

**PROPOSED ROTHER VALLEY RAILWAY (BODIAM TO ROBERTSBRIDGE
JUNCTION) ORDER**

TRANSPORT AND WORKS ACT 1992

Ref: DPI/U1430 /18/21 (TWA/18/APP/02)

OBJ/1002/AH/3

SUMMARY

PROOF OF EVIDENCE of

**ANDREW HIGHWOOD LLM FRICS FAAV
ON BEHALF OF THE HOAD FAMILY OF PARSONAGE FARM
AND THE TRUSTEES AND EXECUTORS OF
THE NOEL DE QUINCEY ESTATE AND MRS EMMA AINSLIE OF MOAT FARM**

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ROTHER VALLEY RAILWAY

The Hoad family of Parsonage Farm, and the Trustees and Executors of the Noel de Quincey Estate and Mrs Emma Ainslie of Moat Farm



1. PERSONAL QUALIFICATIONS AND EXPERIENCE

- 1.1. I am Andrew Highwood LLM FRICS FAAV, a Director of Savills (UK) Limited and based in our Head Office at 33 Margaret Street, London.

2. THE KENT AND EAST SUSSEX RAILWAY

- 2.1. A light railway was constructed to connect Robertsbridge to Tenterden and on to Headcorn at the beginning of the twentieth century. The final passenger train ran on 2nd January 1954.
- 2.2. An application for a Light Railway Order was made by Rother Valley Railway Co Ltd. It was refused in 1967.
- 2.3. The Company referred the decision to the High Court but lost and RVR had to pay costs.
- 2.4. On 22nd May 1991 the Rother Valley Railway (East Sussex) Limited was incorporated and it dropped the reference to East Sussex in 2004.

3. PROPOSALS TO EXTEND THE RAILWAY TO ROBERTSBRIDGE

- 3.1. An application was made on 30th June 2014. Consent was granted three years later subject to 30 conditions.
- 3.2. An application was made for the Transport and Works Act Order (TWAO) on 19th April 2018. This is for powers to construct, maintain and operate a railway between Bodiam and Robertsbridge.
- 3.3. The scheme proposes limited crossings for vehicles over the railway and water under the railway. Drawings required to demonstrate how they might work have not been provided.
- 3.4. The TWA Orders Unit, Department for Transport issued a Statement of Matters on 29th November 2018.

4. THE PROPERTIES AFFECTED

- 4.1. **Parsonage Farm** is a farming business growing hops, arable and rearing cattle. The railway would run through the heart of the farm and disrupt every aspect of the business.

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- 4.2. **Moat Farm** was purchased by Mr and Mrs De Quincey in 1946. The old derelict line was purchased returning the farm it to what it had been prior to the railway.

5. **POLICY AND GUIDANCE ON THE EXERCISE OF POWERS UNDER THE TRANSPORT AND WORKS ACT 1992**

- 5.1. There is guidance specific to TWA orders and guidance relating to compulsory purchase including where an application is made for a TWA order.
- 5.2. The TWAO application includes within it a reference to the power necessary to acquire land compulsorily.

6. **IMPACT ON THE FARMING OPERATIONS (SECRETARY OF STATE'S MATTER 3)**

- 6.1. The scheme will have an impact on both farms, made worse if RVR is unable to provide the user crossings. This disbenefit of the scheme needs to be weighed in the overall balance as to whether there is a compelling case in the public interest.

7. **HIGHWAYS IMPACTS**

- 7.1. I have read the Proof of Evidence prepared by Ian Fielding which reviews the proposals submitted by RVR.
- 7.2. This is a comprehensive review of the position on safety, traffic flows and potential prejudice to future dualling of the A21.

8. **RAILWAY IMPACT AND SAFETY ISSUES**

- 8.1. I have read the Proof of Evidence prepared by Philip Clark which reviews the proposals submitted by RVR.
- 8.2. He concludes that this scheme, if granted, will introduce a disproportionate level of risk to all users of the level crossings, and unacceptable imposition on my clients as landowners directly affected by the proposals.

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9. FLOODING IMPACTS

- 9.1. I have read the Proof of Evidence prepared by Chris Patmore which reviews the proposals submitted by RVR.
- 9.2. In conclusion there is insufficient mitigation to adequately deal with any adverse flood risk and nor is there provision for access to repair the railway in the event of a flood induced failure. The proposals are in breach of national planning guidance that such development should not be permitted in the functional floodplain (Floodzone 3b).

10. ECONOMIC IMPACTS

- 10.1. I have read the Proof of Evidence prepared by Ellie Evans of Volterra which reviews the proposals submitted by RVR.
- 10.2. Mrs Evans identifies 3 overarching concerns with the economic benefits that it is alleged the proposals will deliver.

11. FUNDING ISSUES

- 11.1. There are three important questions when assessing the robustness of funding proposals for the application..
 - 11.1.1. Whether RVR's estimate of the costs of the project is accurate.
 - 11.1.2. Whether there is sufficient certainty regarding the funding of the project.
 - 11.1.3. Whether the extension will be sufficiently profitable to enable the Secretary of State to be confident that the ongoing costs of operation and maintenance of the railway and associated infrastructure can be met in perpetuity.
- 11.2. Although RVR is hopeful about raising funds to build the railway and to subsidise the future running of the railway (which for the reasons set out above are extremely uncertain) I doubt whether the benefactors or any other supporters would be prepared to contribute anything to the cost of any decommissioning works.

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12. OTHER IMPACTS

12.1. There are other factors to be considered:

12.1.1. Prejudice to future dualling of A21

12.1.2. Impact upon the High Weald AONB

12.1.3. Heritage Impacts

12.1.4. Ecological Impacts

13. STATEMENT OF MATTERS RELATING TO COMPULSORY PURCHASE

13.1. **a) whether there are likely to be any impediments to RVR exercising the powers contained within the Order, including availability of funding;**

13.1.1. The costs of implementing the Order may have been underestimated.

13.1.2. The ability of RVR to discharge pre-commencement conditions attached to the 2017 Permission

13.1.3. There is insufficient information to be satisfied that Conditions 5 (Ecology Management), 6 Construction Environmental Management Plan) and 7 (Protected Species Plan) can be discharged.

13.1.4. There remains a risk that Conditions 4 (Buffer zone condition), 9 (Flood Risk Condition) or 11 Flood plain storage compensation are incapable of being discharged.

13.1.5. Highways England has returned RVR's Departures Application and identified some 32 matters that remain to be resolved.

13.1.6. There remain considerable impediments in relation to both funding and non-funding matters to the delivery of the proposals underlying the application. Against this background the application should be dismissed.

- 13.2. **b) whether the land and rights in land for which powers are sought are required by RVR in order to secure satisfactory implementation of the scheme;**

The land and rights in land over which powers are sought is incomplete.

- 13.3. **c) whether there is a compelling case in the public interest for conferring on RVR powers to acquire and use land and rights for the purposes of the scheme;**

13.3.1. It is necessary to establish the public benefits that the scheme will generate and balance those benefits against the harms that the scheme will cause.

13.3.2. The justification for the interference with my clients' rights must be "compelling". I do not consider that there is any case to justify the authorisation of compulsory purchase powers let alone a compelling one.

- 13.4. **d) whether the purposes for which the compulsory purchase powers are sought are sufficient to justify interfering with the human rights of those with an interest in the land affected.**

13.4.1. Article 1 of the First Protocol makes clear that all legal and natural persons are entitled to peaceful possessions of their property and that no-one should be deprived of their property unless in the public interest. In England and Wales the Compensation Code is clear that the interference is only ever justified where there is a compelling case in the public interest. For the reasons set out above I do not consider that there is a compelling case in the public interest. Therefore the authorisation of the use of compulsory purchase powers would unlawfully infringe upon my clients Article 1 Human Rights.

13.4.2. This application has been severely delayed. The material was substandard and incomplete at the point of submission. This update could have happened in parallel with the 2019 cancellation. As a result my clients have not been granted a fair and public hearing in a reasonable timeframe in conflict with their Article 6 rights.

13.4.3. Other than the opportunity for a select few with deep pockets to enjoy their own hobby it is difficult to identify any other reason to

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build and operate this line which over its history has never been successful.

14. **MY CONCLUSION**

- 14.1. In my opinion there are considerable impediments to the delivery of the scheme and demonstrably no compelling case in the public interest.

15. **STATEMENT OF TRUTH**

- 15.1. I confirm that I have made clear which facts and matters in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

