

PROPOSED ROTHER VALLEY RAILWAY (BODIAM TO ROBERTSBRIDGE JUNCTION) ORDER

**CLOSING STATEMENT ON BEHALF OF
HIGHWAYS ENGLAND**

1. This closing statement is by way of an update to the position of Highways England as was set out in opening [INQ/001] and in the evidence of Paul Harwood [OBJ781/W1/1] and David Bowie [OBJ/781/W2/1] as well as the Statement of Common Ground with RVR [INQ/033].
2. As was said in opening, 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.
3. HE has been appointed by the SoS 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”). The SRN is a critical national asset. In the vicinity of the proposed railway it comprises the A21.
4. 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. 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.*” Safety is integral to HE’s work.
5. It was recently announced that Highways England would be renamed National Highways and National Highways is being set up as a subsidiary company of Highways England. For the purposes of this Inquiry the legal status of Highways England is unchanged. In due course it is envisaged that National Highways will take on the current legal status of Highways England.
6. It is 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 [INQ/033, §4.2.2].
7. 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.
8. A level crossing is not a recognised highway feature in the DMRB. As a result and as agreed, a departure application must be submitted and approved for an ‘*Aspect not covered by requirements*’ before the level crossing design can be accepted [INQ/033, §4.4.2].

9. As previously explained, 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. 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.
10. RVR submitted a departure application on 17 March 2021. The departure application seeks to demonstrate that the risks of introducing the level crossing into the SRN are outweighed by the benefits of the proposals and that the risks of the crossing have been reduced to as low as reasonably practicable.
11. SES remains in the process of reviewing the departure application. The inquiry is familiar with the recent history of the departure application including SES’s initial response dated on 26 May 2021 [RVR/HE/02] in which SES identified a list of 33 items that it required RVR to address. There followed a conference call between RVR, HE and SES on 9 June 2021 to discuss the departure application and these issues. Following this, RVR responded on 25 June 2021 with further information which seeks to address the 33 points.
12. SES has now reviewed this further information and meetings were held between RVR and HE on 6 August 2021 and 31 August 2021. The purpose of the first meeting is to set out in an email dated 3 August 2021 [INQ/134] as follows:

“In advance of the meeting on 6 August, I thought it would be helpful to give you more detail on the issues centred around mitigation to the A21 being proposed:

The concerns are centred around:

- *managing the speed of traffic to provide a compliant, or relaxed, Stopping Sight Distance to the back of the shortest typical queues generated by the crossing;*
- *queuing back onto the roundabout generated by the longest typical queues associated with the crossing”*

13. As predicted by both Philip Hamshaw [RVR/W3/4, §2.2.3] and David Bowie in giving oral evidence, the departure submission as submitted may require further work/ mitigation before the departure can be approved.
14. In this context, SES has indicated that its principal concerns relate to queuing through the roundabout and appropriate Stopping Sight Distances for queues that are shorter than the longest queues, e.g. a southbound queue that goes most but not all of the way back to the roundabout.
15. The meeting on 31 August considered the response by RVR to the issues discussed in the first meeting. It also discussed potential further mitigation. The discussion was positive and constructive, and a further meeting is planned in the next few weeks. It will be for RVR to bring forward revised proposals to address SES’s concerns and that RVR undertakes to deliver.

Conclusion and summary of HE’s position

16. The position remains therefore as set out in opening. There has been considerable progress since HE’s Statement of Case [OBJ/0782] (20 September 2018) and the Order now contains

protective provisions for the benefit of HE which are agreed [INQ/021].

17. Work is on-going between SES and RVR in the context of the departure application. However, it has yet to be approved and, as 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.
18. HE confirms that, if and when, SES approves the departures application, it will write to the Secretary of State to withdraw its objection and give its consent to an access to the A21 under section 175B of the Highways Act 1980.
19. Further, HE will not require the RSA Stage 1 Audit to be carried out prior to the withdrawal of the objection, as this issue is covered by the protective provisions [INQ/021, paragraph 3(1)].

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