

**SUMMARY PROOF OF EVIDENCE OF IAN GILDER
PLANNING AND ENVIRONMENT**



THE CHILTERN RAILWAYS (BICESTER TO OXFORD IMPROVEMENTS) ORDER

TRANSPORT AND WORKS ACT 1992

**TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS PROCEDURE)
(ENGLAND AND WALES) RULES 2006**

27 September 2010



INTRODUCTION

- 1.1 My name is Ian Gilder. I am Head of Planning at Environmental Resources Management (ERM) Limited, a leading environmental management and planning consultancy. I hold a Master of Arts degree in Geography from the University of Cambridge, a Postgraduate Diploma in Town Planning from Anglia Polytechnic University and have been a Member of the Royal Town Planning Institute since 1978. I am a Fellow of the Royal Society of Arts.
- 1.2 ERM was appointed by Chiltern Railways in December 2008 as project management, environmental and planning consultants to develop the Order Scheme ready for submission of the Transport and Works Act Order application in January 2010. I have been ERM's Project Director since the start of the project, assisted by a multi-disciplinary team of planning, environmental and landscape consultants. Since submission, I have been coordinating and leading the team's responses to objections, with the objective of negotiating the resolution and withdrawal of as many of these as possible before the public inquiry.

SCOPE OF EVIDENCE

- 1.3 My evidence is focussed on local planning, environmental assessment and mitigation. I also deal with the Request for Planning Direction, the Scheduled Monument Consent application, the Exchange Land procedure to deal with Open Space and the procedural aspects of the Habitats Regulations, including applications for protected species licences. This is a summary of my main Proof of Evidence (**CRCL/P/12/A**) and Appendices (**CRCL/P/12/B**).

STATEMENT OF MATTERS

- 1.4 The Secretary of State for Transport [‘the Secretary of State’] issued a Statement of Matters (**X/4**) for the TWA Inquiry on 25 August 2010. In my evidence, I address the following:
- the main alternative options considered by Chiltern Railways, for the Park and Ride site, rail aggregates depot and public rights of way diversions;
 - conformity with national and local planning and environmental policies;
 - the likely environmental impacts of constructing and operating the Order Scheme in relation to air quality, water resources and flooding, landscape and visual amenity and cultural heritage;
 - the effects on open space;
 - the proposed closures of public rights of way crossings and the likely impacts on users of the rights of way network;
 - the extent to which the Order Scheme is inappropriate development in the Green Belt and the extent to which it is outweighed by very special circumstances;
 - the measures proposed by Chiltern Railways for mitigating any adverse impacts of the Order Scheme, including the draft Planning Conditions; and

- the adequacy of the Environmental Statement and proposed changes to the TWA Order.

PROPOSED MODIFICATION TO THE ORDER SCHEME

- 1.5 Since the submission of the Draft Order on 6 January 2010, Chiltern Railways has proposed certain amendments to the Order Scheme, which have arisen from more detailed investigations, assessment and discussions with objectors.
- 1.6 The Proposed Modification to the Draft Order **(CD/1.28)** relates to a revised alignment of the western section of the highway replacing Langford Lane and was accompanied by a Second Addendum to the Environmental Statement **(CD/1.22/1)**. The Proposed Modification also includes an amendment to the Limits of Deviation of Work 11. I ask the Secretary of State to accept the Proposed Modification to the Order Scheme. The requirement for notification of any substantive change to the Order, set out in Statement of Matter 15, has been met.

STRATEGIC AND LOCAL PLANNING AND ENVIRONMENTAL POLICY

- 1.7 My evidence is that, overall, the Order Scheme accords with the development plan and other material considerations, including national planning guidance in PPSs, for the purposes of section 70 of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compensation Act 2004. It will contribute to the securing the objectives of other relevant national policy guidance on planning and the environment, in particular, PPS1 alongside the PPS1 supplements on climate change and Eco-towns. It conforms fully with the requirements of PPSs 4, 5, 7, 9, 17, 23 and 25 and PPG24 which protect the environment. My evidence is that the Order Scheme is *“consistent with national and local planning ... and environmental policies”* (Statement of Matter 4).

ES AND ES ADDENDA

- 1.8 The Environmental Statement describes the results of the environmental impact assessment and has been submitted to the Secretary of State for Transport together with the Order for powers to construct the Order Scheme.
- 1.9 An Addendum to the ES **(CD/1.22)** was published on 8 April 2010. The Addendum reported the results of hibernation surveys for bats in Wolvercot Tunnel and set out a draft Bat Mitigation Plan for consultation. A Second Addendum to the Environment Statement dealing with the Revised Langford Lane Alignment was prepared and published on 9 September 2010. It concluded that the Revised Alignment results in no greater impacts than the Order Application Alignment, except in respect of an additional minor visual impact.

ENVIRONMENTAL IMPACT ASSESSMENT PROCESS AND THE RULES

- 1.10 The Environmental Statement [ES] goes well beyond meeting the minimum requirements of the Transport and Works Act Rules, the statutory procedural requirements, and has been prepared in accordance with best practice by an experienced team of specialists (Statement of Matter 11). In relation to the Proposed Modification to the TWA Order, the requirements for this to be subject to Environmental Impact Assessment and properly notified has been met (Statement of Matter 15).
- 1.11 The Environmental Statement and ES Addenda were publicised in accordance with the relevant procedures. I am entirely satisfied that any statutory requirements in relation to consultation have been fully complied with.

ASSESSMENT OF ENVIRONMENTAL EFFECTS AND MITIGATION

- 1.12 My evidence is that the assessment of residual impacts is conservative and, at certain locations, it will be possible, by detailed design and inclusion of additional mitigation measures, to reduce those adverse residual impacts below those set out in the Environmental Statement. This represents a robust and transparent assessment of the 'likely significant environmental effects', both positive and negative. The Environmental Statement and subsequent Addenda remain, as far as they can, an up to date assessment of those effects.

REQUEST FOR DIRECTION AND PLANNING CONDITIONS

- 1.13 Some of the proposed works contained within the Order constitute development requiring planning permission under section 57(1) of the Town and Country Planning Act 1990. Chiltern Railways has sought a direction in this case with draft Planning Conditions. The direction sought is for deemed planning permission to be granted for the works with the details of some matters being reserved for subsequent approval by the relevant local planning authority. Following the decision to amend the Order application in September 2010 and to reflect ongoing design and negotiations, Chiltern Railways needs to make minor amendments to the Request and to Appendix 1 to the Request which I am proposing to introduce at the start of the Inquiry.
- 1.14 I will be asking the Secretary of State to grant the deemed planning permission necessary for the Order Scheme, incorporating revised draft Planning Conditions that will be introduced at the start of the Inquiry and, if necessary, amended thereafter. My evidence is that, as set out in Statement of Matter 12, the draft Planning Conditions have been drafted to "*meet the tests of DOE Circular 11/95 of being necessary, relevant, enforceable, precise and reasonable*".

SCHEME DESIGN, PLANNING AND IMPLEMENTATION

- 1.15 Planning and implementation measures have been put into place to secure an appropriately high standard of design and implementation. These include a Design and Access Statement, the draft Planning Conditions, the draft Code of Construction Practice and other measures to ensure that any adverse environmental effects are properly mitigated. Aspects of the detailed design are reserved for later approval by the local planning authorities. Condition 3 requires those designs to 'conform generally' to the provisions set out in the updated Design and Access Statement, which will be presented to the Inquiry.
- 1.16 Chiltern Railways submitted an application on 11 February 2010 for Scheduled Monument Consent under the Ancient Monuments and Archaeological Areas Act 1979, for consideration by the Secretary of State concurrently with the applications for the TWA Order and the request for Planning Direction. The works proposed in the Scheduled Monument Consent and works affecting protected species covered by Protected Species Licences, the applications for which are to be made soon, are both necessary for the Order Scheme to go ahead and are entirely in accordance with PPS5, PPS9 and local planning policy.
- 1.17 The provisions for replacement open space and the grant of an Exchange Land Certificate may be necessary and the procedures for dealing with these are in hand.
- 1.18 It is important that the Secretary of State can be assured that there would be no impediments from the need to secure other consents to the implementation of the Order, if granted. I consider that there are unlikely to be any impediments to the implementation of the Order, if confirmed, related to issues arising under Statement of Matter 7 and the tests in Circular 06/2004 are met.

APPROPRIATE ASSESSMENT

- 1.19 The Order Scheme potentially affects the Oxford Meadows Special Area of Conservation [SAC] and a number of Sites of Special Scientific Interest [SSSIs]. The relevant procedures for an appropriate assessment where there may be any adverse effect on the integrity of the Oxford Meadows SAC from the Order Scheme are set out in the Habitats Regulations 2010. This matter is dealt with, in more detail, in Andy Coates' evidence. My conclusion is that, as set out in the ES, the Secretary of State can be satisfied that the Order Scheme will have no impact on the integrity of the SAC.

GREEN BELT AND CONFORMITY WITH PPG2

- 1.20 The Order Scheme will result in the introduction of new railway infrastructure and buildings within the Green Belt. These are the railway itself, road and footbridges, the station and parking at Water Eaton and the relocated rail aggregates depot. Policy in PPG2 defines most development in Green Belt as inappropriate unless it can be shown that 'very special circumstances' exist "*whereby any harm caused by inappropriateness and any other harm is clearly outweighed by other considerations*". A key consideration is the impact that

development has on the openness of the Green Belt and the purposes of including land within Green Belt.

- 1.21 My evidence is that the parking at Water Eaton Parkway, which will operate jointly with the existing County Council site, meets the specific tests for Park and Ride facilities in the Green Belt and can be considered appropriate development. In particular I set out the comparison with the only other realistic alternative site for the station outside Green Belt, at Peartree, would not have been satisfactory. The Park and Ride meets the tests in paragraph 3.17 of PPG2.
- 1.22 The other elements of the Order Scheme can be considered as inappropriate, but my evidence is that, taken together and separately, these demonstrate compelling 'very special circumstances' to justify that any harm to the Green Belt is clearly outweighed by other considerations.
- 1.23 The Order Scheme principally comprises improvements to the existing railway between Bicester and Oxford, which for much of its length is within the Green Belt. The railway is already there and track, signalling and other permanent works are, of necessity, within the Green Belt. This is, of itself, a compelling very special circumstance. The bridges that are needed in order to replace level crossings also have to be located in the Green Belt. Neither elements will adversely affect openness.
- 1.24 The other very special circumstances relate to the overall contribution of the Order Scheme in delivering sustainable regional and local public transport improvements in order to meet forecast demand and to support spatial growth and economic development.
- 1.25 My evidence in relation to the replacement site for the rail aggregates depot is that the relocation is essential to enable the Water Eaton Parkway station. There are no better alternative sites outside the Green Belt, or indeed at all, to meet the needs of Oxford for a strategic rail aggregates terminal and that the development, controlled by suitable conditions, will have only minor impact on the openness of the Green Belt.
- 1.26 In my view, the Order Scheme does not 'seriously compromise' any of the five purposes of including land in the Green Belt. The Order Scheme will have no measurable impact on the width of the Green Belt and its width will remain sufficient to maintain a clear physical and visual separation between Oxford and settlements within the Green Belt. The Order Scheme will not result in any significant encroachment into the countryside and will not compromise the purpose of preventing towns from merging or result in unrestricted sprawl of the built area. In addition, there is no impact on the setting or character of Oxford. I conclude that the Order Scheme will not cause material harm to the purposes or openness of the Green Belt. Chiltern Railways has undertaken comprehensive studies of travel impacts that demonstrate the benefits of a Park and Ride site linked to the Order Scheme at Water Eaton. All the buildings and structures are essential for the operation of the Order Scheme and other structures eg lighting, fencing, signage, will be kept to the minimum necessary for safe operation of the site.

1.27 I have dealt with Statement of Matter 9 and conclude that where development is inappropriate, the harm, by reason of inappropriateness, is clearly outweighed by very special circumstances and is justified. The proposed Water Eaton Park and Ride constitutes appropriate development in the Green Belt and those elements of the Order Scheme classified as inappropriate development are justified by the very special circumstances attaching to the Order Scheme. I have dealt with Statement of Matter 3 in relation to the consideration of alternative locations for the rail aggregates depot and the Park and Ride facility and conclude that the Park and Ride assessment meets the test in paragraphs 3.17(a) of PPG2.

OPEN SPACE

1.28 The Order Scheme will temporarily require the acquisition of no more than 1.81 hectares of open space and permanently occupy 1.73 hectares of open space. I have considered these areas of 'open space' in the context of the guidance in PPG17 and the development plans. Chiltern Railways has adopted a prudent approach and is proposing to make available 'Exchange Land' to replace the land that may be open space at Gavray Drive, Bicester.

1.29 The acquisition of open space is integral to the development of the Order Scheme in delivering wider sustainable transport objectives. These benefits need to be weighed against any loss of open space that occurs. As replacement open space is to be provided, the Order Scheme is considered to comply with the objectives of open space policy to maintain levels of public provision and enjoyment.

1.30 I am satisfied this land is essential for the Order Scheme and that no other, better replacement open space that meets the criteria in PPG17 is to be found. It meets the policy tests in PPG17 and Appendix L of Circular 06/2004 Compulsory Purchase and the Crichel Down Rules, being equally advantageous to the public. I have addressed Statement of Matter 5(g).

1.31 In the event that the advertisement of the Secretary of State's intention to issue an Exchange Land Certificate produces more representations, I will deal with these in a Supplementary Proof.

FLOOD RISK AND DRAINAGE

1.32 Following submission of the TWA Order application, there has been further consultation with the Environment Agency and additional studies have been conducted in conjunction with technical advice from the Environment Agency. These are a revised Flood Risk Assessment, a technical paper on Flood Compensation and Storage, a scope of works for a detailed surface water drainage strategy, flood risk at construction sites and safe means of access. These combined reports form core document **CD/2.22**.

1.33 In addition, more detailed flood risk mapping has been released by the Environment Agency which supersedes that shown on the Planning Direction Drawings. This mapping can be made available to the Inquiry. The updated

mapping was used to inform the work for the Second Addendum to the Environmental Statement (**CD/1.22/1**). The changes to the flood zones do not affect the conclusions on flood risk reported in the ES and elsewhere.

- 1.34 The Order Scheme has been designed to avoid, reduce and where necessary mitigate flood risk and impacts on water resources. The Environment Agency is satisfied with the Protective Provisions and that appropriate Planning Conditions can be put into place to secure these requirements.

LANDSCAPE IMPACTS AND MITIGATION

- 1.35 The Order Scheme has been designed to avoid, reduce and where necessary mitigate adverse landscape and visual impacts. A number of mitigation measures have been incorporated into the design of the Order Scheme. More detailed mitigation measures have been designed to respond to potential significant impacts at specific locations along the Order Scheme alignment. A high standard of design will be used for new buildings, structures. The principles of design were set out in the Design and Access Statement and a revised Design and Access Statement will be presented in evidence to the Inquiry, taking account of design studies since the application was made.
- 1.36 Effective landscaping, which I have illustrated at key locations in **Appendix IMG 4** and in the revised Design and Access Statement will be delivered through the Planning Conditions, particularly by Condition 5. This provides for the approval of the detailed landscaping at those locations by the local planning authority.

LISTED BUILDINGS AND CONSERVATION AREAS

- 1.37 The Order Scheme runs close to four conservation areas. The impacts on the setting of the conservation area are assessed in Chapter 7 of the ES as being minor to moderate at worst. Chapter 10 of the ES concludes that there are no direct impacts on listed buildings in respect of the built elements of the Order Scheme. The impacts on the settings of listed buildings are assessed in the ES to be minor to moderate at worst as most are visually separated from the Order Scheme by vegetation. The Order Scheme has no impact on the positive contribution of these heritage assets to local character and sense of place and accordingly does not conflict with the requirements of PPS5.

ARCHAEOLOGICAL IMPACTS OF THE ORDER SCHEME ON ALCHESTER ROMAN TOWN AND REWLEY ABBEY STREAM SWINGBRIDGE

- 1.38 The proposed works in the vicinity of the Alchester Roman Town and Rewley Abbey Stream Swingbridge are an integral part of the Order Scheme. The proposed mitigation works as indicated in the original Environmental Statement and the Second Addendum to the ES are sufficient to ensure that the Order Scheme will not result in any significant adverse residual impacts on archaeological remains of importance or cause substantial harm to the setting of either Scheduled Monument.

- 1.39 Since the application, further work has taken place. English Heritage's concerns regarding the impacts of the setting of Alchester Roman Town have been satisfied through the Revised Langford Lane Alignment and fieldwork is ongoing to evaluate the details of the archaeology along the rest of the road. I have looked in detail at the swingbridge and shown the extent to which the railway bridge will affect its setting. I accept that it will cause minor harm to the setting. Improvements to the footpath and fencing will help mitigate any perceived harm. Chiltern Railways is in discussion with the Oxford Preservation Trust about ways to assist in the restoration of the swingbridge. Revisions to the draft Planning Conditions will be made to reflect the position at Alchester and at the swingbridge. I have addressed Statement of Matter 5(e) and the cultural heritage component of 10(d).

AIR QUALITY

- 1.40 The conclusion of the ES is that likely pollutant concentrations at residential properties closest to the railway are such that they will not experience significant air quality impacts. The potential for impacts on the adjacent habitats including those within the Oxford Meadows SAC, the Wendlebury Meads and Mansmoor Closes SSSI and the Hook Meadows and Trap Grounds SSSI is dealt with by Andy Coates in evidence.
- 1.41 The ES recognises that there is for potential nuisance to be created from dust during the construction phase. Mitigation for construction dust generation is based on the application of dust management best practices, as provided in the Code of Construction Practice **(CD/1.24)** as secured through draft Planning Condition 16.

CO₂ EMISSIONS

- 1.42 The Order Scheme will result in a relatively small but significant reduction in carbon emissions from transport, which fully supports national and local policy initiatives on climate change. Since the publication of the ES further traffic and transport demand modelling refinements have been undertaken. The work undertaken by SDG, and described by Leo Eyles in his evidence, concludes that in 2016 there will be an annual reduction in emissions from car trips of 2.6 kilo tonnes rising to 3.2 kilo tonnes in 2026. The combined saving, taking account of additional rail trips, results in a reduction in carbon emissions of 1.1 kilo tonnes per annum in 2016 and 1.2 kilo tonnes in 2026.

CONTAMINATED LAND AND LAND QUALITY

- 1.43 A land quality assessment was carried out in accordance with PPS23 and best practice from Defra and the Environment Agency. As reported in Chapter 15 of the ES, this identified that there is potential risk for an increased impact to the surrounding land and water courses via track drainage and water run off. The revised Code of Construction Practice establishes the principles for dealing with contaminated land mitigation. These measures will ensure that

any existing contamination likely to be distributed by the works and any risks of contamination during construction can be fully mitigated.

CROSSINGS, FOOTPATHS AND BRIDLEWAYS CLOSURES AND DIVERSIONS

- 1.44 Chiltern Railways has undertaken a thorough assessment of alternative crossing solutions and public rights of way diversions taking account of the needs of different types of users. I conclude that Chiltern Railways has sought to promote the best solution at each location, given the need to close the crossings as part of the Order Scheme.
- 1.45 I conclude in respect of Statement of Matter 10(c) that the Order Scheme meets the requirements under section 5(6) of the Transport and Works Act and can satisfy the Secretary of State that an alternative right of way will be provided which is reasonably near to the crossing to which each closure or diversion application relates.
- 1.46 I conclude in respect of Matter 6(c) that the overall integrity of the public rights of way network in the area is maintained. Where at-grade crossings are being closed either a replacement bridge crossing or diversion to a nearby bridge have been proposed. All 'through' routes are being retained, albeit by a diversion in some cases.
- 1.47 Given that the primary use of the public rights of way network in the area is recreational, diversions which result in small increases in distance are not considered to be inconvenient to the public. This is reinforced by the low number of users that have been shown to use the footpaths and bridleways in this area.

RESPONSES TO OUTSTANDING OBJECTIONS

- 1.48 Chiltern Railways has responded to objectors with the aim of resolving objections wherever possible. A number of meetings have been held with individual objectors in order to understand the substance of those objections and seek to resolve them. Chiltern Railways is continuing these negotiations with a view to resolving as many as possible before the Inquiry.
- 1.49 Chiltern Railways has been in negotiation with Cherwell District Council, Oxford City Council and Oxfordshire County Council, as well as the other statutory bodies, seeking to resolve their objections. This process is continuing.

CONCLUSION

- 1.50 Overall, I conclude that the Order Scheme accords with the development plan and other material considerations, including national planning guidance in PPSs, for the purposes of section 70 of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compensation Act 2004. I, therefore, request that the Secretary of State gives the necessary direction,

subject to revisions considered in the Inquiry, under Section 90 (2A) of the Town and Country Planning Act 1990, granting deemed planning permission for the development authorised by the Order, subject to any revised draft Planning Conditions submitted during the Inquiry. The draft Planning Conditions meet the tests in Circular 11/95. These together with the Code of Construction Practice, the Design and Access Statement and other measures will provide the means to secure an appropriately high standard of design and implementation of the Order Scheme and any necessary environmental mitigation of its effects.