



OFFICE OF RAIL REGULATION

Mr Mike Hart OBE
Rother Valley Railway Ltd

Your Ref: n/a

Our Ref: #435949.02

Case Ref: 4264052

20 January 2012

Ian Raxton
HM Inspector of Railways

Dear Mike

EXTENSION OF ROTHER VALLEY RAILWAY – LEVEL CROSSINGS

After the discussions we have now had over some time I thought it would be helpful to summarise the topics into one letter so that we can move forward.

Principle of crossings

As other safety issues have been brought under better control on Britain's railways so incidents at level crossings have become an ever larger proportion of the risk on railways, whether mainline or heritage operations. For this reason the Office of Rail Regulation (ORR) policy is to resist the creation of new level crossings, indeed we actively seek the closure of existing crossings when possible.

This policy is driven very much by the large number of crossings on the mainline railway and the substantial risks that collisions on these crossings represent with fatalities and multiple serious injuries being normal outcomes.

Crossings on minor railways can present a different risk profile however due to the differing form of operation compared to the main line. Where an out of use railway line is being brought back to use with wider benefits to the locality there is a persuasive argument that a crossing can be reinstated with modern crossing controls, and if used properly by all users, as a 'safe' option for crossing the highway.



INVESTOR IN PEOPLE

As a regulator ORR's main tool for considering all works is the Health and Safety at Work etc. Act 1972. From this comes the principle that "risks are reduced to as low as is reasonably practicable", and in turn this gives us the concept of "reasonable practicability".

Any proposal to build a crossing would have to be shown to be the most practicable option which means demonstrating that constructing a bridge, either for road or rail, would be disproportionately expensive compared to the benefit achieved.

Having considered the arguments that you have put forward I believe that in each of the three crossings it is not practicable to have grade separated crossings of road and rail and that an at-grade level crossing of the highway is the practicable option.

Overall the reinstatement of the railway would seem to have considerable benefit to the community at large.

As a minor railway the speed limit on both the existing Rother Valley railway and the Kent and East Sussex Railway is a maximum of 40 kph (25 mph) and I would not expect the extension to seek any higher maximum speed, indeed I would expect that for some of the crossings locations you will wish to impose a lower train operation speed.

There is no reason why if the crossings are constructed to modern standards that risks should not be tolerable.

As a result I think that in the case of all three crossings I would not make any objection to their reinstatement.

Power to cross the highway

As all three roads being crossed are public highways you will need some form of powers to cross the highway and interfere with the public's right of way.

The modern method to achieve this is the Transport and Works Act Order (TWAO), though similar powers exist through the old Light Railways Act Orders and the various form of Private Acts of Parliament that some railways hold.

Modern TWAOs for railways can be quite diverse in their format, but all will as a minimum create the railway as a statutory undertaker and give the right to cross the highways on the level.

TWAOs have other benefits such as providing powers to compulsory purchase land if required and providing an alternative to some aspects of local planning processes. It is likely that a public enquiry would need to be held as part of the process.

Once powers to cross are in place via a TWAO then the railway would be in a position to construct and operate the crossings.

In some cases it is found necessary to have in addition to the TWAO an order under the Level Crossings Act (LCA) 1983 as well. These orders cannot in themselves create the right to have a crossing, but where that crossing has been authorised by other powers then the LCA order can define in detail the form and operating method of the crossing and define the respective responsibilities of the railway and the highway authority.

I would emphasise that a LCA order is not compulsory; indeed the majority of UK level crossings do not have such orders.

It is ORR who administer and issue LCA orders on behalf of the Secretary of State. The process for seeking LCA Orders is set out in the recently republished ORR guidance document RSP7¹ "Level crossings: A guide for managers, designers and operators". This guidance note also sets out what ORR considers good practice for various crossings types.

Having reviewed the report produced on your behalf by Mott MacDonald I believe that it will be possible to create a safe at-grade crossing at all three sites if designs along the lines of those set out in the report are provided.

I look forward to seeing your future proposals in due course.

Yours sincerely



Ian Raxton
HM Inspector of Railways

¹ http://www.rail-reg.gov.uk/upload/pdf/level_crossings_guidance.pdf