.

Yours sincerely



Richard Penn
Environment Planning and Engagement Manager
Direct dial 02084746787
Direct e-mail richard.penn@environment-agency.gov.uk

