

**By Email Only**

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11 September 2020

Our Ref: JEW/33916/00001/PFI

Dear Mr Jenkins

**Transport and Works Act 1992  
Proposed Rother Valley Railway (Bodiam to Robertsbridge Junction) Order**

As you know, I act for the applicants in this matter, Rother Valley Railway Limited ("RVR").

I am writing further to my letter of 27 July 2020 regarding your Rule 17 direction dated 8 June 2020 and our correspondence of 22 June and 15 July.

In my letter of 27 July, I noted the additional requirement in your letter of 15 July that the updated flood risk assessment should be agreed with the appropriate statutory bodies where possible, and I confirmed that the appropriate body in this case is the Environment Agency.

I explained that RVR had already contacted the Agency to confirm its requirements and timescales.

It had been agreed over the telephone between the Agency's planning specialist, Sophie Page, and David Gillett of the applicant's team that the body of work required was substantial and that it would be important for the applicant's consultant, Capita, to work closely with the relevant Agency teams. It was agreed that a preliminary meeting with the relevant Agency teams was to take place in a few weeks' time to agree the best way forward, taking account of staff availability and timescales. It was not possible to arrange a meeting straightway due to lack of Agency availability.

In the meantime, the applicant instructed Capita to commence preparations for the necessary work, to be followed by a formal order once the process had been agreed with the Agency.

I am instructed that, despite the applicant's efforts, it has not been possible to arrange a meeting with the Agency. The reason given by the Agency (by email) is that it is waiting for a response to a letter it wrote (unilaterally) to you dated 11 August 2020.

Although RVR has pushed for at least the preliminary meeting to be held, it has been advised that the Agency wants clarification on the need for the further information before committing resources to it.

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I have seen the letter from the Agency. As I read it, it rehearses the point made in my letter of 22 June that this is a case where there is an extant planning consent for the reinstatement of the railway which is subject to pre-commencement planning conditions to control flood risk and that the further information, whilst informative, would not affect this and would not assist it in the discharge of the planning conditions. (I am aware that the Agency had a copy of your letter of 15 July when it wrote this letter, so it would have been aware of your response on this point.)

I do not think it is altogether clear from its letter that the Agency intended to wait for your reply to its letter before progressing matters with the applicant but, in any event, the Agency has advised RVR that this is its position.

In my letter of 27 July, I pointed out that it is not possible for the applicant to provide firm dates about when an external body will perform its functions. I suggested that, as the timescale for production of the new flood risk assessment was uncertain, the applicant might revert to you in October, once it had entered into appropriate arrangements with the Agency, to more accurately identify the expected submission date and to arrange a new date for the postponed Inquiry.

In the absence of a reply to that letter, I spoke to Sarah Tudor at PINS on 27 August and repeated the suggestion that we look again at the dates in October. At that time, I was not aware of the hold up.

Following our conversation, I received an email from Sarah Tudor at PINS dated 1 September asking me to confirm whether the applicant had met with the Environment Agency and, if so, whether any definite timeframes were agreed relating to delivery of the further information. I am instructed that, as RVR has been unable to meet with the Agency to agree the process, the work required, and the availability of the necessary information, little activity has in fact taken place to date.

It is now six weeks since our letter of 27 July and four weeks since the Agency wrote to you. Unfortunately, the delay makes it unrealistic to expect that RVR and/or the Agency will be in a position to advise of a potential submission date for the new reports you have requested before November because, assuming that you respond to the Agency within the next week, it can be reasonably be expected to take 3 weeks to get a meeting with the Agency and Capita and another three weeks from that meeting for the Agency to provide its feedback to Capita about timescales for its input into the work.

I must stress that this impasse is not of the applicant's making. It is hoped that this letter may prompt a response from you to the Agency, and to my letter of 26<sup>th</sup> July, which should then allow further work to proceed

Yours sincerely



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