

THE ROTHER VALLEY (BODIAM TO ROBERTSBRIDGE JUNCTION) ORDER

OPENING SUBMISSIONS ON BEHALF OF THE PROMOTER

Introduction

1. The Promoter (“RVR”) seeks an Order under the Transport and Works Act 1992 to authorise the construction of a new railway and the maintenance of two existing stretches of railway lying between Robertsbridge and Bodiam in East Sussex. The Order will authorise, amongst other things, the compulsory acquisition of land and the creation of level crossings at the B2244 at Udiam, Northbridge Street and at the A21 in Robertsbridge, as well as at a bridleway.
2. The scheme which underpins the Order is the completion of the restoration of a railway branch line which was lost in the 1960s. Most of the line has been reinstated, and it is operated as the Kent and East Sussex Railway (“KESR”) between Tenterden and Bodiam Castle. It is – and will continue to be – a “heritage” or “touristic” railway. The Order would secure the completion of the “missing link” of this railway, reconnecting it to its original mainline connection at Robertsbridge Junction.

There are clear and significant public benefits of the Order

3. The Order will enable the delivery of significant public benefits. It will provide a mainline connection (to London and the South Coast) to the heritage railway. Visitors will be able to take a train from London, Hastings or Brighton to Robertsbridge and on to one of the National Trust’s most attractive destinations at Bodiam Castle, and beyond. This is a sustainable and much needed means to opening up these attractions to those travelling without a car. The National Trust recognise the proposal as being of “real benefit” to them¹. Similarly, Network Rail have voiced their strong support for

¹ Appendix 5 to Report on Consultation

the proposals noting the rail transport and environmental benefits of connecting KESR to the mainline².

4. The proposals will bring direct and indirect economic benefits to the area. In 2013, the All Party Parliamentary Group on Heritage Rail reported to Parliament on the value of heritage railways³. It noted that heritage railways “make a major contribution to the economies of the areas they serve both in terms of attracting tourism and of substantial spending on local services”. In the present case, by any measure the economic benefits will be significant. RVR has carefully assessed these benefits and, as Mr Higbee’s evidence will show, the scheme will deliver economic benefits of over £1m each year⁴, along with £6.5m of additional economic benefits during construction. Given the proposal is funded by private money, these are public benefits which do not come at an expense to the public purse (as the APPG put it, “subsidy free”⁵). These benefits are recognised and endorsed by the relevant District and County Councils.
5. There are further real benefits of the scheme. Heritage railways, including this one, provide paid employment and training opportunities, but also attract large numbers of volunteers. The benefits of volunteering are wide-ranging and risk being understated.
6. More broadly, the proposal is to bring back a piece of history: an historic branch line that once served the villages and farms of the Rother Valley and through to the Weald. It will be a wonderful addition to the area’s attractions, drawing in visitors who will better appreciate the natural beauty of the area, and its deep history. Visitors will take a train line which served farms and mills in the 19th Century, before its short-sighted abandonment in the 1960s, when the private car was thought to be the answer to our problems. In this way, the “missing link” is in fact a 21st Century answer to a 20th Century problem. Proposals such as this have the ability to inspire and spark the imaginations of the people who will enjoy them.

² SUPP/080

³ RVR/31

⁴ In the central estimate

⁵ RVR/31

The public benefits of the scheme have already been recognised through the planning system

7. The scheme which is the subject of the Order already has the benefit of planning permission. In 2006, Rother District Council gave express development plan support for the extension of the KESR from Bodiam to Robertsbridge, subject to addressing flood risk matters, the impact on the AONB, and appropriate arrangements for crossing the A21, B2244, Northbridge Street and the River Rother⁶. The Inspector examining the plan noted that compulsory purchase powers may be needed to deliver the scheme endorsed by the policy. In 2017, that policy support materialised into a grant of planning permission for the entire scheme⁷.
8. This was a carefully considered decision by the local planning authority. The proposal was treated as “EIA development” and subject to full environmental impact assessment. The views of statutory consultees were taken into account (and followed) and the impacts of the scheme were addressed through a suite of planning conditions. These conditions will govern the construction and operation of the scheme: they are not supplanted by this Order.
9. Whilst the Secretary of State wishes to consider planning matters in deciding whether the Order should be made, the existence of this planning consent is a significant material consideration. The plan-led system has concluded that the scheme should go ahead, and the focus must necessarily be on the powers sought in the Order – namely the land and rights required to construct the scheme, and the relevant statutory authority for its operation. This is important context to many elements of the objectors’ cases. Further, the existence of extensive planning conditions can and should be relied upon as the appropriate means of addressing a range of matters such as ecology and flood risk.

The principle of crossing roads on the level is acceptable

10. Unsurprisingly, a central issue in considering the acceptability of the proposals has been the construction of level crossings. The position before the Inquiry is that the principle of such crossings is no longer disputed by the relevant authorities. The local planning

⁶ RVR/02

⁷ RVR/07

authority considered the point in detail in deciding to grant planning permission in 2017, imposing conditions in respect of the proposed road crossings.

11. Following the application for this Order, the Office of Rail and Road (ORR) considered whether it could support the proposed crossings, applying its (then) test of “exceptional circumstances”. Rightly, it required RVR to submit detailed information to satisfy that test. It concluded that that test was met⁸. It does not object to the proposed crossings.
12. Subsequently, RVR has engaged with Highways England (HE) on the specific question of the A21 crossing. HE is in the process of considering a detailed “departures” application. This work is at a level of detail which goes beyond that provided for in the Order. Planning conditions already secure that such details are submitted before the commencement of the development authorised by the permission, and therefore the Secretary of State can be confident that these issues will not go unaddressed⁹. However, HE wishes to be satisfied on these points through its internal processes *before* it withdraws its objection to the making of the Order. Once it has considered these details, and is satisfied that the crossing can be operated safely, it is understood that it expects to be able to withdraw its objection. RVR and HE have reached agreement on the form of the protective provisions for HE in the Order, and other matters relevant to the implementation of the Order are the subject of a side agreement which has been entered into by both parties. The outstanding points of concern are issues of a detailed technical nature and are being addressed outside of the Inquiry process.
13. It is therefore hoped and expected that by the time the Inspector comes to report to the Secretary of State, it will be on the basis that no relevant authority has an outstanding objection to the crossings in question. RVR can demonstrate that the crossings can operate tolerably safely, and without any significant adverse effect on the highway network.

⁸ REP-017. The “exceptional circumstances” test is no longer part of the ORR policy.

⁹ RVR/07, Condition 20

Any wider environmental impacts are acceptable and are appropriately managed through the planning permission

14. The proposals have already been assessed through the planning process, including through the submission of an Environmental Statement, by the local planning authority. In those circumstances it is unsurprising that the Secretary of State concluded that the environmental information incorporated in the original ES and its addendum would provide an ES of sufficient scope for the purposes of this application. During the course of this application, RVR has made two further submissions of environmental information, the second submission in response to a request from the Inspector under Rule 17. The environmental information before the inquiry is of sufficient scope and detail to enable the likely significant effects on the environment to be taken into account.
15. Those issues have, in any event, largely been addressed through the planning process. Two particular issues warrant mention at this stage in light of their prominence in submissions to this Inquiry:
 - a. Ecological impacts have been carefully assessed and the planning permission requires the submission of further details through a landscape and ecology management plan (LEMP) and a construction environmental management plan (CEMP). These conditions ensure that ecological interests can be protected, even in those areas where landowners have not permitted survey work to be completed.
 - b. Flood risk has also been addressed through a series of planning conditions relating to mitigation measures, the integrity of flood defences, and compensation storage. There is no objection from the Environment Agency (save in respect of one point of detail on the wording of the order) or the local lead flood authority. The railway is necessarily located in the flood plain since that is the route being reinstated, but an up to date assessment has demonstrated that it can be constructed and operated without increasing the risk of flooding elsewhere.

The compulsory acquisition of land is justified

16. RVR has been able to acquire some of the land required for the scheme by agreement – and indeed has constructed part of the railway on the land which it controls. However, two landowners whose land was crossed by the original railway oppose its reinstatement, and oppose the acquisition of their land. Recent correspondence confirms that their objection is to the principle of the scheme, and there appears to be no prospect of acquiring the land in question by agreement.
17. In those circumstances, the authorisation of compulsory acquisition of the land is both necessary and appropriate to deliver the scheme and the benefits it brings. Those benefits amount to a compelling case in the public interest for the use of CPO powers. There is no alternative means by which those benefits can be delivered without the use of the land where the original railway ran. RVR recognises the interference with the landowner interests, and the impacts that such an interference will have on the farming operations. It has carefully assessed those impacts.¹⁰ However, those impacts can be largely mitigated through working together to agree accommodation crossings. Compensation will be payable to put the landowners in the position they would have been but for these proposals.

Conclusion

18. The Order scheme will complete the reinstatement of a railway line that will bring significant benefits to the local area and beyond. It will reconnect an existing heritage railway and a number of important visitor destinations to the national rail network, promoting both tourism and sustainable travel. In completing a “missing link” it will generate significant economic and social benefits, funded by private donations. The benefits of the proposal have already been recognised and endorsed through the planning system, and this Order will enable their realisation.
19. The impacts of the pandemic have been acutely felt in the tourism sector but through careful management – and support from government – KESR is well-placed for the future. This railway will significantly enhance the existing railway and open it up to a new audience.

¹⁰ RVR/67 and 68

20. The Inspector will therefore be invited to confirm the Order.

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