

TRANSPORT AND WORKS ACT ORDER 1992

TRANSPORT AND WORKS (INQUIRIES PROCEDURES) RULES 2004

ROTHER VALLEY RAILWAY (BODIAM TO ROBERTSBRIDGE JUNCTION) ORDER

UPDATED STATEMENT OF CASE OF THE APPLICANT 10 MAY 2021

1. Introduction

Purpose of Statement of Case

- 1.1 This is the updated Statement of Case of the applicant for the above-named Order. On 19 April 2018, Rother Valley Railway Limited (RVR) applied to the Secretary of State for Transport for the Rother Valley Railway (Bodiam to Robertsbridge Junction) Order under the Transport and Works Act 1992 (“the Order”) (**RVR 01**).
- 1.2 The purpose of the Order is to confer on RVR the necessary powers to construct, maintain and operate a re-instated railway along the route of the former Rother Valley Railway between Bodiam and Robertsbridge, thereby completing the “Missing Link” and enabling the Kent and East Sussex Railway (“K&ESR”) to operate steam trains along the entirety of the historic route between the town of Tenterden and the main line railway at Robertsbridge.
- 1.3 The statutory objection period ended on 31 May 2018. The total number of responses to the Order was 1240, comprising 1003 objections (of which 572 were identical signed templates), 18 representations and 219 letters of support.
- 1.4 As a consequence, and in accordance with the Transport and Works (Inquiries Procedures) Rules 2004 (the Inquiries Rules), the Secretary of State announced on 28 June 2018 his intention to hold a public local inquiry into the application. The Inquiry is expected to take place in July 2021, following two postponements, initially to allow further negotiations with the Office of Road and Rail and Highways England and then because of the Covid 19 pandemic.
- 1.5 In June 2020, the Inspector directed RVR to provide Further Environmental Information (“FEI”) pursuant to Rule 17 of the Applications Rules. This information was submitted on 8 March 2021 and placed on the Inquiry website, following which there was a period of 42 days for representations on it, ending 19 April 2021.
- 1.6 Rule 7 of the Inquiries Rules requires the applicant to provide a Statement of Case. This document is RVR’s Statement of Case for the purposes of the application the Order. It contains a summary of the case that RVR intends to make at Inquiry in support of its application. RVR was directed by the Secretary of State to review its Statement of Case, in light of any representations received in respect of the FEI.
- 1.7 Only one response was received by the SoS in respect of the FEI. It was sent on 19 April 2021 on behalf of OBJ 1002 (collectively the Hoad family of Parsonage Farm and the de Quincey Estate and Emma Ainslie of Moat Farm). Although Form 6 of Schedule 2 to the Applications Rules requires representations about the FEI to state the grounds of the representation, the purported representation explicitly stated that it was not intending to do this, but that the objectors would address the FEI in their evidence to the public inquiry.
- 1.8 This updated Statement of Case responds to the various points made in OBJ 1002’s letter, insofar as it is practicable to do so. It also takes the opportunity to update certain factual information provided in RVR’s original Statement of Case (**RVR 65**). In Appendix A there

is a list of the documents which accompanied RVR's original Statement of Case. These documents were made available for public inspection at the location and times set out in Appendix B. They are all now available on the Inquiry website. Appendix C contains a list of new documents that RVR intends to refer to or submit in evidence at the Inquiry. In the Statement of Case, references to documents included in Appendix A and C are shown in **bold** type and will be available on the Inquiry website.

Historical context

- 1.9 The former railway line between Robertsbridge and Tenterden was closed in 1961. Much of the trackbed remained in place for many years and, in 1974, the line between Tenterden and Rolvenden was re-opened as the Kent and East Sussex Railway (K&ESR). The line was further reinstated to Bodiam (the site of the National Trust's Bodiam Castle) in 2000, and K&ESR has become a successful heritage railway and major tourist attraction.
- 1.10 There has always been an aspiration within K&ESR to reinstate the original line through to Robertsbridge where a connection to the main line would be possible. A separate company, Rother Valley Railway Ltd (RVR), was formed in 1991 to bring this forward. Further details about RVR and the Rother Valley Railway Heritage Trust are provided in section 2 of this Statement of Case
- 1.11 After the original line was closed, the railway corridor was sold to local people and farmers. RVR, therefore, entered immediately into negotiations with relevant landowners along the route with a view to acquiring land or rights over land for the purposes of re-instating the line to Robertsbridge. Land was purchased at the Bodiam and Robertsbridge ends of the line, allowing some track to be re-laid, but leaving a gap between Junction Road in Udiam and Northbridge Street in Robertsbridge.
- 1.12 Reinstatement work to date (described further below) has been undertaken mainly by volunteers and local contractors, with inputs from professional consultants where necessary, and has been financed entirely by voluntary contributions through the RVRHT, with no call on the public purse.

The Missing Link

- 1.13 The "Missing Link" is the section of former railway corridor, approximately 3.42 km long, running from Junction Road (the B2244) in Udiam to Robertsbridge. The remainder of the scheme included in the draft Order, has already been reinstated in accordance with planning consent, although it lacks the statutory authorisation that the proposed Order will confer. Completion of the Missing Link will allow the operation of a heritage railway service from Tenterden to Robertsbridge, with intervening stops at Rolvenden, Wittersham Road, Northiam and Bodiam.

The Local Plan

- 1.14 Policy EM8 of the Rother District Local Plan expressly supports the reinstatement of the Rother Valley Railway. The Local Plan was the subject of an inquiry between 19 October 2004 and 20 May 2005. The relevant extract from the plan is at **RVR 02**.

Planning Permissions

- 1.15 Over the course of a number of years, planning permission has been obtained for the re-instatement of the railway between Bodiam and Junction Road (permission RR/94/1184/9 in 1994)(**RVR 03**) from Robertsbridge to Northbridge Street (RR/2005/836/P in 2005) (**RVR 04**), for extension through Udiam Farm to Junction Road (RR 2009/114P in 2009) (**RVR 05**), and Robertsbridge Junction Station, (RR/2012/1357/P in 2012)(**RVR 06**). Re-construction of the railway within those sections has now been completed and the station construction is ongoing.

- 1.16 At Robertsbridge, a connection to the Network Rail main line was completed in late 2016, and formally opened by Sir Peter Hendy, Chairman of Network Rail in December 2016. The new Robertsbridge Junction Station Platform and the first phase of the main station building was formally opened by the local MP, Huw Merriman, on 25 August 2017. Network Rail is already using the connection with the heritage railway for training purposes, sending groups of employees down from its training centre in Nottingham; and it is also envisaged that it will be used to assist Network Rail reduce disruption on the main line by enabling it to store equipment and reduce the extent of possessions required for routine and extraordinary maintenance.
- 1.17 Following consultation over a period of 6 years (including discussions with all relevant statutory bodies and the local planning authority, as well as surveys, designs and modelling), planning permission for the remaining 3.4 km stretch between Udiam and Robertsbridge was unanimously approved by the Rother District Planning Committee on 17 March 2017 (RR/2014/1608/P) (**RVR 07**). The planning permission provides consent for the development of the Missing Link.

The local area and places of interest

- 1.18 The East Sussex and West Kent area is a significant destination for overseas and domestic visitors. The region is typified by picturesque coastline, historic towns and attractive countryside, making it a destination for outdoor activities, and leisure and cultural purposes. The Railway also sits within '1066 Country', which is named after the Battle of Hastings and promotes tourism sites across the eastern part of East Sussex.
- 1.19 The historic village of Robertsbridge is a popular jumping off point for activities in the High Weald AONB, whereas Tenterden is a visitor destination in its own right. Between the two sits Bodiam Castle, a National Trust property that attracts more than 185,000 visitors a year. Bodiam Castle is the 4th most visited National Trust castle and the 40th most popular attraction of over 200 National Trust properties (as reported in its annual report 2016/17) (**RVR 08**) (extract). The National Trust supports the reinstatement of the Missing Link and proposes to promote the accessibility provided by the link to the national rail network in its marketing of Bodiam Castle.
- 1.20 Other attractions in the area include Great Dixter and Sissinghurst Castle, the 1066 Battle Abbey and Battlefield, and towns of Rye, Battle and Hastings. Each stop along the route of the K&ESR railway has something of interest for visitors to the area and it is, for example, possible to take a steam train in one direction between Northiam and Bodiam and a boat along the river in the other.
- 1.21 Despite these attractions, East Sussex suffers from above average levels of deprivation. As described in the Economic Impact Report (**RVR 09**), the county ranked 90 out of 152 upper-tier authorities in deprivation indices in 2010 (where 1 has the greatest level of deprivation). Three of the five districts are within the top 50% most deprived in the country, particularly Hastings, which ranks 19 out of 326 districts (i.e. according to this measure, it is the 19th most deprived district in the country). East Sussex produced £14,556 in Gross Value Added (GVA) per head in 2012, which was 67% of the UK value and 63% of the South-East region. In addition, average earnings across the county are below the regional and national average.
- 1.22 Rother Valley Railway Limited was formed in 1991 and became a subsidiary of Rother Valley Railway Heritage Trust. Rother Valley Railway Limited is company number 02613553 whose registered address is 3-4 Bower Terrace Tonbridge Road, Maidstone, Kent, ME16 8RY
- 1.23 Rother Valley Railway Heritage Trust is a charity with Registered No. 1088452 whose registered address is Robertsbridge Junction Station, Station Road, Robertsbridge, East Sussex, TN32 5DG and was constituted under a Trust Deed dated 17th January 2001.

- 1.24 The Kent and East Sussex Railway Company Limited (K&ESR), formed in 1971, is a charitable company limited by guarantee (registered charity no. 262481 and company number 01007871) whose registered address is Tenterden Town Station, Station Road, Tenterden, Kent, TN30 6HE.
- 1.25 The Rother Valley Railway opened in 1900 as England's first 'light railway', serving the rural communities of East Sussex and Kent. In 1904, it changed its name to the Kent and East Sussex Railway. Closing to passengers in 1954, the line was saved and reopened by the charitable company in stages from 1974 onwards. It now operates steam hauled and diesel observation trains on a 10.5 mile line from Bodiam Castle in East Sussex to the historic market town of Tenterden in west Kent. It has a TripAdvisor rating of: 4.5 with 941 reviews (**RVR 10**).
- "The picturesque line weaves between Tenterden and Bodiam for 10 1/2 miles. England's finest rural light railway enables visitors to experience travel and service from a bygone age aboard beautifully restored coaches and locomotives dating from Victorian times." (Visit Southeast England) (RVR 11).*
- 1.26 The Kent & East Sussex Railway currently runs a total distance of 10 miles (16 km) from Tenterden Town station to the village of Bodiam. The line provides both a heritage railway experience and leisure transport along the Rother Valley connecting a number of tourist visitor locations, rambling opportunities, boating and other pursuits' along its route including the popular National Trust's Bodiam Castle and the lovely market town of Tenterden.
- 1.27 Tenterden Town Station is the main headquarters for the heritage railway, where a gift shop and refreshment kiosk can be found, together with a seating area that was once the Maidstone & District Motor Services bus station building from Maidstone, Kent. There is a museum telling the story of how the line was built and operated by light railway pioneer Colonel Stephens and how his other railways spread throughout the UK. This exhibition won the Morton's Media (Heritage Railway Magazine) Interpretation Award 2014. Themed events are run through the year on site at Tenterden Station base. Some are connected with local history and other forms of vintage transport and, like other UK heritage lines, children's events such as Thomas the Tank Engine and Santa Specials all help provide a commercial underpinning to the Company's activities. Railway Experience Days are also offered.
- 1.28 K&ESR has recently been ranked six out of the top ten of the best days out this country has to offer by VisitBritain's magazine "Britain" (<http://www.britain-magazine.com/features/50-of-the-best-british-experiences>) (**RVR 12**). VisitBritain reported that it is regarded as one of the finest examples of a rural light railway. VisitBritain is the national tourism agency and is a non-departmental government body, funded by the Department for Culture, Media and Sport.
- 1.29 Educational visits are provided for local schools and apprentices are trained in railway operations, locomotive maintenance and reconstruction at K&ESR's workshops in Rolvenden.
- 1.30 Once the line is reinstated between Bodiam and Robertsbridge, it will be operated by K&ESR as an integral part of its heritage railway offering. This is anticipated that pursuant to the terms of the draft Order RVR will transfer its statutory undertaking to K&ESR without the need for further consent.
- 1.31 The extension to Robertsbridge of K&ESR from its current rural terminus adjacent to Bodiam Castle Junction Station has been a long held aspiration that will provide sustainable public access to the heritage line. Reconnecting K&ESR to the mainline railway network will open up new and real leisure transport opportunities by way of direct country wide rail interchange at Robertsbridge. K&ESR has provided significant

investment in Rother Valley Railway by providing specialist volunteers who have assisted with the construction works to date, together with engine drivers and workers who maintain the RVR works already constructed. The development work that K&ESR will undertake on the existing line and facilities, in support of the developing the extended railway, will transform the overall line, and bring benefits to both the local community and UK wide leisure transport.

The Order Scheme

- 1.32 The Order would authorise RVR to construct, maintain and operate the “new railway” between Junction Road at Udiam and Northbridge Street in Robertsbridge. The Order would also provide statutory authority for RVR to maintain and operate the two existing lengths of railway either side of the new railway. The first being the line, approximately 1200m long, between the K&ESR railway at Bodiam and the start of the new railway at Junction Road, Udiam (Railway No.1) and the second being the line, approximately 800m in length, between the Robertsbridge end of the new railway and the terminus at the new Robertsbridge Junction Station.
- 1.33 Between Bodiam and Robertsbridge Junction, 5 out of 7 land acquisitions have been made, approximately 2km of track laid and 5 bridges replaced and a new station built at Robertsbridge. Work is in hand to provide approximately 0.3km of further track and the level crossing at Junction Road, once authorised. All the track materials to complete the line have been acquired and placed in store. The project to extend the K&ESR from its current terminus at Bodiam Castle to Robertsbridge Junction Station, and so provide direct interchange with the mainline railway network is already about half complete, in accordance with the planning consents obtained to date.
- 1.34 The remaining unbuilt section of railway is the section between Junction Road to Northbridge Street (on the edge of Robertsbridge village), a length of approximately 2.9 kilometres.
- 1.35 The “Missing Link” will be a simple single track railway. The construction is straightforward with little impact on surrounding roads or properties. The erection of signs for the new level crossings will be undertaken at times of low traffic flow with single lane traffic light control in conjunction with the relevant highway authority. The installation of each level crossing will take place over one or, possibly, two weekends.
- 1.36 The Order would authorise a number of crossings of the public highway:
- Northbridge Street (Robertsbridge)
 - A21 (Robertsbridge)
 - B2244 (Junction Road, Udiam)
 - A footpath FP(S&R 31) South from Church Lane, Robertsbridge
 - A bridleway (S&R 36b) south of Salehurst

In relation to land, the Order and accompanying plans provide for compulsory acquisition of the land required permanently for the railway and for temporary use of land for purposes of construction and for maintenance during the specified maintenance period. There is also a category of land where RVR's access is limited to surveys and investigations, necessary to ensure full compliance with the planning conditions.

- 1.37 The draft Order also includes protective provisions for statutory undertakers and the Environment Agency (“the Agency”). Following constructive dialogue with Highways England in respect of the crossing of the A21, RVR will request the Secretary of State to include protective provisions for the benefit of Highways England in the Order. Further details of the Order scheme are provided in section 5 of this Statement of Case (scheme components) and section 7 (construction).

Cost of implementing scheme

- 1.38 The anticipated final cost of implementing the scheme to be authorised by the proposed Order, including the cost of acquiring land which is blighted within the meaning of section 149 of The Town and Country Planning Act 1990, is expected to be approximately £5.3m.
- 1.39 Large sections of the works have already been completed utilising local contractors and experienced volunteers. As a result, RVR has up to date and detailed costs for this type of work, which gives confidence to the estimate costings.
- 1.40 Photographs of the high quality construction already completed are included in the Appendices (**RVR 13**).

Funding

- 1.41 This will be funded by the Rother Valley Railway Heritage Trust (RVRHT) through donations with no call on the public purse. This is how the railway has been constructed to date between Robertsbridge station and Northbridge Street and from Bodiam to Austen's Bridge, including the construction of the station at Robertsbridge. All works have been undertaken with care and to very high standards.
- 1.42 Throughout the restoration of the railway to date, RVRHT has benefited from consistent and generous philanthropic donations. The implementation of the Order Scheme will be funded in this way. The most significant individual benefactors are wealthy private individuals who wish their privacy to be respected. That the donors' commitment is genuine and their ability to fund the project is beyond doubt is evidenced by the more than £3.0m that has already been spent to fund the employment of expert consultants and advisors to advise on all aspects of the project, and the implementation of works wherever it has been possible for them to be carried out pursuant to the relevant planning consents without the need for further powers.

Economic Benefits

- 1.43 The delivery of the Rother Valley Railway has been forecast (in the Economic Benefits report by Steer, a leading UK specialist consultant) to generate local economic benefits of up to £35.0 million over the two-year construction period (2019 - 2020) and the first ten years of operation, and up to £4.6 million of local economic benefits per year from 2030. It will generate approximately 34 jobs in the construction phase (temporary full time employment ("FTE") over two years) and up to 85 in the operational phase (FTE permanent jobs). Additional rail revenues of approximately £355,000 per annum would accrue to the mainline rail operator.

2. The Applicant and the Application

- 2.1 As explained in section 1.19, Rother Valley Railway Limited (RVR) was formed in 1991 with the following specific aims (**RVR 14**):
- (i) To acquire any part or parts of the site of the original railway running from Robertsbridge in East Sussex to Tenterden in Kent or of any other land or property in the vicinity of the said railway.
 - (ii) To restore the railway or part thereof as nearly as may be possible to its original route.
 - (iii) To operate either solely or with any other person or persons (whether individual or corporate) a railway service on the restored railway and/or enable a railway service to be operated thereon by any other person or persons (whether individual or corporate).

- (iv) To carry on any retail and/or wholesale business.
 - (v) To carry on any catering business.
 - (vi) To carry on the business of publishing of books guidebooks or any other literature.
 - (vii) To carry on the business of providing educational services including the running of courses and seminars and the production of educational materials and resources.
- 2.2 RVR is wholly owned by Rother Valley Railway Heritage Trust (Registered Charity No. 1088452). RVRHT makes grants towards the reconstruction of the historic trackbed and structures on Col Stephens' Light Railway between Robertsbridge and Bodiam in Sussex. The charity is recognised by the appropriate authority as having charitable aims, and this application is compatible with the aims and objects of the Trust (to preserve for the benefit of the public of Kent and East Sussex and of the nation the historical, architectural and constructional heritage that may exist in and around Kent and East Sussex in buildings (including any building as defined in section 336 of the Town and Country Planning Act 1990) or structures of particular beauty or historical, architectural or constructional interest (**RVR 15**).
- 2.3 RVR made the application on 19 April 2018 in accordance with the requirements of the Transport and Works Act (Applications and Objections Procedure) (England and Wales) Rules 2006 (the Applications Rules).
3. **Scope and Content of the Order**
- 3.1 The application for the TWAO consisted of the following documents:
- Draft Order (**RVR 01**)
 - Explanatory memorandum, explaining the purpose and effect of the provisions of the draft Order. (**RVR 17**)
 - Statement of Aims, which summarises the aims of the proposals. (**RVR 18**)
 - Report summarising consultations undertaken (Consultation Report). (**RVR 19**)
 - Funding Statement, which gives details of how the costs of implementing the Order will be funded. (**RVR 20**)
 - Estimate of Costs, describing the costs for carrying out the works provided for in the Order. (**RVR 21**)
 - Book of Reference, which relates to the Works and Land plans. (**RVR 22**)
 - Order plans and sections. (**RVR 23**)
 - Environmental Statement and Addendums (**RVR 24 to 28**),
 - List of consents (**RVR 30**)
- 3.2 The TWAO application was the subject of publicity and notices as required by the Applications Rules (**RVR 59**). Objections and other representations to the Secretary of State were invited until 28 May 2018. Application documents were available for inspection throughout the objection period.
- 3.3 The proposals were the subject of pre-application consultation and publicity carried out by RVR as described in the Consultation Report. The consultation is summarised in section 14 of this Statement of Case.
- 3.4 Land referencing for the purposes of compiling the book of reference [RVR22] was carried out with diligent enquiry. As a supplementary exercise, unknown notices were also erected at several locations and further notices were served on members of the Hoad family, in respect of parcel 62, once RVR was made aware that there was an error in relation to one parcel of land in the Book of Reference, and that this particular parcel was also held in a private trust for another member of the same family.

- 3.5 In addition, entries in the Book of Reference have been updated to reflect the correct interest(s) in land as follows:
- 3.5.1 plots 1 to 5 inclusive - substitution of the Secretary of State for Transport as freehold owner and noting that these parcels are Crown Land;
 - 3.5.2 plot 9 - addition of Salehurst and Robertsbridge Parish Council as tenant or occupier;
 - 3.5.3 plot 12 - substitution of Salehurst and Robertsbridge Parish Council as freehold owner.
- 3.6 An updated Book of Reference will be submitted with the usual compliance documents at the start of the Inquiry.

4. **The benefits of the railway**

- 4.1 The reinstatement of the railway from Bodiam through to Robertsbridge will attract both the London and Hastings visitor along the mainline, and those from further afield, bringing opportunities and employment in tourism and other businesses to this disadvantaged rural area. It will provide rail access for visitors excluded by lack of car ownership to the gems of the Rother Valley, including Bodiam Castle and Great Dixter, and then onto Tenterden, reducing car traffic in the country lanes. It will provide stimulating heritage experiences for young and old as well as giving exciting volunteering, and paid, opportunities for others. This boost to the economy at no expense to the public purse was recognised by Inspector at the 2004 Local Plan inquiry and continues to be recognised by all the relevant local authorities and tourist bodies.
- 4.2 The wider K&ESR project, of which the Order scheme is an integral part, has been led by volunteer professionals, funded by philanthropic donors and built by volunteers and small local companies. A new £500,000 carriage shed has been completed at Rolvenden in anticipation of the reinstatement of the Missing Link, and to protect historic rolling stock for future generations, and a once derelict locomotive is currently being restored to life at Rolvenden by volunteers.
- 4.3 The reinstatement of the railway delivers a long term aspiration to connect K&ESR to a mainline terminus, transforming access both to the railway itself and the treasures along the route between Tenterden and Robertsbridge. The reinstatement of the Missing Link will deliver benefits to recreational users of the railway and to the local communities in each village along the route.
- 4.4 The project has the support of Rother District Council ("RDC"), the National Trust, Network Rail, East Sussex County Council ("ESCC"), Kent County Council, Tenterden Town Council, Ashford Borough Council and 1066 Country. Its benefits are recognised by its inclusion as a saved policy in the Local Plan, and RVR is delivering upon that plan.
- 4.5 Adults of all ages, and children, enjoy the sight of a historic steam train passing through the countryside and increasing numbers seek out and enjoy the experiences of riding on steam trains and viewing the countryside from the perspective of a route that is otherwise closed to them. An important benefit of heritage railways is the enhancement to the general quality of life that the experience of traveling on the railway delivers.
- 4.6 The economic benefits of heritage railways are significant. The All Party Parliamentary Group on Heritage Rail produced a report on the value of heritage railways in June 2013 (**RVR 31**). The remit of the report was to establish the current and future value of heritage railways to the local and national economy; to identify the contributions they make to their local community including education and training, employment, sustainable tourism and health and wellbeing as well as the Big Society; to establish best practice amongst

heritage railways; and to identify and advise on current and future Government policy affecting the heritage railway industry. The group reported that:

“In order to assess the local economic impact of Heritage Railways, the ratio of the estimated economic value to the organisations turnover was calculated. These indicate that for every £1 spent on the Railway, a mean average figure of £2.71 is added to the local economy”.

4.7 In contemplation of the application for TWAO, the Steer report of the economic impact of the reinstatement of the Missing Link was sought. Steer is one of the foremost consultancies working in this field. The Steer analysis adopted a conservative approach to ensure that its findings would not overstate the potential benefits of the Order scheme. Its report confirms the very significant value of local economic benefits that would be delivered by the construction and operation of the Missing Link as a “stand alone” scheme and the overall economic benefit of K&ESR’s strategy to grow passenger numbers of which the Missing Link is a central plank.

4.8 The delivery of the Missing Link is also compatible with the aims of the AONB Management Plan. The objectives of the Management Plan are described in the ES Addendum (October 2017) (RVR 28). Part of the user experience for the railway will include information about the original construction of the railway and the social and economic contribution that it made to the area at that time. It is anticipated that this will not only describe the railway, the rolling stock and their operation, but also the landscape through which the railway runs, together with the landscape and heritage features that it passes. Further, by connecting the Missing Link and allowing for non-car access through the AONB, the scheme strongly accords with AONB objective UE4, as described in the ES Addendum.

5. **Scheme development**

5.1 This section describes the scheme to be authorised by the Order and how it was developed.

5.2 Key considerations for development of the scheme were the need to ensure that, prior to seeking planning permission, RVR would be able to demonstrate that its proposals complied with the conditions in the Rother District Council Policy EM8.

5.3 In 2010 RVR consulted with Office of Rail and Road (ORR) as the body with responsibility for safety on the railway and level crossings as to the requirements for crossing the A21 and B2244, following which Mott MacDonald (MMD) was engaged as consultants to produce a report “Proposed Level Crossings - Traffic Impact Study”

5.4 This report dated October 2011 (RVR 32) was presented to ORR together with preliminary design and specification for the crossings and by letter of 20 January 2012 - ORR letter to RVR: *“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.”* (Copy letter appended to consultation report).

5.5 RVR immediately started consultations with the relevant highway authorities and, on 22 March 2012, submitted to the Highways Agency (now Highways England) the ORR letter dated 20th January 2012 and the MMD Proposed Level Crossings - Traffic Impact Study dated October 2011 referred to above. It was considered that a level crossing over the A21 could be implemented safely and with little impact upon traffic. As part of RVR proposals the existing 40mph speed limit on A21 would be extended in the direction of Hastings until after the level crossing.

- 5.6 As part of the engagement with the Highway Agency (“HA”), Mott MacDonald produced a further series of reports and documents responding to the HA’s requests for further information. (**RVR 33 to 34**). As a result of this engagement, and as part of the planning process, HA provided RDC’s planners with a comprehensive list of planning conditions, including indemnity requirements to be satisfied before the level crossing could be used, which were discussed and agreed with RVR. The reasons for each condition are set out in the formal planning approval notice.
- 5.7 RVR also consulted with the relevant local highway authority ESCC regarding the crossings at Northbridge Street, Robertsbridge and the B2244. ESCC does not object to the Order and the development will be subject to satisfactory discharge of planning condition 20 (Level Crossing Design & Departures from Standard). Consultation on a Traffic Regulation Order for a 40mph speed limit at Junction Road in anticipation of the level crossing at this location has been completed, with no objections received.
- 5.8 RVR consulted with the local Public Rights of Way Officer and the British Horse Society in respect of the bridleway crossing.
- 5.9 RVR first met with Environment Agency (“the Agency”) on 18 April 2011 to start consultation on the Flood Risk Assessment (FRA) for the proposed scheme, following which RVR requested some topographical LIDAR data and details of the Agency’s model of the flood plain at Robertsbridge.
- 5.10 The scheme continued to be developed in close consultation with the Agency over a lengthy period, with modelling undertaken by Capita using an underlying Environment Agency model. The Agency was consulted on schematisation and reviewed the model. The comprehensive Modelling Report (**RVR 37**) gave details of all the bridges, culverts and viaducts along the railway. As a result of this careful design, it had been possible to demonstrate to Agency that RVR would have no significant effect on flood levels, and this was agreed by the Agency. It was accepted that once access to the land was made possible by the TWAO, then the actual ground levels would need to be checked on site, though the LIDAR levels utilised for the modelling had been found to be fairly accurate elsewhere in the area.
- 5.11 The Agency wrote to RDC in 2016 withdrawing its objection to the planning application stating and suggested conditions that were duly attached to the planning consent. The Agency subsequently submitted a holding objection to the TWAO application which was withdrawn once provisions for the protection of drainage authorities and the Environment Agency had been agreed and made contractually binding on RVR by means of a side-agreement. The Agency’s withdrawal of its objection is subject to one legal point which has been raised in numerous TWAO applications, namely, where approval of plans by the EA is sought under protective provisions, whether, absent such approval within a specified timeframe, consent is deemed to be given or withheld. This will be the subject of legal submissions on either side at the Inquiry, but all recent railway TWAOs have included a provision for deemed consent.
- 5.12 As a result of the Rule 17 direction dated 8 June 2020, an addendum to the 2016 FRA was prepared and further consultation has taken place with the Agency to ensure that the assessment is based on the most comprehensive and up to date information. The model used to assess the impact of the railway on flood risk demonstrates that there is no significant increase in predicted flood levels in the ‘with railway’ scenario and small decreases are predicted in some areas. Further information on the Rule 17 direction and submission of further environmental information is in section 15 of this Statement of Case. The conclusion of the assessment of Water Quality, Hydrology and Hydrogeology chapter of the ES update states that: “*Analysing all the receptors and the associated impact of the Proposed Scheme on fluvial flooding, the Proposed Scheme has a “Neutral” potential effect overall once mitigation measures are incorporated. This results in an improvement in*

the impact of fluvial flooding from the Proposed Scheme compared to the 2014 assessment.”

- 5.13 With regard to ecology, RDC and RVR consulted with the ESCC County Ecologist who advised that: “In summary it is recommended that the application can be supported from an ecological perspective, with a Grampian condition whereby no work can take place until sufficient surveys have been undertaken to allow an assessment of the likely impacts on biodiversity and appropriate mitigation, compensation and enhancement”.
- 5.14 Restoration of the railway would have the effect of re-instating the historic position whereby there are areas of land between the trackbed and the river Rother, separated from land to the other side of the railway. RVR considered whether a variation to the line of the railway, still within the original setting, would assist in allaying landowners' concerns about access to, and use of, land beyond the railway. This issue is addressed by the provision of user worked crossings, access tracks and bridges. The location and design of these have been discussed with the ORR and with the landowners and RVR is willing to consider how these proposals could be modified, if requested to do so by the landowners objecting to the Order scheme.
- 5.15 RVR recognises that the Order will have an impact on Moat Farm and Parsonage Farm. However, steps have been taken to reduce the amount of land required for the scheme and to provide accommodation crossings and tracks in order to mitigate the effect on farming operations. The Farm Impact Report and Supplementary Report commissioned by RVR (**RVR 67** and **RVR 68**) provides an objective assessment of the effects of the reinstatement of the railway on the landowners' farming businesses. The assessment concluded in respect of Parsonage Farm that the overall effect on the farming operation (including Redlands Farm and when taking into account also other land that is farmed by the landowner) will not be significant. There will be inconvenience in the immediate locality of the railway and it is likely that after adjustments have been made to the farming operation there will be a small reduction in income/profitability which will be addressed by compensation. In respect of Moat Farm, the report concluded that, if at least one further access can be provided, the effects will be relatively minor. Moving livestock will be a little less convenient but as no land is being lost and no fields are being severed the impact on the farming activities will not be significant and are of a kind that are capable of being fully compensated to the extent that they are not mitigated by measures such as the proposed accommodation tracks and crossings.
- 5.16 The environmental assessment has been carried out on a “reasonable worst case” basis, to ensure that it is comprehensive and robust. The results have been shared with the ESCC ecologist and the Agency and their advice acted upon where appropriate. RVR is committed to ensuring that any adverse impacts of the scheme are avoided or adequately mitigated and a suite of planning conditions will ensure that this will be carried out in accordance with the requirements of the Council. The Further Environmental Information described in section 15 of this Statement of Case includes a revalidation report of the original environmental statement and Addenda.
- 5.17 The effects of flooding were studied and modelled in great detail by Capita (one of the leading Consultants in this specialised area) and extensively reviewed and subsequently agreed by the Agency. Using careful design of the embankments, bridges, culverts and viaducts it has been possible to demonstrate that the reinstatement of RVR would have no significant effect on the flooding of Robertsbridge and the surrounding areas. The updated flood risk analysis carried out in accordance with the Rule 17 direction, as described in section 15 of this Statement of Case confirms that there is no increased risk of flooding as a result of the reinstatement of the railway.

- 5.18 Since Spring 2017, specialist ecologists have undertaken extensive surveys of the existing trackbed and adjacent land from Junction Road to Austen's Bridge. The results of these surveys have been used to underpin and inform mitigation licence applications to Natural England (NE) and detailed mitigation and environmental management plans have been drawn up and submitted to, and approved by, the local planning authority to address the ecology planning conditions for the project.. The detailed surveys identified that the expected suite of legally protected species are resident in the scrub habitats along and at either side of the old track bed. In the overall design for the scheme, the majority of the mature trees will remain and there will be a large number of additional appropriate bushes and trees planted in November-December (the best time for ensuring they survive). Much of the planting for the Austen's Bridge section has already taken place. The ecology planning documents submitted to the LPA are all designed to take account of wildlife, including nesting birds, dormice, bats and badgers, and any necessary vegetation clearance will not take place until the breeding seasons are over. As part of the mitigation plan (for Junction Road to Austen's Bridge) a series of badger setts have been closed, a compensation sett has been created and is now occupied by the badgers displaced from the closed setts. (This process has followed the accepted and well defined procedures for this work. Additional bird boxes and bat shelters have been installed, as detailed in the comprehensive mitigation plans.
- 5.19 It is RVR's considered view that the Order scheme makes every effort to sensitively re-instate the original Victorian railway with the least adverse impact possible and that it can be demonstrated that any adverse impacts are clearly outweighed by the very real benefits, and enjoyment to many visitors to the area, that it will bring.
- 5.20 In the intervening time since planning was granted and the post planning documents were compiled and submitted, the project's ecologists have successfully obtained and implemented detailed species licensing which has been issued by Natural England. These two licences have been granted to derogate activities that come under the Conservation of Habitats and Species Regulations (2017) and also the Badgers Act 1992. The burden of proof required by Natural England's licensing team necessitates a rigorous level of data collection, interpretation and assessment. In granting consent in relation to dormice, Natural England have to be fully satisfied that the tests set by regulation 55 are fully met, that the Favourable Conservation Status of the dormouse population would be maintained as a de-minimus, that there is no satisfactory alternative and the scheme meets the test of Imperative Reasons of Overriding Public Interest. Similarly, to grant consent for the permanent closure of a main badger sett, Natural England require not just that a new sett is created as compensation, but that that sett has been discovered and is likely to be occupied. These consents and the implementation of them are not unusual, but rather are an example of standard, accepted best practise mitigation methodologies that are used frequently throughout the UK.

6. **Level crossings**

- 6.1 Below is a brief outline description of the level crossing operation proposed for the crossings of the three roads by RVR. This has been accepted by HE and by ESCC. The crossing design is currently with the ORR.
- 6.1.1 An approaching train initiates the road protection procedure by 'striking in' – either through the activation of a track circuit or the operation of a rail mounted treadle
- 6.1.2 Sequential operation of road traffic warning lights and barriers commences. Amber lights show on 'wig wag' heads before alternating red lights start flashing. The crossing is to be equipped with radar sensors that pre-scan the highway approach and if vehicles are detected close to the crossing the closing sequence is paused until there is a suitable clear distance between highway vehicles and the crossing. The time and distance will be subject to agreement with ORR.

- 6.1.3 Barriers on the entry side descend to close the road to traffic after the red lights have operated.
 - 6.1.4 A radar scan is then completed of the section of highway between the barriers. Once this area is proven clear of vehicles or people the exit barriers descend.
 - 6.1.5 An approaching train driver will observe a flashing red stop light displayed on the train drivers' crossing indicator (DCI). The train crossing speed is indicated by a speed restriction sign located at a point at which the DCI can be seen and that the crossing itself can be observed to be clear of obstruction.
 - 6.1.6 Once all barriers are fully lowered, the DCI displays a flashing white light, confirming the train may proceed over the crossing.
 - 6.1.7 When the rear of the train clears the exit side of the crossing then the road opening procedure is activated – barriers raise and lights stop flashing, and the road traffic is released.
- 6.2 The above sequence takes about a minute (allowing for the inclusion of the radar scan). e. During the whole sequence the train driver and fireman/secondman will keep a lookout and be able to stop if the DCI fails to display a flashing white light, or if the crossing is obstructed.
- 6.3 Train speed will be set in conjunction with the ORR to achieve the necessary stopping distances - but is envisaged to be in the 10 - 20mph range.
- 6.4 This is a 'locally monitored' crossing by the train driver. In addition, a signalman located in the nearest 'signal box' will also view/oversee the road crossings by cameras. At any time the signalman can stop an approaching train or delay the crossing operation process, when, for example, a car is stopped within the barrier area.
- 6.5 The bridleway crossing will be a user-worked crossing, as is commonplace on heritage railway lines (and the national main line network).

7. **Scheme components**

This section gives an overview of the Order scheme.

- 7.1 The eastern end of the scheme commences at the new Robertsbridge Junction Station terminus, where new sidings, turntable, a picnic area, a user friendly platform, water tower, flower beds, lighting, toilets and a connection to Network Rail have already been constructed under earlier planning permissions. Further construction work will include a booking hall, café, engine shed and a carriage shed.
- 7.2 Robertsbridge Junction Station is located adjacent to the existing Robertsbridge Station, with links to London and Hastings. It looks out over the main village to the east and a large 128 space car park to the west. On leaving the station the line curls round through small areas of woodland and fields, crossing 3 bridges over small streams, and then passing Robertsbridge Cricket ground to the south and the old mill to the North as it travels down a slight gradient to Northbridge Street. This section of line is already completed. There are five original bridges in situ between the terminus and Northbridge Street, which have been restored by RVR. Freehold of those structures and the airspace beneath them (parcels 1 to 5 in the Book of Reference) is now held by the Highways England Historical Railways Estate and is Crown Land. In principle consent has been given by the Department of Transport to the compulsory acquisition by RVR of these structures in the event that the Order is made and the Department has stipulated a new article (43) to be included in the draft Order to pass any statutory obligations relating to the bridges from HE HRE to RVR and to terminate the original agreement for their restoration with BRB (Residuary) Limited.

- 7.3 As described above, a new CCTV monitored double barrier level crossing will take the line across Northbridge Street, followed almost immediately by a new bridge over the River Rother. From this bridge the railway runs onto an embankment across fields towards the A21. A new culvert will be constructed adjacent to the bridge to allow passage of flood water under the embankment, particularly when the flood gates are in place across Northbridge Street, just north of the level crossing.
- 7.4 The new embankment is a re-instatement of the historic embankment upon which the former railway ran across the valley. It will include a number of culverts, as agreed with the Agency and local planners to ensure appropriate management of water in the event of severe floods. There will be an access to the embankment (and culverts) from Northbridge Street and an accommodation crossing to provide continuity of access for the landowners.
- 7.5 Where the railway crosses the A21, a new double barrier level crossing takes the line over the road onto a continuation of the embankment, with several culverts beneath. After 140 metres of embankment a new bridge carries the line over Mill Stream and the existing public footpath beside it.
- 7.6 The line continues on a shallow embankment, close to the river Rother which meanders through the valley, initially across pasture land, then arable land as it travels towards Salehurst. Provision has been made to allow the option of a "Halt" at Salehurst, just before the existing combined footpath and bridleway. The line will then cross a new horse friendly bridleway crossing, continuing across arable land until it meets the existing historic railway embankment. The railway will run through a corridor of trees which have grown since the former line was closed, and on to the existing Austen's Bridge over the river Rother. The old embankment continues beyond the bridge until it meets Junction Road where a new double barrier level crossing will be located.
- 7.7 Beyond Junction Road the line has already been constructed and runs through meadows and lightly wooded areas. Towards the end of the scheme, Bodiam Castle comes into view and line connects with the existing Kent and East Sussex Railway.
- 7.8 In total, along the new works between Northbridge Street and Junction Road there will be 29 new culverts, 2 viaducts and 2 new bridges. (Details in the FRA modelling report).
- 7.9 The Order plans include indicative locations for 8 accommodation crossings for the landowners and 3 new tracks parallel with the railway to provide them with vehicular access to all fields. The number and type of accommodation crossings will depend upon what is necessary mitigation for the severance caused by the railway.
- 7.10 The existing flood defences protecting the village of Robertsbridge are unaffected by the Order scheme apart from at immediately to the east of Northbridge Street where a 30m section of the existing flood protection embankment will be replaced with a flood wall, thereby providing continuing access for the Agency and landowner. This amendment is necessary to give the width of access required by the Agency to maintain the existing flood wall).
- 7.11 Along the route of the scheme, areas of land will be provided in consultation with the local planning authority to mitigate any loss of habitat and to provide for enhancement of biodiversity in accordance with the planning conditions.
8. **Surveys and other works carried out to date**
- 8.1 RVR was able to purchase further land in April 2017, consisting of the existing old embankment from Junction Road to Austen's Bridge, a distance of approximately 300 metres. Over a 12 month period, detailed environmental and ecological surveys of the area have been undertaken by specialist consultants. These site-specific surveys have been found to be consistent with the assessment in the ES.

- 8.2 Following consideration of the surveys, detailed mitigation and ecological management plans have been developed for this stretch of the development and were submitted to RDC in accordance with the planning conditions. The appropriate permissions were obtained from Natural England to carry out the necessary mitigation prior to commencement of construction of the new track bed in this section.
- 8.3 It can be expected that the remaining stretch of existing embankment to the west of Austen's Bridge, which has still to be acquired, will have a similar ecology.
- 8.4 A site survey was undertaken in April 2021 by the author of the Landscape and Visual chapter of the ES Update.

9. **Compatibility of proposals with National and local policy**

- 9.1 The proposed reinstatement of the former railway is compatible with national and local planning policy. This section provides a summary of relevant planning policy.

National Planning Policy

National Planning Policy Framework (NPPF February 2019)

- 9.2 This project meets the objective of sustainable development by satisfying each of the economic, social and environmental objectives: NPPF Paragraph 8.
- 9.3 Specifically, in accordance with Paragraph 83, the project facilitates the sustainable growth and expansion of business in rural areas (83(a)) and enables sustainable rural tourism and leisure development which respects the character of the countryside (83(c)).
- 9.4 The project also contributes to the achievement of sustainable transport, addressed in chapter 9 of the NPPF. In line with Paragraph 102, the scheme realises opportunities from existing or proposed transport infrastructure (102(b)), pursues opportunities to promote public transport (102(c)) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account (102(d)) and patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places (102(e)). The project complies with Paragraph 103 by offering a genuine choice of transport modes for those wishing to access the heritage railway and surrounding places, including Bodiam Castle.
- 9.5 Under Paragraph 104(c), planning policies should identify and protect, where there is robust evidence, sites and routes which could be critical in developing infrastructure to widen transport choice. The Rother District Council Local plan policy EM8 regarding the scheme (see below) achieves this and would be delivered by the implementation of the Order scheme. (Note that policy EM8 was superseded in RDC's adopted Development and Site Allocation Plan (December 2019))
- 9.6 As explained on page 12 of the planning decision, the local planning authority was able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework 2012 ("NPPF 2012"). There is nothing in the 2019 revised NPPF that is inconsistent with this.
- 9.7 The following table sets out policies of the NPPF 2012 considered relevant by the planning authority as described in the reasons for various of the planning conditions and the relevant paragraphs in the current NPPF:

Table 1

Condition	NPPF2012	Revised NPPF
PP Conditions 3 - Ecology Survey, PP Condition 4 - Buffer Zone, PP Condition 5 - Ecological Management, PP Condition 6 - Construction Environmental Management Plan	Paras 99, 109 and 118	Paras 149, 170, 175.
PP Condition 9 – Flood Risk	Paras 99, 100 and 103	Paras 149, 155, 163
PP Condition 14 – Piling	Paras 109, 121	Paras 149, 178
PP Condition 27- Programme of archaeological work, PP Condition 28 - Archaeological assessment	To ensure that the archaeological and historical interest of the site is protected and to comply with the NPPF	Para 187

The relevant extracts of the NPPF 2018 can be found in the appendix (**RVR 38**).

ESCC planning policy

- 9.8 The East Sussex County Council Plan (April 2018) sets out four priorities, including (ESCC Plan 2018/19 – Introduction) to drive sustainable economic growth. The plan notes an intention (ESCC Plan 2018/19 – performance measures and targets) to build on the country’s existing strength in culture and tourism. The plan suggests an intended outcome of “*growing the visitor economy by raising the visibility of East Sussex, enhancing perceptions, increasing the number of visitors to the coast, and increasing length of stay and spend*” by 2021. Extract in (**RVR 39**).

RDC policy

- 9.9 The Rother District Council Local plan was adopted in July 2006 following a public inquiry. Three of the landowners on the proposed route objected and two, one of whom was Mr Hoad, appeared at the Inquiry to reiterate their objections. In paragraph 45 of the Inspector’s report (**RVR 16**), he recommended retention of the policy of support to the railway as it would have significant benefits for tourism and sustainable travel. The reinstatement is covered in detail on pages 914 and 915 of the report and states: “Were the landowners to remain opposed to the scheme, the Council could consider whether it wished to seek the use of compulsory powers” (to acquire the necessary land).

- 9.10 The relevant policy is as follows:

Policy EM8 - An extension to the Kent and East Sussex Steam Railway from Bodiam to Robertsbridge, along the route identified on the Proposals Map, will be supported, subject to a proposal meeting the following criteria:

- (i) it must not compromise the integrity of the floodplain and the flood protection measures at Robertsbridge;*

(ii) it has an acceptable impact on the High Weald Area of Outstanding Natural Beauty;

(iii) it incorporates appropriate arrangements for crossing the A21, B2244 at Udiam, Northbridge Street and the River Rother.

- 9.11 TWAO is an appropriate mechanism as the Secretary of State may include such powers to ensure that Rother District Council Plan Policy EM8 will be delivered.
- 9.12 The Core Strategy was adopted by Full Council on 29 September 2014, having been found sound by the Inspector appointed to oversee the public examination process, subject to the inclusion of the main modifications set out in the Appendix to her report.
- 9.13 The Core Strategy now forms part of the statutory Development Plan for the District will be used in the determination of all planning applications, alongside those saved policies in the Local Plan 2006 not replaced by the Core Strategy.
- 9.14 Appendix 1 Superseded Local Plan 2006 Policies confirmed EM8 as one of the policies in the Rother District Local Plan originally saved by Direction.
- 9.15 The Rother District Core Strategy sets out spatial and sectoral strategic objectives. The strategic objective for the economy is: “to secure sustainable economic growth for existing and future residents and provide greater prosperity and job opportunities for all.” From this is derived the objective “to develop key existing sectors, including tourism.”
- 9.16 The Council’s forward-looking Development and Site Allocations Plan (DaSA Plan) was adopted in December 2019 and forms part of the statutory development plan to be used in the determination of future planning permissions. Policy EM8, having been delivered by the grant of planning permission, is formally expressed to have been superseded by this plan. There is no allocation in the DaSA plan that is inconsistent with the delivery of the railway.

Salehurst and Robertsbridge Neighbourhood Development Plan

- 9.17 The Salehurst and Robertsbridge Neighbourhood Development Plan (April 2018) includes an objective to “*foster a sustainable community that promotes employment creation, across commercial, retail and industrial sites*” (RVR 40).

10. Construction

- 10.1 Outline drawings for temporary construction accesses were prepared and discussed with HE, the Agency and ESCC and were agreed in principle, following which they were submitted as part of the documentation for the Planning Application to RDC. These documents are still available to view on the RDC Planning website with the planning permission approval (RR/2014/1608/P). More detailed drawings have been prepared in discussion with HE, but final designs will be prepared following approval of the TWAO, once the site surveys have been undertaken, and in accordance with the Planning conditions.
- 10.2 The majority of the construction materials will be delivered by rail, the fill material and track ballast via Network Rail connection at Robertsbridge (from the stockpiles that RVR are already holding at several South coast ports), and track materials by rail from K&ESR Northiam Station. Vehicle access will be mainly from Northbridge Street and Junction Road, (except for the A21 level crossing construction, where materials will be delivered along the A21) and along the land acquired for the railway.
- 10.3 Robertsbridge Junction Station Building is under construction and substantially complete. The land between Junction Road and Austen’s Bridge has been acquired, survey work has

been carried out and licences applied for from Natural England and implemented, with a view to formally discharging the relevant planning conditions in relation to this section and starting work on the track, as RVR is legally entitled to do.

- 10.4 In 2018, East Sussex County Highways consulted on a Traffic Regulation Order to limit the highway speed to 40mph on the approach to the Junction Road level crossing. There were no objections. The reduced speed limit will form part of a scheme of traffic calming improvements to Junction Road required for compliance with planning condition number 25 and will be implemented in advance of construction. A Level Crossing Order will be needed before passenger trains can operate across Junction Road.
- 10.5 Commencement of the work between Northbridge Street and Austen's Bridge is dependent on gaining access. This is in two sections, Parsonage Farm land and Moat Farm land. This would commence once the TWAO is in force.
- 10.6 Upon gaining access, it is anticipated that there will be 12 months of surveys and detailed designs in order to discharge the relevant planning conditions and other approvals relating to works in the flood plain, Northbridge Street, and A21. The ES Update report anticipates (post-TWAO) construction commencing in early 2023 and completion between December 2024 and June 2025.
- 10.7 Commissioning and trials by K&ESR will take 3 months, ready for the anticipated start of passenger trains in summer 2025.
- 11. **Relevant incorporated mitigation**
 - 11.1 Ecological surveys for the Junction Road to Austen's Bridge section have confirmed the precautionary approach set out in the Environmental Statement.
 - 11.2 Ecological mitigation proposals based on these surveys have been prepared for habitat replacement and enhancement for that lost in reinstatement of the historic trackbed. These were submitted to RDC on 27 July 2018. Displaced species have been catered for in accordance relevant regulation and approved via mechanism of the planning conditions and the derogations to the surrounding legislation provided by Natural England through species licensing. This methodology will be continued for the Northbridge Street to Austen's Bridge section, via the mechanism of planning conditions and approvals.
 - 11.3 Other mitigation on the severance of the landowner's property by the reinstatement of the historic trackbed will be by provision of user worked crossings and appropriate compensation.
- 12. **Operation**
 - 12.1 The reinstated railway will be operated by K&ESR as an integral part of its heritage undertaking. K&ESR has been operating trains since 1974 and has built up a fleet of trains from Victorian stock to 1960s. Stock in use is maintained to ORR standards to ensure the safety of visitors and staff.
 - 12.2 K&ESR operating safety and procedures, coupled with inspections both internally and by the ORR ensures compliance with the relevant statutory regulations to produce a professionally run railway with both paid and volunteer employees.
 - 12.3 An assessment has been carried out by RVR's environmental consultants, Temple, of potential air quality impacts from the proposed level crossings in 2018 (**RVR 29**) and updated in the March 2021 Environmental Statement Update Report (the ES Update Report). These assessments concluded that increases in NOx and PM10 emissions will be extremely small and were demonstrated to be acceptable in the reports. Potential changes

in pollution levels at receptors close to the A21, Northbridge Street and B224 are considered to be negligible in all cases.

12.4 Control of these operations will be via mechanism of planning conditions and subject to the approval of RDC in consultation with the appropriate statutory bodies.

12.5 Protection in perpetuity will be provided by indemnities as described in the planning conditions.

13. **Land and property**

13.1 RVR has successfully negotiated the land required for the scheme by agreement with 5 out of 7 of landowners. As this has become available, construction work has followed with the new Robertsbridge Junction Station (Platform, Toilets, shunting lines, connection to Network Rail and a picnic area now complete), five bridges and the track from the station to Northbridge Street complete, and the track from Bodiam to Junction Road at the east end of the project also complete. The land from Junction Road to Austen's Bridge was acquired in April 2017 and comprehensive environmental and ecological surveys took place over the following 12 months. Just two landowners have, to date, not agreed to sell the corridor required for the reinstatement of the former track.

Land required for scheme

13.2 The land plans show the three different land needs.

- Land exclusively for access for surveys, which will require temporary access only by foot
- Temporary use to allow site access and room for construction work of bridges etc. and farm access routes.
- Permanent acquisition for the embankments and track work.

Statutory compensation code

13.3 The Order applies Part 1 of the Compulsory Purchase Act 1965. This has the effect of requiring RVR to pay compensation to qualifying persons under what is known as the statutory compensation code (the Code). This applies to all compulsory purchase in England and Wales.

13.4 Those persons who have land acquired from them or used temporarily will be entitled to compensation under the Code. Landowners whose property is affected by the works may also be entitled to compensation under the Code in certain circumstances. The Code, as it now stands, is an amalgamation of numerous Acts of Parliament and legal precedents that have evolved over 150 years.

13.5 Article 17 of the Order (power to survey and investigate land) provides (at paragraph 10) that RVR must compensate the owners or occupiers of land entered for surveys and investigations for any loss or damage arising as a result of the exercise of these powers. The Order includes provisions for compulsory powers to ensure that RVR can implement the scheme that is authorised by the Secretary of State. The fact that the Order includes compulsory powers does not mean that they have to be used. They are there as a last resort to ensure that, if it is not possible to reach agreement for the transfer and/or use of the land, the statutory scheme is not frustrated.

13.6 Although it is unusual for a heritage railway to seek powers of compulsory acquisition to ensure that its scheme can be implemented, it is not without precedent. The Welsh Highland Railway Order 1999 (**RVR 41**) authorised the Ffestiniog Railway Company to construct works and compulsorily to acquire land for the purpose of rebuilding the Welsh Highland Railway from Dinas to Porthmadog in the County of Gwynedd and included provision for level crossings of public highways at six places.

Negotiations with Land Owners

- 13.7 RVR has been engaging with key landowners for over ten years. Of the remaining line from Bodiam to Robertsbridge Junction, 5 out of 7 land acquisitions have been made. In respect of the two outstanding landowners there has been extensive correspondence and a number of meetings (either with the landowners or their land agent) since 2010. Written offers to purchase the land were made to the Hoad family in February 2010 and to the De Quincey family in 2010. Further written offers to purchase the land were made in May 2017. In addition, RVR offered to seek to purchase land to replace that lost by the affected landowners. These offers to landowners were in excess of statutory compensation requirements.
- 13.8 To assist in taking negotiations forward, RVR has paid for inputs by the landowner's agent and in May 2017, offered to make a payment for access to undertake environmental surveys, but this was not accepted. A joint site walk of the route was undertaken in March 2020 by the landowners, a representative of the applicants and their respective land agents to discuss potential accommodation works.
- 13.9 During the last ten years there have been some 150 contacts by way of meetings, letters, emails and calls between the applicants and the landowners to explore the scope for the return to railway use of the former trackbed. Although it is noted that the landowners have consistently stated their opposition to the reinstatement of the railway, and to date it has not been possible to reach agreement on purchase, efforts to establish negotiations are continuing as this is by far the RVR preferred way forward.
14. **Consultation and engagement**
- 14.1 RVR has demonstrated a commitment to proactive communication with the community and will continue to engage with local residents, businesses, statutory bodies and other key stakeholders during the construction phase and beyond.
- 14.2 Details of the extensive consultation undertaken for the Planning Application are included in the consultation report submitted with the application. Members of RVR have visited most of the businesses in the area to provide details of the project and, prior to submission of the application, visited any resident who had expressed concerns about how the project might affect them and wished to have a meeting.
- 14.3 RVR has written to all those who objected to the application for the draft Order, responding in detail to their concerns. A number of meetings have taken place and these are ongoing at the time of writing.
15. **Objections, representations and letters of support**
- 15.1 After the TWAO application was submitted, the Department for Transport invited objections and other representations.
- 15.2 Of the total of 1003 objections, 572 were templates, concerned with the potential impact of the proposed A21 level crossing, and were submitted to the Department by one objector (OBJ/25). 33 names on the template forms were illegible and the Department logged those objections under "The Occupier". The majority of the template objectors had no obvious connection with the area. Perhaps unsurprisingly, some objector addresses were found on enquiry not to exist. RVR has sought to liaise with OBJ/25 as representative of these objectors but, to date, has received no response.
- 15.3 Table 2 sets out the number of objections by overall topic. It should be noted that many objections cited more than one ground of objection. The grounds are then described in more detail below.

Table 2

Traffic-related (level crossings)	341 (plus templates)
Environmental/ecology concerns	293
Compulsory powers	249
Flood risk	195
No economic benefit/economic harm	166
Lack of parking in Robertsbridge	159
Safety risk at level crossings	138
Documents inadequate or out of date	59

16. Responses to objector issues

16.1 RVR has written objection response letters to each objector, explaining its position in respect of each of the grounds of objection and inviting further engagement. Its overall response on each of the key grounds of objection is set out below. Further information on RVR's case in relation to key topics, e.g. the economic benefits case, is set out in the relevant sections of the Statement of Case relating to them.

Level Crossings and safety at level crossings

16.2 The principal concern expressed by Objectors relates to the length of road closures and resulting delays to users of the road network, in particular the A21.

16.3 The effect of the level crossings on traffic flow and road safety, particularly on the A21 trunk road, has been extensively researched.

16.4 The majority of impacts would arise from use of the A21 crossing, that being the busiest of the three roads. However, the Mott Macdonald assessments demonstrated that the level crossings would have a negligible effect on the flow of traffic along the A21. This is partly because of the very short duration of any single crossing of the A21.

16.5 Calculations were done at different timings including, at the request of the Highways England, 110 seconds. In fact, the crossing of the A21 by heritage trains is generally expected to take about a minute. As explained in section 20 below, a figure of 72 seconds has since been agreed with Highways England and its consultants as the basis for the detailed technical assessments carried out as part of ongoing engagement.

16.6 Other factors include that the railway will only run for part of the year and outside of hours of peak traffic flow (which includes bank holidays).

16.7 There is also a distinction to be drawn between a crossing on the mainline railway network, managed from a remote control centre, on which long trains may travel at high frequency and high speeds with extended braking distances and the proposed low-frequency, low speed operations on the heritage railway where trains will be able to stop within a carriage length and the total down time of the barriers will be about 70 seconds.

- 16.8 Furthermore, any impacts on traffic will be adequately managed. Stage 1 Road Safety Audits have been carried out (**RVR 42 to 44**) and the findings, where appropriate, have been incorporated into the level crossing designs. An updated Stage 1 Road Safety Audit for the A21 crossing will be completed as part of current engagement with HE.
- 16.9 The arrangements have also been subject to stringent controls through the imposition of planning conditions, the wording of which was proposed by the, then Highways Agency relating to access, construction traffic management, queue length monitoring and restrictions on operations during peak periods, which apply during the week and on bank holidays. The Highways Agency's successor body, Highways England, has confirmed, including at a recent meeting in August 2018, that it has no in-principle objection to the level crossing of the A21 and is actively seeking to reach an agreement with RVR as to the terms on which the crossing will be implemented.
- 16.10 Assessments of the effect of the A21 level crossing on the free flow of traffic have continued throughout the delays to the Inquiry. More detailed analysis using up to date traffic data and traffic modelling software has been used to determine the expected queues and delays arising from the proposed A21 level crossing. The assessments have been audited and accepted by HE. Discussions continue in respect of the safety implications and the design changes to the A21, and it is expected that further agreement will be reached between RVR and HE on highways impacts prior to the Inquiry commencing.
- 16.11 Once the Order is made, the details of the crossing infrastructure and operational requirements will also be subject to further agreement with the ORR and relevant highways authorities before any operations can commence.
- 16.12 Regarding national policy on level crossings, the ORR did not object to the planning consent or to the application for the Order. It specifically stated in writing that it would not object in principle to crossings being created in this case.
- 16.13 With regard to the Junction Road crossing, this will be supported by traffic calming measures on the approach to the crossing and a reduction in the speed limit to 40mph (as required by planning condition 25). ESCC has already consulted on a Traffic Regulation Order to limit speeds along this part of Junction Road to 40 mph and no objections were received. Planning condition 25 also requires consideration of an associated traffic calming scheme for Northbridge Street but it is noted that there is already a 30mph speed limit at this location.
- 16.14 Some objectors have expressed concern that the proposed level crossing over the A21, which is an essential component of the proposed scheme, would prejudice future improvements to the A21. Highways England confirmed at a meeting on 23 August 2018 that it has no current proposals for the dualling of the A21 at this location. Further, RVR does not accept that a future dualling of the road would necessarily be prejudiced by the existence of the railway.
- 16.15 The Mott Macdonald delays report and updated report demonstrates clearly that there will be no measurable adverse effect on the regeneration of Hastings.

Environmental impacts

- 16.16 The Order land is located within the High Weald Area of Outstanding Natural Beauty. Save for two slight conflicts relating to woodland extent and loss of agricultural land, the Order scheme is compatible with the High Weald AONB Management Plan and, for certain aspects of that plan, the Order scheme demonstrates a high degree of compliance. The body with overall responsibility for the protection of the area has been consulted on the application and has no objection to the Order being made.

- 16.17 It is in the interests of the heritage railway to maintain the character of the area through which it will pass; not least because that will be a major attraction for visitors to it. Natural England, which is the body with overall responsibility for the natural environment, has been consulted on the application, and has no objection to the Order being made.
- 16.18 The Environmental Statement (ES) submitted with the Order was originally prepared for the purposes of the planning application and was prepared by Temple, an established and highly reputable consultancy, and experts in this field.
- 16.19 As it was not possible to gain access to farmland to carry out surveys, the assessment was carried out using information from a variety of sources and adopted a precautionary approach, based on a reasonable worst case, to ensure that its conclusions would be robust. The methodology utilised for the assessment is well-recognised. The report concluded that, with appropriate mitigation, there would be no significant adverse impacts from the reinstatement of the railway.
- 16.20 The approach taken to the assessment was agreed with the Agency and the ESCC ecologist. The county ecologist was also consulted on the content of the Environmental Statement Addendum. The planning permission for the development was granted unanimously by the planning committee of RDC.
- 16.21 This ES with its Addendum was submitted to the Secretary of State for Transport prior to the application being made, and the Secretary of State issued a Scoping Opinion which confirmed that, subject to further assessment of landscape and visual amenity, the environmental information provided to him would provide an Environmental Statement of sufficient scope for the purposes of a Transport and Works Act application. That further assessment explains how the restoration of the railway accords with the objectives of the AONB Management plan and how the clear local benefits of the proposals would be fully in accordance with the wider objectives for the area as described in the AONB Management Plan's policies.
- 16.22 There is no proper basis for the suggestions that the environmental information submitted with the application is deficient or out of date. In any event, the submission of comprehensive Further Environmental Information in accordance with the Inspector's Rule 17 direction, including the revalidation exercise reported in the ES Update Report, has ensured that the Inquiry has before it recent and robust information relating to the likely significant effects of the proposed scheme.
- 16.23 The works to construct the single track railway are straightforward but, in any event, no development can take place until RVR has satisfied a suite of stringent planning conditions to ensure the protection of wildlife, legally protected species and habitat and to secure opportunities for the enhancement of nature conservation on the site. These conditions were agreed with the county ecologist, the Agency and local planners.
- 16.24 In 2017 RVR purchased the existing section of former railway embankment from Junction Road to Austen's Bridge, a distance of about half a kilometre. Since then, detailed site specific environmental and ecological surveys have been carried out in accordance with the relevant planning conditions. The results largely confirmed the results of the environmental impact assessment.
- 16.25 In light of objector concerns about air quality, RVR instructed Temple to carry out a further air quality assessment, taking into account the issues raised by objectors, namely the potential effect on air quality of queuing traffic at the level crossings and any effects on the countryside or in the vicinity of Northbridge Street arising from the operation of the railway. Unsurprisingly perhaps, given the low intensity operations permitted on the railway pursuant to the planning conditions, the Air Quality report (**RVR 60**) and the 2021 update both conclude that there are no likely significant effects on air quality arising from the operation of the railway or from traffic waiting at level crossings associated with it.

- 16.26 The planning conditions also cover any risk of contamination arising as a result of the reinstatement of the railway. The Construction Environmental Management Plan is required to include provision for all necessary pollution prevention measures and must be approved by the local planning authority before any construction can commence. In any event, RVR has a proven track record as a careful and considerate contractor.

Compulsory acquisition

- 16.27 Many of the objections have been concerned about the potential exercise of compulsory powers for a heritage railway, and the impact on the farmers concerned. The majority of these objections are made not by affected landowners but by third parties, although there are outstanding landowner objections from the owners of two farms where land will be acquired. Compulsory acquisition of land by RVR has been regarded as a last resort. Most of the land required to develop the Missing Link has been acquired by private treaty. The Inspector considering the Rother District Council local plan envisaged that compulsory acquisition may be required to deliver the policy, and the TWAO would enable this. RVR believes that there is a compelling case in the public interest for conferring compulsory powers on the Company because of the benefits that will flow to the area from the reinstatement of the railway. These benefits were recognised by the Inspector who reported on the Rother District Council. It is notable that the Order has the support of Network Rail Infrastructure Limited, ESCC, Kent County Council, RDC, Ashford Borough Council and Tenterden Town Council, other organisations with responsibility for tourism in the area, 1066 County, My Tenterden and the National Trust. The application also has the express support of RailFuture and the Heritage Railway Association.

- 16.28 The grant of such powers does not mean that RVR will use them if it is possible to secure by agreement the interests in land necessary to implement the development. Contrary to assertions made in objection letters, RVR has made strenuous efforts to engage with the owners of Parsonage Farm and Moat Farm. RVR has met with the owners and their agents on a number of occasions to explore the terms on which the land could be made available. This has included the making of a written offer to purchase the railway corridor at a price significantly higher than the market value. RVR has also offered to purchase additional land to help compensate for the impact of the railway. It has also offered to undertake, and pay for, a joint assessment by an independent valuer of the effect on Parsonage Farm of the effect of the railway. RVR will continue to seek to acquire the land by private treaty.

Flood risk

- 16.29 As described in section 5.9, the FRA for the proposed scheme was undertaken by Capita, working closely with the Environment Agency and in accordance with the requirements of the Agency. The modelling extended well beyond the red line boundary of the development. It also covered a range of potential events, as specified by the Agency, demonstrating that the railway will have no significant effect on flood levels or durations.

- 16.30 Further, the planning conditions require flood risk mitigation measures to be approved by the local planning authority before any development can commence. All such mitigation measures are required to take account of flood risks over the lifetime of the project. Both the present and future integrity of the flood wall proposed to replace an existing flood protection embankment must be demonstrated, and there is to be no significant loss of storage in the flood plain.

Economic benefit

- 16.31 The economic benefits of the scheme are considered in section 1.40 of this Statement of Case.

Lack of parking in Robertsbridge

- 16.32 RVR does not expect all visitors to the reinstated railway to arrive by train. However, main line trains to Robertsbridge are frequent and reliable. Passengers will be able to walk from the main line station to Robertsbridge Junction Station as well as to and from the villages of Robertsbridge and Salehurst.
- 16.33 Concerns about parking in Robertsbridge are long-standing. RVR anticipates that the proximity of the heritage railway to the main line station will make it more attractive for people to leave their cars at home when visiting the area. Also, the large Network Rail car park is less used, and cheaper, at weekends and on public holidays when most passengers can be expected.
- 16.34 Condition 26 of the planning conditions requires a travel plan, approved by the local planning authority to address parking in Robertsbridge.

Documents inadequate/out of date

- 16.35 The majority of the objections on this topic were concerned with environmental assessment and are responded to above. Some relate to the availability of information setting out the economic benefits of the scheme. RVR's response to this is as set out in the economic benefits section above.

Funding/charitable status

- 16.36 This project has a demonstrable public benefit as demonstrated by the support of the local authorities and numerous other bodies such as the National Trust.
- 16.37 RVR is owned by a charity that is recognised by the appropriate authority as having charitable aims. It has a proven record of constructing railway infrastructure for the scheme to a high quality.
- 16.38 KESR Board has a number of planned investments which have been disrupted by the coronavirus pandemic but which will be implemented as funding becomes available, making the reopening of the Missing Link even more important to KESR's investment aspirations.
- 16.39 The Planning Approval from RDC (**RVR 07**) includes 30 detailed conditions, without which the scheme cannot be delivered, and which ensure that RVR will meet all the appropriate UK environmental and technical standards. RVR will also enter into indemnities to protect HE and the Agency, should circumstances occur which make KESR no longer viable and the level crossings etc. need to be removed.
- 16.40 RVR is making every reasonable effort to address the concerns of those who objected to the application for the Order.
- 16.41 RVR is currently in the process of corresponding and meeting with objectors with a view to reassuring them about the effects of the Order scheme and, where appropriate, seeking to reach a mutually acceptable agreement or undertaking to allow the objection to be withdrawn.

17. Letters of Support

- 17.1 The Secretary of State received 219 letters of support for the proposed Order, including letters from all the local authorities, the National Trust, 1066 Country and Network Rail as well as many local residents and local businesses. Key areas of support identified in the letters of support were as follows:

Transport benefits

- 17.2 A principal ground of support is that completion of the Missing Link will provide a significant transport benefit to the area and the wider rail network. It will provide a connection with the mainline rail network, facilitating direct access between Hastings, London, and stations in between to the rest of the Bodiam to Tenterden line. Network Rail (SUP/80) (**RVR 46**) praised the improved link to the mainline network and commented that it collaborated with RVR in building the interchange terminus at Robertsbridge. Some supporters stated that the improved connectivity will assist them in journeys they make personally, whilst many other supporters repeated that increased connectivity has clear benefits for facilitating tourism in the area. The organisation 1066 Country, for example, noted that visitors would now be able to access attractions in Bodiam, Northiam and Tenterden by public transport (see letter appended to the Consultation Report (**RVR 47**), and Tenterden Town Council (SUP/113) (**RVR 48**) commented that Tenterden will become a day trip destination from London.

Economic benefit, tourism and job creation

- 17.3 A large number of supporters praise the economic benefits of the proposed scheme. The Heritage Railway Association (SUP/187) (**RVR 49**) and RailFuture (SUP/114) (**RVR 50**) refer to the All Party Parliamentary Report on Heritage Railways highlighting the economic impact (£250 million), job creation (4,000) and tourism effects (10 million visits) contributed by heritage railways nationwide. The Heritage Railway Association comments, along with a number of supporters, that for RVR these benefits would be experienced with minimal financial burden on the public purse.
- 17.4 Some supporters specifically cite the contribution made by other heritage railways to local economies, such as Bluebell Railway, Lynton Railway, Spa Valley Railway.
- 17.5 Many have associated increased connectivity (see above) with an increase in tourism, and in turn increased economic impact. For example, in a letter appended to the Consultation Report, National Trust supported visitor accessibility to Bodiam Castle, a National Trust property. It noted that the connection will serve as an opportunity to market all-inclusive public transport and entrance arrangements, which will be a substantial economic boost to the area. More recently, it has written to re-iterate its support (**RVR 51**).
- 17.6 Councillor Eleanor Kirby-Green of RDC (SUP/172) (**RVR 52**) wrote that the railway will be an attraction in itself and recalled that the Policy EM8 of the Rother District Local Plan is explicitly in favour of the scheme.
- 17.7 Supporters suggested that visitors will boost local businesses, cafes and restaurants. Others noted the beneficial local impact of the commissioning of contractors in the construction phase.
- 17.8 The letters of support comment that the scheme will create jobs and volunteer roles. In particular, Huw Merriman M.P. stated that he is “a firm supporter of the project”. He wrote that job creation is a key priority for him, and that the economic benefits will be a huge boost to the area. (See letter appended to Consultation Report).
- 17.9 Tenterden Town Council (SUP/113) (**RVR 53**) reminded that the intangible benefits provided by unpaid volunteer positions are significant.
- 17.10 In letters of support appended to the Consultation Report, Kent County Council, ESCC, RDC and Ashford District Council welcomed the scheme’s economic benefits owing to tourism and job creation. The organisation My Tenterden (SUP/108) (**RVR 54**) states “We need the 70+ new jobs, we need the projected £4.1 million a year the project will bring to the area and we need all the associated economic benefits”.

Modal shift

- 17.11 The modal shift from car to rail is praised by many. Supporters comment that it will have indirect beneficial consequences, including reducing traffic, car emissions, noise pollution and demand for parking. National Trust in particular supports the reduction in vehicles around Bodiam Castle which cause congestion on surrounding narrow roads. 1066 Country also states that this shift will improve the area's sustainability.

Minimal impact on traffic and level crossing safety

- 17.12 Many supporters have noted that there will be minimal impact on traffic on the three affected roads due to operation during off-peak times only. The level crossings will benefit from advanced technology and would make use of traffic calming measures. There may even be a road safety benefit as the Robertsbridge level crossing will discourage cars accelerating after the roundabout. ESCC has written in support of the project, stating it is confident that RVR will work closely with Highways England and its own officers to minimise unwanted traffic impacts by agreeing a suitable timetable for the operation of the railway (see letter appended to Consultation Report).

- 17.13 Supporters have also mentioned that there will be minimal or no safety risk at the level crossing, if operated correctly.

Minimal environmental and flooding impact

- 17.14 Supporters have sought to bring to the attention of the Secretary of State their views that environmental and flood risk posed by the scheme would be minimal if not nil, because of the environmental and planning requirements under which the scheme would be constructed and operated, with appropriate mitigation. Councillor Eleanor Kirby-Green of RDC (SUP/172) (**RVR 55**) noted that objector concerns on ecology and flooding are dealt with by the Officer Report presented to the RDC planning committee on 17 March 2017 (**RVR 56**).

- 17.15 Other supporters stated that it is a straightforward reinstatement with minimal environmental impact in any case.

Parking

- 17.16 A number of the letters of support refer to the adequacy of parking in Robertsbridge, stating there is adequate availability in the station car park.

Land acquisition

- 17.17 Some supporters point out that landowners have been aware of the line's potential reinstatement since its original closure, and that the railway will bring minimal intrusion to landowners. SUP/121 (**RVR 57**)

- 17.18 Network Rail (SUP/80) (**RVR 58**) stated that in its view the economic and wider public transport benefits of the scheme greatly outweigh any objection to the use of necessary compulsory purchase powers.

18. Submission to ORR in January 2020 and ORR's Expert Opinion

- 18.1 This material was submitted as voluntary FEI and comprised two parts. The first (Part 1) provided an overview of the reports and documents produced in response to requests to RVR from the ORR. Part 2 provided details of reports and copies of correspondence requested by the ORR which had already been made available as part of the RVR planning application, TWAO application and Statement of Case or which were available on the internet. The submission covered the three proposed road level crossings, the bridleway crossing and the principle of providing accommodation crossings. The ORR concluded (see ORR's Statement of Case dated 31 January 2020) that, in the view of its

expert panel on level crossings, there were no reasonably practicable alternatives to the proposed level crossings. In the case of the A21 crossing, the ORR concluded that a tolerably safe level crossing could be created. It is worth noting that the Order would provide in principle consent for the proposed level crossings but they would not be permitted to be brought into operation without a Level Crossing Order in each case, to be determined by the ORR and setting out the detailed apparatus and safety equipment required in each case.

18.2 In the case of the bridleway level crossing, the ORR's expert panel did not consider that RVR had demonstrated the case for an at-grade crossing of the bridleway but conceded that there may be additional issues in relation to land take and visual impact that the Inquiry may wish to consider. It is RVR's case that closure of the bridleway is unacceptable, that a bridge is unacceptable on environmental grounds and that the crossing proposed is of a sort used extensively across the national mainline network where trains are more frequent and travelling at very much higher speeds.

18.3 The ORR also commented in its Statement of Case in relation to private "accommodation" crossings that RVR had not set out the case for such crossings and recommended that the railway and landowners be required to come to an agreement on alternative methods of access.

18.4 By a letter dated 19 May 2020 (**RVR 69**), the ORR clarified elements of its opinion in relation to the proposed bridleway and accommodation crossings, stating that:

"If railway analysis can show that the issues of land availability, land cost, bridge cost, level crossing cost, and level crossing risk level all come together to demonstrate that closure or a bridge are not reasonably practicable, and that there are level crossing solutions that deliver a tolerable level of safety then it is likely that you will have met your duties under HSWA to identify an ALARP arrangement'.

The letter went on to say " if the Secretary of State is minded to make the Order with a provision for an at-grade bridleway crossing then when the railway makes such an appropriate application ORR will of course progress a Level Crossing Order to ensure that the protective measures and operational controls can be agreed between the railway company and the Highway Authority".

In relation to the accommodation crossings, the letter stated: "If the railway can demonstrate that it is not reasonably practicable to either eliminate the need for a crossing, or construct a grade separated alternative to an accommodation crossing, and demonstrate that the use of an at-grade accommodation crossing is ALARP, and that the residual risks are tolerable, then at this point it is not clear on what grounds we could take action to prohibit the construction or use of such crossings under our HSWA powers."

18.5 It is RVR's case that some accommodation crossings will be required to mitigate the effects of severance and that bridges cannot be provided for accommodation crossings on environmental grounds. RVR anticipates that, once the Order is made, it will be able to pursue constructive negotiations with the landowners to provide the necessary number of suitable accommodation crossings. These will be designed to be ALARP, with the ORR consulted on the crossing equipment and design in the usual way. K& ESR currently operates with a large number of farm crossings.

19. **Further Environmental Information (FEI) submitted 8 March 2021**

19.1 The following detailed information was submitted in response to the Rule 17 direction and to revalidate the original Environmental Statement:

19.1.1 Environmental Statement Revalidation Report and appendices A to I, covering individual topics and references and including a Flood Risk Assessment Addendum and Non-Technical Summary.

19.1.2 A Guidance Report explaining the environmental information submitted, the chronology of its production and the purpose of each report.

20. Representations received from OBJ 1002 and RVR's responses

20.1 Richard Max & Co. wrote to the Department for Transport on 19 April (the letter). The letter explicitly stated that it was not intended to address the content of the FEI, which it said would be addressed in OBJ 1002's proofs of evidence. However, it did raise points relevant to the overall adequacy of the information provided.

20.2 With regard to transport, the letter is concerned with whether detailed highway-related matters should form part of the environmental information submitted to the Inquiry and suggests that the fact that information shared between RVR and HE has not been made publicly available and is not included within the additional environmental information "*places other parties at a significant disadvantage and prejudices our clients' ability to properly prepare for the inquiry.*" RVR disputes this utterly. The HE approvals process is an ongoing iterative process aimed at meeting all HE's requirements for the proposed developments. The detailed technical information being worked up and submitted for HE approval was not referred to in the Rule 17 direction and it goes well beyond anything that needs to be settled prior to the making of the Order. In particular, it is not information required before the Secretary of State can determine the Order and it is entirely wrong to suggest that the fact that such information is not publicly available places any party to the Inquiry at a disadvantage. It is noted that HE has not made any representations in respect of the FEI.

20.3 The Rule 17 direction required RVR to provide an update to the transport chapter, incorporating the results of the 2018 addendum to the Traffic Impact Study submitted in January 2020 to the ORR. Motts Macdonald reviewed the updated traffic data and further 2019 data (provided by i-transport) for the A21 and Northbridge Street. Motts determined, in the exercise of their professional judgement, that the baseline data changes did not affect the conclusions of the original assessment. [

~~20.4~~ The letter also identified a number of documents which relate to the HE approvals process and which it asserts are yet to be provided. So far as relevant, these matters will be dealt with in evidence.

20.5 With regard to Air Quality, OBJ 1002 seeks an explanation of why the FEI refers to a barrier downtime of 72 seconds. This figure has emerged during engagement with HE as the typical maximum crossing duration to be used for the purposes of working up the submissions to HE and was agreed between RVR's consultant, HE and HE's consultants.

20.6 With regard to water quality, hydrology and hydrogeology, OBJ1002 suggests that it was a requirement of the Rule 17 direction that the Water Framework Directive (WFD) Assessment should have been agreed with the Environment Agency. In fact, the Rule 17 direction required an updated WFD assessment and stated that "*where possible*" the WFD assessment should present evidence that the assessment has been agreed with the Agency. The updated WFD is a complete assessment for the purposes of making a determination, based on a reasonable worst case, whilst the protective provisions agreed with the Environment Agency will apply to the delivery of the authorised works.

20.7 The letter also refers to technical information underpinning the assessment to be made available, including the model used in the assessment. The Rother model is the property of the Environment Agency and was made available to Capita for use in the study under licence. For completeness, the appendices to the FRA Addendum Report, the Flood

Estimation Calculation Record and Hydraulic modelling report for the updated flood risk analysis have been uploaded to the Inquiry website.

20.8 With regard to land use and agriculture, OBJ 1002 doubts that accommodation crossings will be provided. The number and type of accommodation crossings will depend upon what is necessary mitigation for the severance caused by the railway in accordance with section 68 of the Railway Clauses Consolidation Act 1845 (accommodation works by Company) as applied by article 3 of the draft Order. Where at-grade crossings are necessary mitigation and risk is ALARP (as low as reasonably practicable), ORR's role as health and safety regulator is limited to checking that the risk assessment has been conducted in an appropriate way and that RVR has acted on the findings. RVR included indicative crossing locations on the draft order plans, based on the locations of the original crossings of the railway save that, in the case of Moat Farm, the number was halved and an access track between them is proposed. The proposals have also been discussed directly with the landowners concerned. The detail of these crossings will need to be agreed with the landowners and, to date, there has been no such agreement. However, there is no need to determine the precise nature and location of accommodation crossings in advance of, or as a prerequisite to, the TWAO application being determined.

20.9 The Rule 17 direction required a detailed justification of the conclusion of no residual significant effects during construction and operation for this topic. The revalidation report for this topic reports the scheme effects both with and without accommodation level crossings and concludes that for Parsonage/Redlands Farm the scheme would result in a slight to negligible adverse effect and for Moat Farm there would be a slight to negligible adverse effect which, in the absence of mitigation access over the railway would become a slight adverse effect.

21. **Further detailed technical drawings of the A21 Level Crossing**

21.1 On 8 March 2021, RVR uploaded to the Inquiry website some technical drawings relating to the A21 level crossing that had been worked up in liaison with, and accepted by, Highways England. It is no part of RVR's case that it is necessary to submit such detailed information before the Secretary of State can determine the application for statutory powers but, as these arrangements had been accepted by Highways England, it was considered appropriate to put them in the public domain.

APPENDIX A

List of documents

Reference	Document
RVR01	Draft Rother Valley Railway (Bodiam to Robertsbridge Junction) Order
RVR02	Extract from RDC District Plan
RVR03	Planning Permission RR/94/1184/P
RVR04	Planning Permission RR/2005/836/P
RVR05	Planning Permission RR/2009/114/P
RVR06	Planning permission RR/2012/1357/P
RVR07	Planning permission RR/2014/1608/P
RVR08	National Trust Annual report details
RVR09	Steer Economic Impact report
RVR10	Trip Advisor reviews
RVR11	Visit Southeast England report
RVR12	Visit Britain extract
RVR13	Photographs of completed construction
RVR14	Aims and Objectives of RVR
RVR15	Objectives of RVRHT
RVR16	Inspector Report on RDC Local Plan 13 December 2005
RVR17	Explanatory memorandum
RVR18	Statement of Aims of proposal
RVR19	Report on Consultation

RVR20	Funding statement
RVR21	Estimate of costs
RVR22	Book of reference
RVR23	Order plans and sections (A4 size) A1 size with TWAO docs previously
RVR24	Temple ES volume 1
RVR25	Temple ES volume 2
RVR26	Temple ES volume 3
RVR27	Temple ES volume 4
RVR28	Annex A Temple ES Nov 2016 and ES Addendum responding to TWAO Scoping response Oct 2017
RVR29	Temple Draft Air Quality report
RVR30	List of consents
RVR31	All party Parliamentary Group on Heritage Railways report 2013
RVR32	Mott McDonald 2011 level crossing traffic impact report
RVR33	Mott McDonald Economic cost of delays report.
RVR34	Mott McDonald delays report
RVR35	Not used
RVR36	Capita FRA report
RVR37	Capita FRA modelling report
RVR38	Extracts from NPPF
RVR39	Extract from ESCC planning policy
RVR40	Extract from Salehurst and Robertsbridge Neighbourhood dev. plan
RVR41	Welsh Highland Railway Order 1999

RVR42	Northbridge Street Road Safety Audit
RVR43	Junction Road Stage 1 road safety audit
RVR44	A21 Stage 1 Road Safety Audit
RVR45	Not used
RVR46	SUP/80
RVR47	Letter from 1066
RVR48	SUP/113 letter
RVR49	SUP/187 letter
RVR50	SUP/114 letter
RVR51	National Trust July 2018 letter
RVR52	SUP/172 letter
RVR53	SUP/113 letter
RVR54	SUP/108
RVR55	SUP/172 letter
RVR56	RDC officer report to Planning Committee 17 March 2017
RVR57	SUP/121 letter
RVR58	SUP/80 letter
RVR59	Copies of Newspaper notices
RVR60	Temple Final Air Quality Report
RVR61	Highways and Traffic Assessment Report – Assessment of Delays – July 2013
RVR62	Non-motorised User (NMU) Audit – July 2013
RVR63	Highways and Traffic Assessment Report – Response to HA comments on

	A21 Crossing – February 2013
RVR64	Scoping Opinion and associated documents
RVR65	Rother Valley Railway Statement of Case – September 2019

APPENDIX B

Location where documents may be inspected before the public inquiry

In accordance with Rule 7 of the Transport and Works Inquiries Procedures) Rules 2004, a copy of every document or the relevant part of any document which RVR intends to put into evidence, together with a copy of every Statement of Case served by every other party and of every document served with them (once received and copied by RVR) may be inspected free of charge (and, where practicable and subject to a reasonable charge, copied) at the following location and times:

Battle Library, 7 Market Road, Battle TN33 0XB. Monday Closed. Tuesday 10am-4pm; Wednesday 10am to 1pm; Thursday 10am to 6pm; Friday 10am to 5pm; Saturday 10am to 5pm; Sunday Closed.

APPENDIX C

Documents submitted with the updated Statement of Case

RVR67	Lambert & Foster Agricultural Impact Report and Appendices January 2020
RVR68	Lambert & Foster Supplementary Agricultural Impact Report April 2020
RVR69	Letter dated 19 May 2020 from ORR to RVR