

SUMMARY PROOF OF EVIDENCE OF GRAHAM CROSS
REGULATORY AND CONTRACTURAL FRAMEWORK



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**

Chiltern Railways

- 1 My name is Graham Cross. I am the Business Development Director of Chiltern Railways, responsible for government and regulatory relations, for the commercial relationship with Network Rail, and for timetable planning. I hold a Geography degree from Oxford University. I led the Evergreen 3 project commercial negotiations, and was thus responsible for securing regulatory and governmental authority for the promotion and financing of the scheme which is now contained in the draft Chiltern Railways (Bicester to Oxford Improvements) Order ('the Order') before the Secretary of State for his determination.
- 2 The Secretary of State has provided a Statement of Matters about which he wishes to be informed before coming to his decision whether to confirm the Order. My evidence addresses principally Statement of Matters 1 – The aims and objectives of, and the need for the Scheme; and Statement of Matters 13 - Chiltern Railways' proposals for funding the Order Scheme. I refer primarily to Chiltern Railways' proposals for a new route to Oxford, but also to the East-West Rail (EWR) project for a link from Oxford to Milton Keynes and beyond, which will be facilitated by the Order Scheme.
- 3 Chiltern Railways is a train operating company and one of the UK's franchised passenger rail operators. We operate passenger trains from Marylebone station in London to Buckinghamshire, Oxfordshire, Warwickshire and the West Midlands. Chiltern Railways took over train services from British Rail in 1996 as a management buy out led by Adrian Shooter. Subsequently ownership has changed and Chiltern Railways is now backed by Germany's national rail company Deutsche Bahn. Adrian Shooter remains Chairman of the company which continues to be run from its local offices at Marylebone, Aylesbury and Banbury.
- 4 Chiltern Railways has a strong track record of delivering a highly reliable train service. Passenger satisfaction levels are high and since the company's establishment there have been substantial increases in passenger numbers.
- 5 Our winning formula is derived from a determination to invest in the capability and capacity of the rail network. Over the years we have delivered approaching £400m of investment in new trains, improved track and stations. In many cases we have been able to do this without additional financial support from the public sector. Essentially our specialism is the delivery of public service at private risk.
- 6 The Order Scheme derives from an opportunity we have identified to greatly improve the provision of rail services within Oxfordshire, and provide an attractive alternative mode of transport to the car.
- 7 One of the reasons we are able to undertake large-scale investments is our unusually long 20 year franchise term. The new Government is moving towards levering investment from the private sector through the granting of similarly long franchise terms, and Chiltern Railways is held up as an exemplar of what can be achieved using this model.
- 8 As set out in section 3 of my main proof, legislation and licences relevant to the rail industry set out a public policy framework which promotes the use and development of the country's rail network. The Order Scheme thus accords with national policy to improve and develop the rail network.
- 9 The Franchise Agreement which Chiltern Railways has with the DfT requires it to invest in and develop the rail network. When the Franchise Agreement was signed

- in 2002 some investments were well defined and were contractually committed, whereas others were at the ideas stage. One of the latter was a proposal for a new route from London Marylebone to Oxford. Following a series of feasibility studies and iterative discussions, on 6 January 2010 an amendment to the Franchise Agreement was signed which required delivery of the Order Scheme in return for the franchise term being confirmed at its full 20 year length.
- 10 In effect the Franchise Agreement now requires Chiltern Railways to deliver the Order Scheme, subject to the TWA Order being granted.
- 11 On 8 January 2010 Chiltern Railways entered into agreements with Network Rail, the long term owners of the track and signalling infrastructure. These agreements:
- set out the framework for gaining Network Rail’s consent to carry out the actual works upon its infrastructure; and
 - gave Chiltern Railways access to a financing facility enabling it to raise the capital to pay for the works and repay that capital over a 30 year period, essentially in the form of a mortgage or loan.
- 12 Following regulatory approval, on 12 February 2010 Chiltern Railways entered into a further agreement with Network Rail which granted it the right to use the enhanced infrastructure once created.
- 13 The DfT also provided an undertaking to Network Rail that after the expiry of the Chiltern Railways Franchise Term it would ensure that the successor franchise continued to make the mortgage, or loan repayments to Network Rail until the expiry of the 30 year financing period, and a construction contract was entered into with BAM Nuttall.
- 14 Therefore by early 2010 Chiltern Railways had put in place all of the finance and construction agreements required for the Order Scheme, and had gained all of the rail industry, DfT franchise management and regulatory consents required subject to the conclusion of this TWA process.
- 15 Turning to the scheme’s financing and commercial characteristics. Phase 1 of the Order Scheme comprises the works needed to operate the Chiltern Railways services between London Marylebone and Oxford. This is to be funded as a private commercial venture. The operating costs and the loan repayments will be paid out of farebox revenues – in other words the scheme is paid for from the pockets of the passengers who use it. Chiltern Railways takes the commercial risk that the farebox revenues will be sufficient to cover the costs of the scheme. The scheme will also provide substantial non-financial economic benefits to users and non-users alike. As the scheme is not dependent on public money, it will provide public benefits in the form of improved train services, at private risk.
- 16 Railways are a long term asset of great strategic value for the nation’s economy and productivity. In accordance with our company policy of taking a long term view we have included within the Order Scheme two further Phases of railway development, referred to as Phase(s) 2A and 2B.
- 17 Phase 2A comprises works to lower track including through Wolvercot tunnel and raise bridge heights to enable 9’6” height international shipping containers to be carried on conventional wagons over the Bicester to Oxford route. These works have been included at the DfT’s request and are being funded by the DfT because they fulfil their policy objective of establishing a strategic freight route capable of carrying such containers between the ports and the main manufacturing centres.

Once the western section of the EWR route is completed the Oxford-Bicester route will extend on to Bletchley enabling a high gauge strategic freight link between Southampton and the West Coast Main Line, helping to keep heavy goods off the roads. Although Chiltern Railways does not operate freight trains we are supportive of the inclusion of these works in the Order Scheme because any bridge and tunnel works carried out post the implementation of Phase 1 of the Order Scheme would cause significant disruption to the operational railway. Hence completing these works at the same time as the rest of the route upgrade avoids subsequent disruption to passengers.

- 18 Chiltern Railways has also included the Phase 2B works within the Order Scheme. These works are needed for the western section of the East-West Rail scheme which will be more fully described in the evidence of Neil Gibson (**CRCL/P/3/A**) and Patrick O'Sullivan (**CRCL/P/4/A**), and will be funded by that scheme once it is authorised. It is similarly sensible to gain powers at this time for the Phase 2B works as part of this TWA application. The EWR Outline Business Case shows a strong economic case, for the western section with a forecast Benefit:Cost Ratio of up to 6.3. This is exceptional for a public transport scheme, and potential funding sources are being explored accordingly.
- 19 My overall conclusions are that the Order Scheme:
- fulfils national rail policy objectives;
 - meets the requirements of the Chiltern Railways Franchise Agreement, specifically to develop and deliver a new rail route to Oxford;
 - for Phases 1 and 2A, is fully funded, and therefore sure to proceed if an Order is granted, and for Phase 2B, has a good likelihood of being funded in future
 - has all the necessary railway industry and regulatory approvals in place, plus a construction contract;
 - future proofs the overall works by incorporating work required by other (public) bodies, thus reducing future costs and disruption;
 - is being promoted, and will be delivered by a company with a strong track record in specifying, developing and delivering major rail projects.
 - provides substantial public benefits at private risk.