

**By Email Only**

Ian Jenkins BSc CEng MICE MCIWEM

[Joanna.vincent@gateleyhamer.com](mailto:Joanna.vincent@gateleyhamer.com)

Solicitors and  
Parliamentary Agents

Minerva House  
5 Montague Close  
London  
SE1 9BB

**DX: 156810 London Bridge 6**

Switchboard 020 7593 5000  
Direct Line 020 7593 5133  
[www.wslaw.co.uk](http://www.wslaw.co.uk)

13 August 2021

Our Ref: JEW/33916/00001

Dear Mr Jenkins

**Transport and Works Act 1992**

**Proposed Rother Valley Railway (Bodiam to Robertsbridge Junction) Order**

**Availability of land for mitigation and compensation**

In his opening submissions on behalf of the promoter, counsel for Rother Valley Railway Limited ("RVR") referred to the planning permission for the scheme which provides for its impacts to be addressed through a suite of planning conditions that will govern the construction and operation of the scheme (paragraph 8) and noted that the existence of these conditions can and should be relied upon as the appropriate means of addressing matters such as ecology and flood risk (paragraph 9). Counsel went on (paragraphs 15 et seq.) to expand on how ecology and flood risk have been addressed through the planning process.

David Gillett's evidence (RVR/W1/1) described the engagement that has taken place with the Environment Agency, that the Environment Agency stipulated the conditions to be attached to the planning consent regarding, in particular, flood risk, and that it withdrew its holding objection to the application once protective provisions had been agreed and made contractually binding on RVR by means of a side agreement (paragraph 19.3.3). He also explained (at paragraph 19.4.1) that the County Ecologist recommended that the planning application could be supported from an ecological perspective.

With regard to ecology, the rebuttal evidence of Giles Coe (RVR-W6-4) explained (at paragraph 1.6) that the necessary area required for compensation planting (i.e. for compliance with planning condition 9) is provided both within the footprint of the railway corridor and augmented by land parcels within the railway's control. With regard to compliance with condition 11 of the planning conditions, the evidence of Suzanne Callaway (RVR-W7-1) explained (at paragraph 3.1.10) that discussions with the Environment Agency regarding the requirement to provide compensatory flood storage are ongoing. Paragraph 2.10.3 of her rebuttal evidence (RVR-W7-4) stated that a number of potential locations at the edge of the floodplain had been identified for floodplain storage compensation but this was ultimately a matter for compliance with the planning conditions. Mrs Callaway referred to the evidence of the landowners' witness, Mr Patmore, reporting his meeting with the Environment Agency at which it was confirmed that the Environment Agency considered a solution to be feasible.

It has, therefore, been RVR's position throughout this Inquiry that detailed arrangements for, and locations of, compensation planting and flood compensation storage (to the extent required, if any)

are matters to be addressed after statutory authority has been given to the scheme and at the time when detailed proposals are worked up in consultation with the local planning authority and relevant interested parties to enable relevant planning conditions to be discharged. The applicant's witnesses have given evidence that, in their professional judgment, this can be achieved within land already in the ownership of RVR and/or within the Order limits. In these circumstances, it would not have been appropriate for RVR to seek additional compulsory powers over third party land for such purposes when it is not convinced that such land is necessary.

Given that there has been scepticism expressed regarding the applicant's ability to provide the maximum area potentially required for flood storage mitigation and compensation planting within land under its ownership, the suitability of specific areas of land identified and criticism of proposals to use the same area of land for the dual purposes of planting and flood storage compensation, it is important that both you and the Secretary of State should have the fullest information currently available in front of you when considering these matters.

For this reason, even though it is at a late stage in the Inquiry, I am writing to let you know that a local landowner, New House Farm Bodiam Ltd, has given in-principle agreement to a mutually beneficial arrangement by which land will be made available to RVR on a long lease to be used as compensation planting (to the north of the railway) and for flood compensation storage (to the south). The company wishes to enhance the habitat of the Rother Valley in line with the aspirations of the High Weald Area of Outstanding Natural Beauty and is already engaged on a project to plant woodland habitat to the east of Junction Road in association with the Woodland Trust.

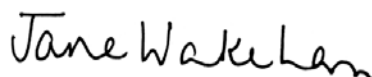
The company will make available a 4ha field between the railway and the river at the Junction Road end of the scheme which can provide all the ecological mitigation recommended by the RVR's environmental consultants, Temple. Any area not required for mitigation would be used by the farm for grazing. The company will also provide land to the south of the river. This includes areas at the edge of the flood plain and Capita has confirmed that LIDAR data indicates that this land would provide mitigation at an appropriate level, should this be required by the Environment Agency in discharge of the relevant planning condition in due course.

The locations being considered for floodplain compensation storage are shown on the attached indicative plan, although they may not be required once the volumes are finalised at detailed design stage or alternatively only some of the areas identified may be required. This letter has the approval of New House Farm Bodiam Ltd and you are invited to include the land in your accompanied site visits in September should you wish to do so.

The purpose of providing this information is to provide confidence to the Inquiry that there is suitable land available to RVR to ensure compliance with the ecological and flood management planning conditions to any extent necessary. However, as explained in the evidence of RVR to date, the detailed provision can only be settled at a later stage once access to all the land has been secured and detailed designs have been prepared in the light of post-TWAO surveys. This will be carried out in discussion with the local planners and statutory bodies, as required to secure the discharge of relevant planning conditions.

This letter is being shared with Richard Max & Co.

Yours sincerely



**Jane Wakeham**  
**Partner**

DT 020 7593 5133  
DF 020 7593 5099  
jwakeham@wslaw.co.uk.

[illegible]

### Indicative Locations for Floodplain Compensation Storage

**LOT 2**

**LOT 1**

ESX23163

ESX68673

**LOT 4**

ESX68673

**LOT 3**

## Access

Access

### Access