

PROPOSED ROTHER VALLEY RAILWAY (BODIAM TO ROBERTSBRIDGE JUNCTION) ORDER

**OPENING STATEMENT ON BEHALF OF
HIGHWAYS ENGLAND**

APPEARANCES

MARK WESTMORELAND SMITH, of Counsel, instructed by Susanna Weatherstone, Planning lawyer at Highways England, Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ.

Will call:

1. **PAUL HARWOOD** – policy, land and consenting matters; and
2. **DAVID BOWIE** – technical matters.

Whose qualifications are set out in their respective proofs of evidence copies of which the Inspector should have.

OPENING

Introduction

1. Highways England (“HE”) is an arms-length company wholly owned by the Secretary of State for Transport (“the SoS”) that came into being on 1 April 2015. HE has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015. HE is the highway authority, traffic authority and street authority for the Strategic Road Network in England (“the SRN”). In the vicinity of the proposed railway, this comprises the A21.
2. The SRN is a critical national asset. HE is under statutory direction from the SoS to operate and manage the SRN in the public interest both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

3. HE is specifically directed by the Secretary of State by paragraph 4.2(e) of its Licence [PH, App.A, p.13 (of PH's appendices)] to "*protect and improve the safety of the network.*" Indeed, safety is integral to HE's work.
4. The proposal under consideration includes the provision of a level crossing ("LC") on the section of the A21 Robertsbridge Bypass between the A21/ Northbridge Street roundabout and the River Rother. As a result, it has the potential to impact adversely the safe and efficient operation of the A21.

A21 and the proposals

5. The A21 provides a north-south route between London and Hastings. It is a trunk road for the majority of its length. At Robertsbridge it passes to the east of the village. This section is subject to a signed speed limit of 40mph and immediately south of the proposed LC it is subject to national speed limit 60mph.
6. There are no formal pedestrian facilities in either verge within this section of the A21 and no connections to adjacent existing walking provision passing underneath the carriageway. However, pedestrians are not prohibited from this section. Similarly, there are no formal cycle provisions along this section of the A21 even though cyclists are permitted.
7. A number of traffic surveys have been carried out since 2010 (as described in more detail the evidence of David Bowie [OBJ782/W2/1 (DB p/e), §§37-42]). The later surveys show that the road carried an average daily flow of 18,254 vehicles in May 2018 (this is a weekly average of the 24-hour two-way flow) and 17,350 in April 2019 (measured over the bank holiday weekend only).
8. The surveys also show that the 85thile speed is marginally higher than the speed limit (up to 43.2mph in 2018) (although the 85thile was higher in the earlier hours of the morning over the April 2019 bank holiday). The 85thile is essential to safe highway design and forms the basis for design under the Design Manual for Roads and Bridges ("DMRB").
9. HE accepts that this stretch of the A21 – as currently laid out – maintains a reasonably high level of safe operation with four recorded accidents in the period 2015-2020. However, all parties are agreed that the introduction of a new level crossing on the A21 is a new point of conflict that will increase the overall risk of accidents [RVR/W3/1 (PH p/e), p.23, §5.4.3].
10. It will involve queuing to the north and through the A21/ Northbridge roundabout at 2019 traffic levels (i.e. without accounting for growth). RVR estimates that the introduction of the LC will increase the annual risk of a fatality by 34% (from 0.041 to 0.055) [RVR/W3/1 (PH p/e), §5.5.5] and increase the accident rate from 0.783 per annum to 3.151 per annum [RVR/W3/2 (PH, App), App.F, §1.5]. This means an increase from 4 accidents per five-year period to 16. This acknowledged increase in the number of accidents and in risk needs to be weighed against alternative means of provision, their costs and the benefits brought about by the scheme.

The DMRB and the departure application

11. Paragraph 11 of Department for Transport Circular 02/13 [RVR/HE/07] provides that proposals must comply in all respects with design standards and that the DMRB sets out details of the Secretary of State's requirements for access, design, and audit, with which development proposals must conform.

12. The DMRB is a suite of documents which contains the standards, requirements and advice relating to works on motorway and all-purpose trunk roads for which HE is highway and road authority. It embodies the collective experience of the Overseeing Organisations (Highways England, Transport Scotland, the Welsh Government; and the Department for Infrastructure (Northern Ireland)), the Department for Transport, and their agents and designers. The DMRB requirements and advice represent the best available knowledge and experience of highway design and safety requirements. Accordingly, to deviate from the requirements of DMRB is likely to introduce risks which need to be managed down to as low as is reasonably practicable level.
13. The LC is not a recognised highway feature in the DMRB. A departure application must be submitted and approved for an '*Aspect not covered by requirements*' before the LC design can be accepted (paragraph 2.7 of the DMRB Document GG 101 [OBJ782/W2/2 (DB App), App.B, p.51]).
14. Within HE the Safety, Engineering and Standards ("SES") Division is responsible for maintaining and updating the DMRB in consultation with the Overseeing Organisations. SES provide the technical expertise to build and operate the SRN safely and efficiently.
15. SES is the custodian of DMRB and acts independently within HE to consider applications for departures from DMRB submitted through Highways England's Project Sponsors. This independence ensures that departure applications are treated impartially.
16. An approved departure is deemed to meet the Overseeing Organisation's requirements for that element of the works, provided that any mitigation measures proposed or conditional to that approval are also incorporated into the design and works.
17. RVR submitted a departure application on 17 March 2021. The departure application seeks to demonstrate that the risks of introducing an LC into the SRN are outweighed by the benefits of the proposals.
18. HE reviewed the departure application and rejected on 19 March due to insufficient information. It was resubmitted on the 20 April 2021 and was approved HE for review by SES on the 21 April 2021. SES responded on 26 May 2021. The SES response is included in the Core Documents [RVR/HE/02]. In summary, SES identified a list of 33 items that it required RVR to address.
19. There was a conference call between RVR and HE and SES on 9 June 2021 to discuss the departure application and 33 issues. Following this, RVR responded on 25 June 2021 with further information which seeks to address the 33 points. This is currently being reviewed by SES.
20. Whilst it can be reasonably agreed that some of those 33 items listed in the SES review of the Departure will be resolved relatively simply, there are other matters which will need more detailed consideration, design and review in order to ensure the design is tolerably safe and the departure application can be approved. These are addressed by DB in his evidence [OBJ782/W2/1 (DB p/e), pp.12-18]. At present, these remain issues to be resolved and which are germane to the safety of the A21.
21. SES has an internal service level agreement within HE to respond within six weeks. On this basis, a response can be expected by 9 August 2021. As Philip Hamshaw acknowledges in his rebuttal

[RVR/W3/4, §2.2.3], the current RVR submission will not necessarily satisfy the departures team on each point in issue and as such the response from SES may not be conclusive but instead require further work/ mitigation before the departure can be approved which would then be for RVR to consider and provide. Accordingly, it is not currently anticipated that the matter will be resolved before the end of the Inquiry.

Conclusion and summary of Highways England's position

22. HE's Statement of Case [OBJ/0782] was submitted to the Inquiry on 20 September 2018. In the intervening period there has been considerable discussion between HE and RVR and much progress has been made. The draft Order now contains protective provisions for the benefit of HE which are agreed (subject only to anything that arises from the departures process). The combination of detailed discussions and the protective provisions has allowed many of the issues identified in Highways England's Statement of Case to be addressed.
23. HE and RVR continue to work constructively together. However, as set out above, there are a number of matters which remain subject to on-going work and discussion in the context of the departure application.
24. In the result, HE continues to object to the proposed Order for the following reasons:
 - (i) HE considers that the installation of a level crossing on the A21 will be detrimental to safety on the A21; and
 - (ii) The design of the proposed railway where it crosses the A21 Trunk Road does not conform to the Design Manual for Roads and Bridges.
25. While the above issues may be capable of being overcome, at present HE maintains a clear objection to the appeal proposal.
26. For all these reasons, we will be inviting the Inspector to recommend to the Secretary of State that the Order is not confirmed and the Secretary of State ultimately not to confirm the Order.

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