

**PROPOSED CHILTERN RAILWAYS (BICESTER TO OXFORD IMPROVEMENTS)
ORDER**

CHILTERN RAILWAYS' REBUTTAL PROOF OF EVIDENCE

**IN RELATION TO
THE OBJECTION AND EVIDENCE OF
WENDLEBURY PARISH COUNCIL**

1 Introduction

- 1.1 This rebuttal proof of evidence has been prepared on behalf of the Chiltern Railway Company Limited (Chiltern Railways) to respond to particular aspects of the objection and evidence of Wendlebury Parish Council.
- 1.2 Wendlebury Parish Council has not raised any new points in its Proof of Evidence provided for the Inquiry that Chiltern Railways had not previously addressed in the proofs of evidence prepared by their witnesses, which were submitted to the Inspector and to certain objectors on 1 October 2010. Cross-references to relevant paragraphs of those witnesses' proofs of evidence are given below, where appropriate.
- 1.3 It is intended that this rebuttal proof should be a composite response by Chiltern Railways to those new points raised in the evidence of Wendlebury Parish Council and referred to above. In this respect, for cross-examination purposes, the name of the Chiltern Railways witness who is responsible for each aspect of this rebuttal proof is given at the beginning of each section below.

2 Defined Terms

- 2.1 The following defined terms are referred to throughout this rebuttal proof:

"the Correspondence" means correspondence in the form of letters exchanged between Chiltern Railways and Wendlebury Parish Council dated 16 February 2010 and 29 April 2010, appended to this rebuttal proof in Appendix A;

"the Objector" means Wendlebury Parish Council;

"the Objector's" means the Proof of Evidence of Wendlebury Parish Council;

evidence”

“the Order application” means the application for the proposed Order submitted on 6 January 2010 and the Proposed Modification dated 9 September 2010; and

“the proposed Order” means the proposed Chiltern Railways (Bicester to Oxford Improvements) Order.

3 Chiltern Railways’ Rebuttal of the Objector’s Evidence

Context

- 3.1 This proof of evidence is written by the Chairperson Anna McDonagh on behalf of Wendlebury Parish Council.

Footpaths, Bridleways and Other Rail Crossings, Ian Gilder

- 3.2 The Objector states that the footpaths and bridleways in Wendlebury are all used on a very regular basis. The Objector states that they are used by dog walkers, walkers and ramblers both from the village, other nearby villages and Bicester.
- 3.3 The Objector states its objection to the closing of any rights of way, therefore, the proposed closure of the Wendlebury Foot FP 398/2 and Beebont Bridleway BR 157/4 are not considered to be acceptable. The Objector states that these have all been used for a significant number of years and were in use before the railway was built. The Objector states that the alternative routes via the new Merton Foot and Holts Farm crossings are considered to be unacceptable due to increased distance of travel involved. The Objectors state that the loss of the right of way is a result of Chiltern Railways saving costs in not providing a crossing at the point of the right of way.
- 3.4 The Objector states that there is a pond in the field where the new Elm Tree Farm access bridge is proposed, is not shown on the plans. The Objector states that the land here is very water logged and any footpath bridleway would need to be constructed in a way that would allow people to use it during the wettest weather, and this does not seem to have been taken into consideration by Chiltern Railways.
- 3.5 The evidence from the public rights of way surveys undertaken in June 2009 (as appended to the Public Rights of Way Report [CD/1.11]) and in June 2010 [CD/2.18] do not support the Parish Council’s claim that the footpaths and bridleways in Wendlebury are all used on a very regular basis.
- 3.6 As set out in paragraphs 11.33 and 11.34 of Ian Gilder’s evidence [CRCL/P/12/A], the alignment of the bridleway diversion has been designed in order to avoid the Wendlebury Meads and Mansmoor Closes Site of Special Scientific Interest [SSSI] which covers a large area to the north east of Holts Farm. Users will be diverted from the existing bridleway [BR 398/8] to a new bridleway that is to be created across a field to the east of the railway and around the field edges to the west of Holts Farm. A new road bridge, for dual use, will carry the bridleway over the railway before it rejoins the current alignment [BR 157/4] on Mansmoor Road.

- 3.7 This will result in a diversion of 0.9 kilometres. Given that the primary use of this public rights of way is recreational and that levels of use have been shown to be low during surveys undertaken in June 2010 [**CD/2.18**], it is considered that the proposed diversions provides an acceptable alternative and can be considered to be reasonably convenient. Oxfordshire County Council has withdrawn its previous objection to the length of diversion of the Beebont bridleway.
- 3.8 The proposed diversion of Wendlebury Foot [FP 398/2] will enable walkers to use the existing footpath along the western side of the railway to the new Merton Foot footbridge before travelling back along a new footpath on the eastern side of the railway. The proposed diversion is only an additional 685 metres in length and is not considered a significant diversion for predominately recreational walkers. The diversion will not impact on the connectivity of the network as a whole and provides a safer route for users.
- 3.9 As stated in paragraph 12.30 of Ian Gilder's evidence [**CRCL/P/12/A**], it is acknowledged that the diversion of Elm Tree Farm No 1 [FP 398/6] will need to bridge a small pond and be of a suitable design to take account of the condition of the land.

Revised Alignment of Langford Lane to Serve Merton Grounds and Wendlebury Stables, Ian Gilder

- 3.10 The Objector states that the Proposed Modification of Langford Lane is considered an unacceptable proposal in that it increases the risk of flooding within the village by removing agricultural land which acts as a sponge to surface rain water. The Objector seeks clarification as to what impact studies have been done to show that this will not adversely affect the village.
- 3.11 The Objector states that many homes in Wendlebury currently suffer from flooding at times of high rainfall and it is essential that this be taken into account. The Objector states that the distress caused to householders is immense and the Parish Council has worked extremely hard to try and improve the situation and any changes that might make the flooding worse would be strenuously objected to by the Parish Council.
- 3.12 Flood risk has been assessed as a core technical area throughout the progression of the Order Scheme and Chiltern Railways understand the sensitivities with regards to flood risk in the Wendlebury area. Chiltern Railways' appointed hydrology and flood risk specialists have assessed all aspects of the proposals and we would refer the Objector to the latest hydrological and flood risk assessment reports submitted to the Inquiry within **CD/2.22**. This includes additional information with regards to the flood risk status in the Langford Lane area, such as that contained within the Compensatory Storage Technical Paper and Level 3 FRA Specification (WHS, July 2010). Chiltern Railways has made specific commitments with respect to the design of the proposed roads and other works and the provision of compensatory flood water storage within the sub-catchment, in order to minimise any potential impacts upon flood water movement at this location. In order to promote a better understanding of the flooding characteristics and risks of flooding in the Langford Lane area, Chiltern Railways also committed to a detailed (Level 3) Flood Risk

Assessment. This work will include hydrological modelling to further define flood risk, and will inform the nature of any further detailed design stage mitigation applied to ensure that the works do not increase the risk of flooding to local residents.

- 3.13 At the point of crossing, the bridge structure and tracks will be raised, in order to both facilitate the crossing itself and protect archaeological interests. The remainder of the route will be designed to minimise height above current ground level. This is due to the need to ensure that flood water movement and storage within the area is not compromised. Given the vulnerabilities to flood risk and the active flood water storage function of areas of land around Langford Lane, constructing the new access routes to remain operational during the wettest weather, as the Objector suggests, would unfortunately have the potential to exacerbate flood risk to the surrounding area. Based upon current data, the existing Langford Lane is affected by areas of Flood Zone 3. It is likely, therefore, that as currently experienced, there may be times when the realigned Langford Lane or farm accesses will be affected by flooding.
- 3.14 The Objector states that the relocation of the access point close to the village boundaries is likely to increase traffic movement within the village rather than the A41. The Objector states that the village already suffers considerable traffic congestion and acts as a rat run by drivers avoiding Junction 9 M40 congestion. The Objector states that any increase in traffic would be deemed unacceptable.
- 3.15 The new route and bridge is proposed to replace the existing Langford Lane level crossing. It will provide access to those existing properties on the east side of the railway line, which currently use Langford Lane. The new route joins the existing public highway on the west side of the railway line southwest of the existing junction with Langford Lane but re-joins the same stretch of road. Therefore, it is unlikely to encourage a change in route choice for those people already making a journey to/from the south such as to create additional traffic movements through the village of Wendlebury. This is addressed in two notes to the Inquiry, **CRCL/INQ/33** and **CRCL/INQ/34**, which deal with the likely routes and traffic flows.
- 3.16 The Objector seeks clarification as to whether the existing rights of way enjoyed over Langford Road that link to existing bridleways to Merton Grounds and Merton are to be established over the new road network.
- 3.17 The replacement Langford Lane is to become adopted public highway and the rights that this confers will be passed on to existing users.

Noise Mitigation, Michael Fraser

- 3.18 The Objector states that noise from trains currently using the railway between Oxford and Bicester reaches the village of Wendlebury. The Objector states that with the proposed increase of up to 400% in the number of trains using the line at peak times, together with the proposed increased speed, there will be a dramatic increase in the noise pollution created by the railway. The Objector states that there still appears to be no proposed mitigation to control the increased levels of noise pollution or to compensate villages for the loss of amenity value to their properties.

- 3.19 The increase in train movements and the increases in speed on the existing railway are taken account of in the predictions of train noise in Section 6 of the Environmental Statement [CD/1.16]. The predicted noise impacts are presented in Table 6.12 and Table 6.13 in the ES and Wendlebury is represented by Receptor 6a (at Elm Tree Farm). The noise impact is described as not significant in Phase 1, and no changes in ambient noise are predicted. Although in Phase 2, changes in noise occur that are just above the 3 dB point at which a noise change would be noticeable under normal conditions (ie not in a laboratory), the train noise has been compared to the stringent noise thresholds below which a significant noise impact could not occur (ie 55 dB during the day and 45 dB at night), and it has been found that these thresholds will not be exceeded. These standards are consistent with the most stringent of the standards that would apply to new housing.

Visual Impact, Ian Gilder

- 3.20 The Objector states that there is no suggestion of planting to hide the new road, bridge and railway and to maintain the environment visually.
- 3.21 As stated within the Environmental Statement (ES) [CD/1.16], existing vegetation loss is expected due to proposed developments which include Langford Lane bridge, the New Merton Foot bridge and Beebont bridleway and accommodation bridge. However, the majority of the boundary vegetation along the affected route is to be retained as part of the proposal. Within the ES, landscape mitigation measures have been committed to as set out in Table 7.4 of the ES (Volume 2) [CD/1.16] and Figure 7.5B/7.5C (Volume 3) [CD/1.17] which propose woodland and shrub understorey planting to embankments on approach roads to proposed developments in Wendlebury area.
- 3.22 Furthermore replacement planting and enhancement measures have been suggested as part of Landscape Strategy for the new Langford Lane bridge as shown in Figure IMG 4.3 in the appendices to Ian Gilder's evidence [CRCL/P/12/B]. As can be seen in the proposed landscape strategy, woodland and shrub understorey to soften earthworks embankments have been proposed so as to allow the proposed development to integrate into the surrounding landscape.
- 3.23 With mitigation measures and the recommendations of landscape strategy in place the presence of the bridge within the landscape will be significantly reduced.

Wendlebury Meads Site of Special Scientific Interest, Andy Coates

- 3.24 The Objector states they are concerned that the Site of Special Scientific Interest at Wendlebury Meads should not be affected in any way by the Order Scheme. The Objector states that it is not clear from the application that this is the case.
- 3.25 The proof of evidence from Andy Coates [CRCL/P/10/A] sets out Chiltern Railways' position regarding Wendlebury Meads and Mansmoor Closes SSSI. The increase in nitrogen deposition is not anticipated to affect the integrity of the SSSI, that there will be no adverse impact on the hydrology of the SSSI and that mitigation measures developed in consultation with Natural England will result in an overall gain in the habitats of interest and the access track will ensure that access for management of

the SSSI is secured. It is concluded in paragraph 2.94 [CRCL/P/10/A] that the Order Scheme is not anticipated to result in an adverse effect on the integrity of the SSSI. In relation to the proposed access track across the SSSI, Chiltern Railways are continuing to discuss this issue with Natural England.

4 Conclusion

- 4.1 This rebuttal responds comprehensively to the evidence presented by the Parish Council of Wendlebury.
- 4.2 The proposed diversion of Wendlebury Foot [FP 398/2] will not impact on the connectivity of the network as a whole and provides a safer route for users. Bridleway [BR157/4] is primarily used for recreational use, it is considered that the proposed diversions provides an acceptable alternative and can be considered to be reasonably convenient, given the nature of the existing use.
- 4.3 Flood risk has been assessed as a core technical area throughout the progression of the Order Scheme, and that Chiltern Railways fully understands the sensitivities with regards to flood risk in the Wendlebury area. Chiltern Railways' appointed hydrology and flood risk specialists have assessed all aspects of the proposals and we would refer the Objector to the latest hydrological and flood risk assessment reports submitted to the Inquiry within **CD/2.22**.
- 4.4 The increase in train movements and the increases in speed on the existing railway are taken account of in the predictions of train noise in Section 6 of the Environmental Statement [**CD/1.16**]. Even at the nearest home to the railway, at Elm Tree Farm, the noise impact is described as not significant in Phase 1, and no changes in ambient noise are predicted. Although in Phase 2 changes in noise occur that are just above the 3 dB point at which a noise change would be noticeable under normal conditions the resulting work levels will still be below the most stringent standards that apply to new housing.
- 4.5 The Environmental Statement [**CD/1.16**] assesses the impact of the Scheme on the environment, including visual impact and ecological impacts, and where necessary mitigation measures have been incorporated or will be subject to planning conditions.

Appendix A

CRCL/R/OBJ286

Relevant Correspondence
between Chiltern Railways
and the Objector

From: Anna McDonagh [mailto:annacmcdonagh@googlemail.com]
Sent: 16 February 2010 13:39
To: TRANSPORTANDWORKSACT
Subject: Chiltern Evergreen 3 proposal

Dear Sir

Wendlebury Parish Council would like to ensure that the following concerns of issues affecting the Parish by the Chiltern Evergreen 3 Proposal are taken into account during the planning of this project. Our concerns are itemised below.

* The proposed new road that will access Elm Tree Farm and properties currently up Langford Lane is shown to join the single track, narrow village road at a position exactly next to a bridge where the road narrows and there are parapets on either side of the road. This strikes us as potentially dangerous particularly as a lot of the traffic that will use this road will be large tractors and horseboxes and a combine harvester. There are far safer places to put this road.

* The same road is proposed to run parallel to the stream that joins the brook on the far side of the road and the land there is particularly wet. What mitigation is being planned. Wendlebury currently suffers from in house flooding at times of high rainfall and it is essential that this is taken into account. The distress caused to householders is immense and the Parish Council have worked extremely hard to try and improve the situation. Any changes that might make the flooding worse would be strenuously objected to by Wendlebury Parish Council.

* There is a pond in the field where the new Elm Tree Farm access bridge is proposed, this is not shown on the plans. The land here is very water logged and any footpath/bridleway would need to be constructed in a way that would allow people to use it during the wettest weather. This does not seem to have been taken into consideration.

* The land at the proposed bridge for Elm Tree Farm is very wet and boggy what mitigation is proposed? We would refer you to our point above.

* Wendlebury Parish Council, on behalf of all villagers of the Parish request compensation for any increase in noise suffered.

* Wendlebury Parish Council on behalf of all villagers of the Parish request compensation for any visual intrusion created by the project.

* There is no suggestion of planting to hide the new road, bridge and railway and improve the environment visually.

* There is no suggestion of planting to mitigate for noise.

* There seems to be no consideration of relieving the traffic issues created by Bicester Village by including a stop that shoppers could use.

* Wendlebury Parish Council are very concerned that the SSSI at Wendlebury Meads should not be affected in any way by this project it is not clear from the application that this is the case.

* Wendlebury Parish Council oppose the closing of any footpaths/bridleways that cross the railway line. these are all regularly used by walkers, horseriders and cyclists. It is not clear to us exactly what is proposed at the crossings between the SSSI and Holts Farm, and we would re-iterate that closing these crossings would be detrimental to many people who have used them for more years than we can remember.

Thank you for taking our views into account.

Please would you be kind enough to acknowledge receipt of the email? Thank you.

Regards
Anna McDonagh
(Chairman Wendlebury Parish Council)}

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29 April 2010

Anna McDonagh
Chairman
Wendlebury Parish Council
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Wendlebury
OX25 2PW

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Facsimile 020 3206 5400
Email ian.gilder@erm.com

Our Ref: 0110147/OBJ286

Dear Anna

Re: Chiltern Railways (Bicester to Oxford Improvements) TWA Order Application

I am writing on behalf of Chiltern Railways in reply to the Wendlebury Parish Council objection to this application emailed on 16 February 2010, which has been given the Department of Transport reference, OBJ 286.

Our initial responses to the Parish Council's concerns are set out below, in the order that they appear in your email.

- **Junction between the new road and Langford Lane.** I can assure you that any new junction will be designed to be safe and have adequate visibility. We are preparing a more detailed design for the road and I will send you a copy when it is available.
- **Road drainage.** We are aware of local concerns about surface water drainage. The road will be designed with culverts and other drainage so that it does not increase the risk of local flooding.
- **Land drainage and the new footpath.** We note your comments about the drainage here. We will be seeking to make any diverted path at least as passable as any footpath that it replaces and are looking into the requirements here.
- **Land drainage and the new bridge.** Our approach to the drainage at the bridge will be the same as for other parts of the new road. It will be designed so that it does not increase the risk of local flooding.
- **Noise and visual impact compensation.** Generally, residents who live very close to new bridges etc with a serious visual impact or who are close enough to be affected by increased train noise may be able to claim compensation for 'injurious affection' after the Scheme has been built. That said, I am only aware of one residential property in Wendlebury parish that might be close enough to suffer any noise impact.
- **Planting and visual impact.** We are not proposing any new planting of trees along the railway itself, although we will replant, where we can, if trees have to be removed. We will be proposing new hedges and tree planting to help the new road and bridge fit into the landscape. This will be designed once the bridge and road designs have been finalised.

- **Relief of traffic congestion.** I am not entirely clear what your main concern is here. It would not have been practicable to provide an additional station between Bicester Town and Islip. Bicester Town is very well placed to serve other longer distance users of Bicester Village. Generally, the railway will attract car users, travelling from Bicester to Oxford, for example, to transfer to trains and the creation of the improved Bicester Town station will help to reduce the numbers of cross-town centre movements by car, since rail users to London will generally choose to use whichever of the stations is more convenient to where they live, rather than, as at present, all using Bicester North station.
- **Wendlebury Meads SSSI.** None of the works we are proposing will be within the SSSI. It was a major constraint on the siting of the proposed new bridge and this is now to be located well to the south west of Holts Farm. We are continuing discussions with the landowners, Natural England and the Wildlife Trust to ensure that any specific concerns they have can be resolved.
- **Closure of footpaths and bridleways.** The existing bridleway [BR 157/4] which crosses the railway at the BBONT crossing will be diverted to use the new bridge, south west of Holts Farm and will connect back to the existing bridleway on both sides of the railway. This diversion will be as convenient as we can make it, taking account of the SSSI and Holts Farm. We are providing suitable alternative routes or diversions wherever we are proposing to close footpaths or bridleways which cross the railway.

I hope that these responses resolve your concerns. I will provide further information on the proposed layout of the road to replace the Langford Lane crossing as soon as it is available.

Yours sincerely

Ian Gilder,
Head of Planning
ERM

for and on behalf of the Chiltern Railway Company Ltd