

**PROOF OF EVIDENCE OF RICHARD CATEN
LAND AND PROPERTY**



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



infrastructure and regeneration

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1 INTRODUCTION

1.1 My name is Richard Dean Caten. My academic and professional qualifications are:

1.1.1 MRICS – Member of the Royal Institution of Chartered Surveyors

1.1.2 BSc (Hons) in Land Management

1.2 I was elected a Member of the Royal Institution of Chartered Surveyors in 2000.

1.3 Throughout my professional career, I have been involved in residential and commercial property land acquisition and management in a public transport environment. This experience has been gained in both the private and public sectors.

1.4 I have been responsible for land and property acquisition and property related matters concerned with the promotion and development of a number of successful transport infrastructure schemes.

1.5 I am a Director of Ardent Management Limited (“Ardent”), a company that was established in 1992 to provide specialised property services concerning

the promotion and development of transport infrastructure and urban regeneration schemes throughout the United Kingdom.

1.6 Since 1999 I have dealt with land and property matters, through promotion, procurement and implementation (where relevant), in relation to the following confirmed Orders, promoted under the Transport and Works Act:

1.6.1 The Docklands Light Railway (DLR) (Silvertown and London City Airport Extension) Order 2002;

1.6.2 The DLR (Woolwich Arsenal Extension) Order 2004;

1.6.3 The DLR (Capacity Enhancement) Order 2005;

1.6.4 The Cambridgeshire County Council Cambridgeshire Guided Busway Order 2005;

1.6.5 The DLR (Capacity Enhancement and 2012 Games Preparation) Order 2007;

1.6.6 The Felixstowe Branch Line and Ipswich Yard Improvement Order 2008.

1.7 Ardent has been retained to deal with all land and property matters concerned with the promotion of the Scheme. I am the Ardent Director responsible for leading the Ardent team.

1.8 My responsibilities include:

1.8.1 Assessment of property impact;

1.8.2 Consultation with affected owners and interested parties;

1.8.3 Promotion of the Scheme relative to property matters; and

1.8.4 Production of budget estimates of prospective compensation liabilities to form the basis of an estimated land cost for the purposes of the Estimate of Cost (CD/1.8).

1.9 My role includes the management and undertaking of all property matters concerned with the ongoing promotion and procurement of the Scheme.

1.10 There are several aspects to this responsibility, as listed below.

1.10.1 Determination of land and interests temporarily or permanently required for, or affected by, the construction and operation of the Scheme in collaboration with the Scheme's team where:

1.10.1.1 Chiltern has sought to minimise the extent of its land take, whilst ensuring that it is sufficient for the purposes of the construction and operation of the Scheme (in accordance with Network Rail and the Office of Rail Regulation requirements), including all necessary working areas, worksites and land for necessary mitigation.

1.10.1.2 The criteria adopted for the extent of land to be temporarily occupied for the purposes of construction and permanently acquired, are addressed further in Section 3 of this Proof of Evidence.

1.10.2 Identification of affected landowners and interests – land referencing, where:

- 1.10.2.1 Ardent has been commissioned to carry out the task of; identifying the nature of the interests of all landowners and occupiers of property (and interests), required for/or affected by the Scheme and the areas of land to which those interests extend. The process that has been undertaken and the requisite notices that have been issued are addressed in Section 4 of this Proof of Evidence.
- 1.10.2.2 The extent of land, within which the Scheme and all related works can be aligned and either possession taken temporarily (for the purposes of construction) or acquired permanently, is that within the Limits of Deviation and the Limits of Land to be Acquired or Used (“the Order Limits”). These different types of Order Limits and their relevance are addressed further in Section 3 of this Proof of Evidence.
- 1.10.2.3 All land parcels that are within the Order Limits have been designated with their own unique plan reference (e.g. “DP 01001”). Each land parcel can be found on the Deposited Plans and Sections and Open Space Plan (CD/1.9) and in the Book of Reference (CD/1.10). Each is cross referenced between these two documents.

1.10.3 Discussions with affected parties:

1.10.3.1 In collaboration with the Scheme's team, Ardent is appointed to manage and deal with consultation and to address land matters concerning parties potentially affected, including those that have lodged formal objections to the Secretary of State against the draft Order (CD/1.2).

1.10.3.2 The status of such consultation is addressed in Section 9 of this Proof of Evidence.

2 OUTLINE OF PROOF

2.1 My Proof of Evidence deals with property impact under the following headings:

- 2.1.1 The identification of the Scheme property requirements and effects for Phases 1 and 2 – Section 3;
- 2.1.2 The identification of affected property owners, occupiers and interests - Section 4;
- 2.1.3 General and site specific property considerations– Section 5;
- 2.1.4 Liaison with owners and occupiers of affected property and interests – Section 6;
- 2.1.5 Liaison with owners and occupiers during construction - Section 7;
- 2.1.6 Compensation - Section 8;
- 2.1.7 Negotiations with objectors – Section 9;
- 2.1.8 Issues raised in the Statement of Matters – Section 10;
- 2.1.9 Conclusions – Section 11.

2.2 The parts of this Proof of Evidence that refer to dialogue with property owners and occupiers, should be viewed as a snap shot in time. The Chiltern team is continuing to work with these parties towards mitigating their concerns. Dialogue will continue with property owners and occupiers to resolve matters, I will ensure that the Inquiry is kept informed and that a final statement, setting out the position as at the close of the Inquiry, is submitted with regard to all objections.

3 CHILTERN RAILWAYS BICESTER TO OXFORD IMPROVEMENTS SCHEME REQUIREMENTS

3.1 The Scheme has been described in the Statement of Case and the Proof of Evidence of Mr Stephen Barker (CRCL/P/6/A).

3.2 In respect of the guidance set out in Circular 06/2004 (CD/5.19) a compelling case for the compulsory acquisition of land is set out in the Proofs of Evidence of Mr Allan Dare (CRCL/P/2/A), Mr Graham Cross (CRCL/P/1/A) and Mr Stephen Barker (CRCL/P/6/A) in particular, and in the Proof of Evidence of the other Chiltern witnesses.

Categories of Land to be Acquired or Used

3.3 There are two distinct categories of land to be acquired or used, as described in the draft Order (CD/1.2) and shown on the Deposited Plans and Sections and Open Space Plan (CD/1.9). These are namely, land within the Limits of Deviation, and land within the Limits of Land to be Acquired or Used. The two categories are summarised as follows:

Limits of Deviation

3.4 This category of land contains land required both temporarily and permanently for the construction and maintenance of the Scheduled Works.

Limits of Land to be Acquired or Used

3.5 This category relates to land that will need to be occupied temporarily, for the purposes of construction of the Scheme and land, over which permanent interests for purposes ancillary to the Scheme will be acquired in accordance with Schedule 2 of the draft Order (CD/1.2). These requirements are shown in Appendix 1.

Special Category Land

3.6 Land that is a 'special category' as listed in Rule 12(7)(c) of the Transport and Works (Application and Objection Procedure England and Wales) Rules 2006 ("the Rules") (CD/5.22) are listed in Appendix 2 and Appendix 3.

3.7 Appendix 2 lists all land that falls into a 'special category', excluding Green Belt land (although some parcels of land have more than one designation, which can include being within the Green Belt). This list shows that there is 'special category' land, relating to Crown Land, Public Open Space and its Exchange Land (as defined by Section 19 of the Acquisition of Land Act 1981) (CD/5.6), Scheduled Ancient Monument, Site of Special Scientific Interest and Special Area of Conservation.

3.8 Appendix 3 lists all land that falls into the 'special category' Green Belt.

3.9 In respect of Crown Land, this relates to five areas.

3.9.1 Graven Hill Depot in Bicester, where Chiltern is in discussion with the Ministry of Defence to reach an agreement to construct a siding into the depot for its use. The Ministry of Defence has made a technical objection to the draft Order and Chiltern is confident that a satisfactory agreement can be reached prior to the close of the Public Inquiry.

3.9.2 The M40 Motorway, where the Secretary of State for Transport owns the motorway and has an interest in the airspace above the railway. The Secretary of State for Transport has not objected to the draft Order, however Chiltern is developing the design and construction methodology to avoid any physical interface with the Secretary of State for Transport's interest at this location.

3.9.3 At the A4165 in Bicester, where the Secretary of State for Transport owns the road and has an interest in the surrounding airspace. The Secretary of State for Transport has not objected to the draft Order. The works to the A4165 are required for Phase 2b of the scheme and Chiltern will agree the works required with the Secretary of State for Transport as part of the detailed design.

3.9.4 At the A41 at Water Eaton, the Secretary of State for Transport owns the A41, has an interest in surrounding airspace and owns plots 22009 and 23022, as shown on the Deposited Plans and Sections and Open Space Plan (CD/1.9). This land I understand to have been acquired for the purposes of delivering the A41. The Secretary of State for Transport has not objected to the Order.

Chiltern is in discussion with the Secretary of State for Transport regarding this land and is confident that a satisfactory agreement can be reached. In respect of the highway interface Chiltern will not be seeking to acquire any land and will rely on the draft Order powers to deliver the interface works required.

3.9.5 The Secretary of State for the Ministry of Justice is a tenant at the Talisman Business Park in Bicester. It has rights of access in common with other tenants. The Secretary of State for the Ministry of Justice has not objected to the draft Order (CD/1.2). Chiltern is developing the construction methodology to ensure that access is not blocked to this site.

3.10 In respect of Public Open Space (as defined by Section 19 of the Acquisition of Land Act 1981) (CD/5.6) that is subject to acquisition powers within the draft Order (CD/1.2) and its Exchange Land, there are two areas;

3.10.1 Land at Charbridge Lane and Gavray Drive. The land over which Chiltern is seeking acquisition powers within the draft Order (CD/1.2) is over the threshold limit of 209sqm (250sq yards), as prescribed by the Acquisition of Land Act 1981, in this location. Chiltern is seeking to acquire an area of 17,098sqm and has identified Exchange Land at Charbridge Lane of 17,800sqm. The Secretary of State has issued a notice (9 September 2010) that he proposes to accept the acquisition of this land, in exchange for the Exchange Land identified. The setting out of the Exchange Land

as Public Open Space is addressed in the Proof of Evidence of Mr Ian Gilder (CRCL/P/12/A).

3.10.2 Land at Tubbs Lane. The land over which Chiltern is seeking acquisition powers within the draft Order (CD/1.2), is over an area of 204sqm and therefore falls below the 209sqm threshold as prescribed by the Acquisition of Land Act 1981. Consequently no Exchange Land has been included within the draft Order (CD/1.2) and Chiltern is not seeking an Exchange Land Certificate from the Secretary of State.

3.11 All other areas of Public Open Space (as defined by Section 19 of the Acquisition of Land Act 1981), are subject only to temporary powers within the draft Order (CD/1.2).

3.12 In respect of the Scheduled Ancient Monument there are two locations where the Order includes part of a site with this designation.

3.12.1 Plots 070002, 070003, 070004, 070006, 070007 and 070008 as shown on the Deposited Plans and Sections and Public Open Space Plan (CD/1.9) are located within the boundary of the Scheduled Ancient Monument at Langford Lane. The land is required for the provision of turning heads to maintain vehicular access in Langford Lane, which are necessary as a consequence of the closure of the Langford Lane level crossing. The scheme interface with the Scheduled Ancient Monument is addressed in the Proof of Evidence of Mr Ian Gilder (CRCL/P/12/A).

3.12.2 Plot 07a006 as shown on the Deposited Plans and Sections and Public Open Space Plan is located within the boundary of the Scheduled Ancient Monument and currently forms part of the Langford Lane adopted highway. This parcel of land is required for the alternative diversion of Langford Lane to tie into the existing roadway.

3.12.3 Plot 30019 as shown on the Deposited Plans and Sections and Public Open Space Plan is part of the Rewley Abbey Stream and falls within the boundary of the Scheduled Ancient Monument designation relating to the Swing Bridge. This Plot is required temporarily for construction. The setting of the Swing Bridge is dealt with in the Proof of Evidence of Mr Ian Gilder (CRCL/P/12/A).

3.13 There are two locations that appear to fall within a Site of Special Scientific Interest (SSSI) within the Book of Reference (CD/1.10).

3.13.1 Plot 11004 forms part of Home Farm level crossing and falls wholly within the Network Rail owned operational corridor as shown on Sheet No 11 on the Deposited Plans and Sections and Open Space Plan (CD/1.9). Having considered carefully the Planning Direction Drawings (CD/1.13) it appears that there is a minor portion of land that falls within the SSSI boundary within this Plot, I believe that this is a mapping record error and that the intention was not to include operational Network Rail land within the SSSI designation.

3.13.2 Plot 11005 shown on Sheet No 11 of the Deposited Plans and Sections and Public Open Space Plan (CD/1.9), is required to provide access rights for Mr Mark Howard, the adjacent landowner, who without these rights of access would be severed from his existing land holding. Mr Mark Howard's objection and CRCL's summary response are set out in Section 9 of this Proof of Evidence.

3.13.3 Plot 27006 is situated at St Edwards Crossing on Sheet No. 27 of the Deposited Plans and Section and Public Open Space Plan (CD/1.9). Upon further examination of the Planning Direction Drawings (CD/1.13), I can confirm that although the Plot is referenced in the Book of Reference (CD/1.10), as forming part of the SSSI, the Plot is within the Network Rail operational land boundary and falls outside of the designation of SSSI.

3.14 Plots 29007, 29008, 29009, 29010, 29011, 29012, 29013, 29014, 29015, 29018, 30009 all form part of the designated Special Area of Conservation at Port Meadow. Plots 29007, 29013 and 29014 are all within Network Rail ownership boundary of the operational railway and are required for working area to construct Work No 3. The remaining Plots are required temporarily for the improvement of access into the Trap Ground Allotments. This matter is covered further in the Proofs of Evidence of Mr Stephen Barker (CRCL/P/6/A) and Mr Andy Coates (CRCL/P/10/A).

Site Specific Requirements and Bodies with Statutory Functions

3.15 To enable the construction and operation of the Order Scheme, it has been necessary to incorporate powers into the draft Order (CD/1.2) that enable Chiltern to occupy, use and acquire land owned or occupied by certain bodies with statutory functions.

Extent of Limits of Deviation and of Land to be Acquired or Used

3.16 Chiltern, acting in accordance with the guidance in Circular 06/04 and taking account of the Office of Rail Regulation and Network Rail's requirements, has sought to minimise the extent of land and rights to be acquired permanently under the Order outside of the railway corridor, so as to take only land and interests necessary for the implementation and operation of the Scheme.

3.17 Chiltern's intention is to limit the extent of its acquisition of land to: -

- 3.17.1 The land occupied by the permanent structures associated with the Scheme, including the works and equipment.
- 3.17.2 The land that will not be reinstated and will be modified permanently, which will include land required for railway, structures and equipment.
- 3.17.3 Rights, easements and restrictive covenants for services and their protection and access to permanent railway structures, infrastructure and equipment.

3.17.4 Rights and easements for third parties to provide for services and access to their retained land and accommodation works.

3.18 The transfer of all necessary land and rights will be undertaken either by agreement, or where the parties are unable to agree, or where it is impractical to do so, by Chiltern exercising the powers of compulsory acquisition contained within the draft Order (CD/1.2).

3.19 For a Scheme of this size and nature, the fact that there are only thirteen properties that are required to be demolished, none of which are residential, being eight at Bicester Town and five at Water Eaton (including the grain silo and four other disused buildings), is a positive attribute of the Scheme.

Extent of Land to be Used Temporarily

3.20 As noted above, beyond that land required permanently and to be used both for the purposes of construction and the permanent structures concerned with the Scheme, Chiltern requires land temporarily in order to carry out the works. Chiltern will minimise the extent of land temporarily occupied for the purposes of construction of the Scheme.

3.21 Land is required temporarily for construction working sites for the development of the Works. The land parcels required for these work sites are described in the Proof of Evidence of Mr Stephen Barker (CRCL/P/6/A).

4 IDENTIFICATION OF AFFECTED PROPERTY OWNERS, OCCUPIERS AND INTERESTS

4.1 Through the development and selection of the proposed Works, consultation and enquiries, Chiltern has gained an extensive understanding of the land and interests affected by this Scheme. It has therefore been possible to identify in detail those owners, occupiers and interests whose property and interest are affected.

4.2 In part, this has been achieved by undertaking a land referencing exercise. This was carried out in accordance with the Transport and Works (Applications and Objections Procedures) (England and Wales) Rules 2006 (CD/5.22). The information gathered on all land and property interests has been compiled in the Book of Reference (CD/1.10), which corresponds with the land parcels shown on the Deposited Plans and Sections and Open Space Plan (CD/1.9).

4.3 In support of the application (CD/1.1), certain formal notices were required to be served, and placed on site, in accordance with the Transport and Works (Applications and Objections Procedures) (England and Wales) Rules 2006 (CD/5.22), which govern the application, these are;

4.3.1 Rule 14(7) notices have been displayed in the form of Form 3 in Schedule 2 to these Rules (CD/5.22) upon the right of way or street at, or as close as is reasonably practicable to, each point of

extinguishment, diversion, stopping up or restriction of the right of way.

4.3.2 Rule 15 notices have been served in the form of Form 5 in Schedule 2 of these Rules (CD/5.22) upon all those named in the Book of Reference (CD/1.10) other than the Applicant and Crown interests.

4.4 Throughout all stages of the promotion of the Scheme, Chiltern has sought to consult with all affected landowners occupiers and interest holders. Chiltern has done so by various means, including flyers, info-mails, telephone contact, correspondence and meetings. Chiltern has approached all affected landowners, occupiers and interested parties and has responded to those who have shown an interest in being consulted. This includes all those landowners and occupiers who have lodged formal objections against the application to the Secretary of State.

4.5 In Section 9 of this Proof of Evidence, I identify the approach that Chiltern has taken with landowners and occupiers entered in the Book of Reference (CD/1.10) who have objected to the Scheme.

4.6 Given the number of discrete land parcels required for the Scheme and the number of discrete land owners affected by this Scheme, I am satisfied that powers for the compulsory acquisition of land are necessary for Chiltern to deliver the Scheme.

5 GENERAL REQUIREMENTS AND CRITERIA AND SITE-SPECIFIC PROPERTY CONSIDERATIONS CONSEQUENT ON THE SCHEME

- 5.1 A basic principle underlying the planning of the Scheme has been to reduce, as far as is possible, the impact of the Scheme on private property. It is however inevitable, that there will be some adverse impacts on property in delivering this reconstruction and upgrading of the Bicester to Oxford railway.
- 5.2 As noted, Chiltern has sought to minimise the construction impacts on affected landowners and properties. Temporary possession of land or interests in land will only be taken if they are necessary for the construction of the Scheme. The construction programme and methodology is described in the Proof of Evidence of Mr Stephen Barker (CRCL/P/6/A).
- 5.3 Land or interests in land will only be permanently acquired outside of existing railway land, if they are necessary for the construction of the permanent structures and works associated with the Scheme and their continuing protection and maintenance or for mitigation or accommodation works. Chiltern's acquisition will be limited to rights and interests in land, airspace or subsoil, where it is not necessary to acquire a freehold interest in the whole of a property.

Public and Private Crossings

- 5.4 The operation of the upgraded line will permanently affect both public and private rights of way. The effects of the Scheme on public rights of way are considered in the Proof of Evidence of Mr Ian Gilder (CRCL/P/12/A).
- 5.5 As described in the evidence of Mr Aidan Nelson (CRCL/P/7/A), a decision was taken during the earliest stages of the development of the Order that many of the existing level crossings should be closed on grounds of safety.
- 5.6 The evidence of Mr Stephen Barker (CRCL/P/6/A) describes in detail, the due process and option appraisal exercise carried out by Chiltern in the assessment of each private crossing and the consideration of alternative access arrangements.
- 5.7 My evidence considers the impact that the construction, operation and maintenance of the scheme will have on private rights of way and level crossings. I also consider the effect any closure, or alternative proposals will have on the existing agricultural businesses and enterprises, which currently enjoy private rights of way across the railway, having regard to safety and engineering aspects, communications with objectors and proposed mitigation. I consider those objectors who have issues relating to the closure of private crossings in Section 9 of this Proof of Evidence.

5.8 During construction, Chiltern will use reasonable endeavours to minimise disruption to private rights of way, where they are affected temporarily. As provided for in Article 17 (2) of the draft Order (CD/1.2), the accommodation crossings of the railway specified in Part 1 of Schedule 9 to the draft Order, will not be closed until certain replacement access facilities have been provided.

5.9 In the case of accommodation crossings that are not to be replaced by virtue of Article 17 (2), current authorised users will be compensated for losses incurred in accordance with the compulsory purchase compensation code. Chiltern is, however, also in conjunction with concerned landowners, investigating ways in which such losses can be mitigated by the provision of other accommodation facilities.

5.10 Several parties have objected to the closure of private crossings on grounds of detrimental effects to farming enterprises and land. I address these issues in Section 9 of my Proof of Evidence.

6 LIAISON WITH OWNERS AND OCCUPIERS OF AFFECTED PROPERTY AND INTERESTS' PRE-CONSTRUCTION

6.1 As at the date of this Proof of Evidence, there have been a total of 310 formal objections made to the Secretary of State concerning the Scheme, in respect of the application and the draft Order. Of these, 88 are landowners or occupiers identified in the Book of Reference (CD/1.10) whose property interests are wholly or partly affected by the Scheme.

6.2 Chiltern has made contact with all objectors who are listed within the Book of Reference (CD/1.10) as well as all others. In many instances, meetings have been held where I, or one of my colleagues, have met with the Objector or their representative to find out whether there is a basis to overcome the objector's points of concern. Progress with a number of objectors has been achieved by either explaining the detail of the Scheme, or working with the Objector to minimise the effect of the Scheme on their land and property.

6.3 In the case of most Statutory Objectors, agreements are being negotiated that satisfy the concerns raised by their objections. This is described further in Section 9 of this Proof of Evidence.

7 LIAISON WITH OWNERS AND OCCUPIERS DURING CONSTRUCTION

- 7.1 Chiltern as required by the Code of Construction Practice (CoCP) (to be imposed by a planning condition (CD/1.12)), will during the course of construction of the Scheme carry out regular liaison with owners and occupiers along the route.
- 7.2 This will be done by the contractors appointed to design and construct the Scheme, but under the supervision of Chiltern.
- 7.3 It is anticipated that liaison on this basis will enable relationships to be established between the affected landowners and occupiers and the contractors, that will prove responsive and harmonious. Interfaces will be strictly managed and controlled in accordance with undertakings given and agreements reached.
- 7.4 In my experience, through involvement with other similar Schemes, the above approach will enable Chiltern's staff and representatives to deal quickly and efficiently with matters raised by affected parties.
- 7.5 A draft of the CoCP has been prepared (CD/1.24). Chiltern is seeking to agree the terms of the CoCP with the Local Authorities. The proposed planning condition that will impose the CoCP is included in the Request for Deemed Planning Permission (CD/1.12) and is dealt with in the Proof of Evidence of Mr Ian Gilder (CRCL/P/12/A).

- 7.6 The CoCP will regulate construction working practices, in relation to environmental considerations and construction impact, as described in the Proof of Evidence of Stephen Barker (CRCL/P/6/A).
- 7.7 A requirement of the CoCP is that a “Liaison Officer” is appointed, whose role it will be to liaise between Chiltern, its Contractors and third parties, regarding any issues and concerns that arise with construction. This basic remit of the Liaison Officer, will be to seek a prompt response to any concerns raised and to ensure that they are satisfactorily addressed.
- 7.8 The Contractor will be required to comply with the Code of Construction Practice in mitigating environmental and construction impacts.
- 7.9 In certain cases Chiltern has, or is in the course of, entering into specific agreements with those third parties affected to regulate the interface between the Scheme and the third party’s land and property. Where agreements have been reached with affected parties or undertakings given, the obligations will be passed on by Chiltern to the contractor appointed to design and construct the Scheme.
- 7.10 It is not anticipated that damage to property, which is not required for the construction of the Scheme, will occur as a result of the construction of the Scheme.

7.11 However, where it is considered that there is a prospect of damage occurring to property in close proximity to the works, owners and occupiers will be approached to agree mitigation measures and a schedule of defects, prior to the commencement of construction in the area. Where damage does occur, action will be taken to rectify it.

7.12 Where land is occupied temporarily for the purposes of construction, Chiltern intends to reinstate the land to the reasonable requirements of the owners before vacating and handing it back.

8 COMPENSATION

- 8.1 Consultation with affected landowners and occupiers to date has reflected the guidance contained in Circular 06/2004 (CD/5.19) and the Rules (CD/5.22). In the process of acquiring land for the Scheme, the guidance of Circular 06/2004 (CD/5.19) will be taken into account as will the relevant provisions that are contained within the planning and compulsory purchase legislation.
- 8.2 I understand that compensation is not a matter for the Public Inquiry. However, compensation will be assessed based on the market value of land and property, together with any disturbance losses and claimant's associated professional fees. Any disputes that arise in relation to compensation will be referred to the Lands Tribunal.
- 8.3 Compensation for land occupied temporarily under Articles 29 and 30 of the draft Order (CD/1.2) will be assessed in accordance with those Articles.
- 8.4 Where land is permanently acquired, compensation for affected parties will be assessed in accordance with the compensation code.
- 8.5 The provisions of sections 53-57 of the Land Compensation Act 1973 enable owners and lessees of agricultural property to compel the acquiring authority to acquire more than just the land it needs for its purposes. The

provision allows a person, who is left with an area of land that is not economically viable, to require the authority to buy the whole.

- 8.6 Where an acquiring authority serves a notice to treat, in respect of any agricultural land, which is part of an agricultural unit, on a person who has a greater interest in the land than as tenant for a year or from year to year, that person may serve a counter-notice on the following grounds: (1) the remaining unit is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate unit; (2) the person requires the acquiring authority to purchase their interest in the whole unit.
- 8.7 This provision also applies to a notice to treat deemed to have been served following a blight notice.
- 8.8 Following receipt of the counter-notice, the acquiring authority may either accept it or refer the question to the Lands Tribunal. The Tribunal have the jurisdiction to declare the counter-notice valid, or invalid as they think appropriate.
- 8.9 If a lessee has served a counter-notice and this is accepted, or declared valid, and the lessor has not served such a notice, the acquiring authority shall offer to surrender the lessee's interest to the lessor.
- 8.10 On the basis of the above, the provisions of the compensation code, and in particular section 53-57 of the Land Compensation Act 1973, offer adequate protection for an owner or lessee who considers their remaining holding incapable of being farmed following the closure of a private crossing. It

should also be noted that if the acquiring authority rejects the counter-notice the matter must be determined by the Tribunal.

9 NEGOTIATIONS WITH OBJECTORS

9.1 Set out in Table 1 below are objectors who have raised property related issues within their objections. The objections, Chiltern's summary response and an overview of the current status of the objection is detailed below.

Table 1 - Property Objectors (See Appendix 4 for corresponding Objector Plan.)

Obj No.	Objector
001	Mr K A Hayward
002	Mrs J Hayward
018	Janet Brown, Robert Brown and James Cox
044	Mrs Margaret Lily Honour
045	Mr Jesse Scott Honour
046	Mr Jesse Benjamin Honour
066	McKay Securities PLC
088	Mr P Napier
094	Howden Joinery Properties Limited and Howden Joinery Limited
102	Grundon Waste Management Limited
103	Wolseley UK Ltd T/A Plumb Centre
104	Hartwool Ltd T/A Grayline Coaches, Alan Gray and Brian Gray
108	Worcester College
130	Plumbase Limited
183	The Church Commissioners
184	Mr Mark Howard

185	Mr G and Mrs N Honour
187	Allan Plant and Bicester Auto Repairs
189	Topbreed Limited
190	Primepark Limited
191	The owners and residents of Merton Grounds Farm
192	The Norman Trust
193	Mr R Klottrup of Tract Limited
227	Mr S Cook of Gillman and Soame Limited
239	Mrs M Smith and Mr M G H Smith
241	Mr Paul Miller
242	Mr Tim Howard
249	Mr D Keyse of J J Gallagher Limited
257	London & Metropolitan International Developments Limited

9.2 **Objections 1 and 2 - Mr K A Hayward and Mrs J Hayward**

9.2.1 Date of Objection – 18 January 2010

9.2.2 Grounds of Objection

9.2.2.1 *Acquisition of land as the field is used to graze horses and foals.*

9.2.3 Response to the Grounds of Objection

9.2.3.1 The Objectors do not want to lose any land. The land is used to graze horses. Chiltern has applied for powers

to take land to rebuild the embankments. This has been explained to the Objectors.

9.2.4 Status and Comments

9.2.4.1 Chiltern has offered to minimise land take and works impacts as far as is reasonably possible. The Objectors have not accepted this response.

9.3 Objection 18 – Janet Brown, Robert Brown and James Cox

9.3.1 Date of Objection – 4 February 2010

9.3.2 Grounds of Objection

9.3.2.1 *Means of enclosure and drainage.*

9.3.3 Response to Grounds of Objection

9.3.3.1 The land proposed to be acquired will become part of the railway and will therefore be fenced to meet with statutory requirements of the railway. Land used temporarily will be fenced as set out in the CoCP (CD/1.24).

9.3.3.2 Drainage is dealt with in the Environmental Statement volume 4 annex G (CD/1.18).

9.3.4 Status and Comments

9.3.4.1 All objection points have been answered, however the agent for the Objector has not accepted these

responses and has stated his intention to appear at the Inquiry.

9.4 Objections, 44 Margaret Lily Honour, 45 Jesse Scott Honour, 46 Jesse Benjamin Honour

9.4.1 Date of Objections – 11 February 2010, 11 February 2010, 11 February 2010

9.4.2 Grounds of Objection

9.4.2.1 *Mansmoor Lane is not capable of taking increased levels of traffic. The objector will require the road to be upgraded by Chiltern with an ability to carry HGV prior to commencement of works.*

9.4.2.2 *Ditches lying to either side of Mansmoor Lane shall be maintained in good condition throughout the Works and in perpetuity.*

9.4.2.3 *Clarification of likely intensity of use of Mansmoor Lane as an “accommodation road” by Chiltern both during the Works and in perpetuity.*

9.4.2.4 *Requires uninterrupted access to land under their control as partners in the farming partnership trading as “J B & M L Honour + Son” over Mansmoor Lane both during construction and in perpetuity.*

9.4.2.5 *Clarification of noise mitigation measures to be undertaken both during construction and into perpetuity.*

- 9.4.2.6 *Clarification of mitigation measures to be undertaken during the construction process to minimise contamination and damage from dust and dirt to property and livestock.*
- 9.4.2.7 *Concerned that their land will be compulsory acquired merely to provide access and to accommodate the needs of neighbouring landowner, rather than any need arising from the railway scheme itself.*
- 9.4.2.8 *In particular concerned that their land will be compulsorily acquired to provide a replacement building for the benefit of the neighbouring farmer, Mr Paul Miller..*

9.4.3 Response to the Grounds of Objection

9.4.3.1 Chiltern under the Order (CD/1.2) is required to reinstate any land used temporarily to the reasonable satisfaction of the landowner. Chiltern has offered to enter into an agreement with the Objectors, undertaking to reinstate Mansmoor Lane to the reasonable requirements of the users and owners including the Objectors. The works would be based on a photographic survey of the road prior to the works commencement.

9.4.3.2 The drainage in Mansmoor Lane will be maintained throughout the period of Works and insofar as it is

required, it will be reinstated to the landowners' reasonable requirements upon completion. Subsequent maintenance will remain with the users of the lane, as is the current situation.

9.4.3.3 The precise usage of the lane during construction will not be known until detail design has been carried out. However, Chiltern has offered to enter into an agreement to undertake to keep the lane free for the Objectors' use at all times, as far as is reasonably practicable, consistent with the expeditious construction of the works.

9.4.3.4 Likely noise impacts during the works are dealt with in the CoCP (CD/1.24), which forms part of the Environmental Statement (CD/1.15-1.18) and is to be enforced by way of a planning condition. Home Farmhouse is not identified in the Environmental Statement (CD/1.15-1.18) as being subject to construction or operational noise impacts of any significance, due to its distance from the railway. Noise impacts are considered in the Proof of Evidence of Mr Michael Fraser (CRCL/P/9/A).

9.4.3.5 Measures to mitigate construction impacts are dealt with in the CoCP (CD/1.24) to be enforced by way of a planning condition.

9.4.3.6 The draft Order states plot numbers 12002, 11009, 12003 and 11008 are required for “Provisions of accommodation works, access and temporary access”. Chiltern has discussed the accommodation works anticipated with the Objector, which are the erection of a barn to replace a facility lost by the adjacent landowner Mr Paul Miller (Objector Number 241), which is required due to the closure of Home Farm level crossing.

9.4.3.7 The plots of land required for the relocation of the barn, are currently used as access and grazing and the Objector will be compensated for any loss of land. A replacement barn cannot be built on Mr Paul Miller’s land, as all suitable relocation sites are designated a SSSI. Chiltern has consulted Natural England, which consultation is described in the Proof of Evidence of Mr Andy Coates (CRCL/P/10/A) and has concluded that the land mentioned in 9.4.3.6 is the only land that is close enough to Mr Paul Miller’s land to enable him to continue farming his land in accordance with Natural England’s requirements. Other land outside the Order limits in the area was considered to be unsuitable to serve the intended purpose. I am therefore satisfied that the relocation of the barn on the land in question, is an accommodation work necessarily required as a

consequence of the Scheme. Without this accommodation work Mr Miller would not be able to operate his farming business in this location.

9.4.4 Status and Comments

9.4.4.1 Whilst to date Chiltern has been unable to reach agreement on the points of objection, there remains a practical solution to most of the objection points so that the Scheme will not impact materially on the Objectors' use and enjoyment of his land, so as to result in the Objector being significantly affected. The land that will be acquired is not considered to result in a detrimental effect on the use of the Objector's land holding as a unit. Discussions with the Objector are continuing and I expect to provide a further update of progress.

9.5 **Objection 66 – McKay Securities Plc**

9.5.1 Date of Objection – 12 February 2010

9.5.2 Grounds of Objection

9.5.2.1 *Lack of both public and direct consultation prior to the Order Application is not in the spirit of the guidance.*

9.5.2.2 *The Order Application and the lack of information and certainty, is having a blighting effect on the Objector's site.*

9.5.2.3 *The Objector contends that insufficient justification has been provided to justify the acquisition of the Objector's land by way of compulsory purchase.*

9.5.2.4 *The Objector contends that Chiltern cannot demonstrate a reasonable prospect of funding for the Scheme.*

9.5.3 Response to Grounds of Objection

9.5.3.1 Chiltern undertook a public consultation exercise, land referencing exercise and a landowner consultation exercise. The public consultation exercise that was undertaken is described in the Statement of Consultation (CD/1.5). The land referencing exercise was undertaken in accordance with best practice and the Objector was contacted for the purposes of land referencing and the land referencing team engaged in telephone and email contact with the Objector. Through the landowner consultation the Objector was contacted by telephone and letter on 8 September 2009. The letter contained information about the proposals with an offer to provide any further information the Objector felt that it needed. Receipt of the consultation letter was acknowledged, but the Objector did not otherwise respond to this consultation. On this basis I do not believe that the Objector has been prejudiced by the

claimed lack of consultation through the promotion of the Order (CD/1.2).

9.5.3.2 The Order is subject to the compensation code provisions for statutory blight. However, the Objector would not qualify for statutory blight and I am therefore satisfied that the Objectors property is not statutorily blighted. I understand that the Objector has attempted to sell the property.

9.5.3.3 The justification and planning policy framework for the station enhancement, increased parking requirements and road access requirements are described in the Proofs of Evidence of Mr Paul Tregear (CRCL/P/8/A), Mr Leo Eyles (CRCL/P/5/A), Mr Graham Cross (CRCL/P/1/A), Mr Ian Gilder (CRCL/P/12/A) and Mr Allan Dare (CRCL/P/2/A).

9.5.3.4 The funding case for the Scheme is dealt with in the Proof of Evidence of Mr Graham Cross (CRCL/P/1/A).

9.5.4 Status and Comments

9.5.4.1 Chiltern has responded to the Objector's requests for information and clarification in relation to the Order application to date. Chiltern is continuing discussions towards reaching an agreement that will give the Objector comfort in relation to concerns regarding the

interface of the Scheme with the Objectors land and property.

9.6 **Objection 88 – Mr P Napier**

9.6.1 Date of Objection – 28 July 2010

9.6.2 Grounds of Objection

9.6.2.1 *For the purposes of noise modelling the design of Quadrangle House as been wrongly assumed.*

9.6.2.2 *Insufficient mitigation for noise impacts to the flats at the rear of Quadrangle House has been included within the Environmental Statement.*

9.6.2.3 *Insufficient mitigation for noise and vibration impacts for Quadrangle House has been included within the Environmental Statement.*

9.6.2.4 *Speed restrictions should apply around Quadrangle House.*

9.6.3 Response to Grounds of Objection

9.6.3.1 Noise and vibration matters are covered in the Proof of Evidence of Mr Michael Fraser (CRCL/P/9/A).

9.6.3.2 As described in 7.11 of this Proof of Evidence, where it is considered that there is a prospect of damage occurring to property in close proximity to the works, resulting from the works, owners and occupiers will be approached to agree a schedule of defects, prior to the

commencement of construction in the area. Where damage does occur, action will be taken to make good that damage.

9.6.4 Status and Comments

9.6.4.1 I understand from the Proof of Evidence of Mr Michael Fraser (CRCL/P/9/A) that noise and vibration during both construction and operation is not expected to have a structural effect on Qudrangle House.

9.7 Objection 94 – Howden Joinery Properties Limited and Howden Joinery Limited

9.7.1 Date of Objection – 12 February 2010

9.7.2 Grounds of Objection

9.7.2.1 *Disruption of its business both during and after construction.*

9.7.2.2 *Restriction of heavy goods vehicles' ability to access the company premises.*

9.7.3 Response to Grounds of Objection

9.7.3.1 Chiltern will use reasonable endeavours to minimise disruption to access during the works, as far as is reasonably possible. Detailed design of the station layout will have regard to the access needs of the remaining businesses in the McKay Trading Estate.

Chiltern is incentivised to minimise any adverse effects during construction and thereafter, as it will affect the liability for compensation.

9.7.4 Status and Comments

9.7.4.1 An agreement to document the above obligation has been suggested, but the solicitor acting for the objector has at the time of writing not responded.

9.8 Objection 102 - Grundon Waste Management Limited

9.8.1 Date of Objection – 15 February 2010

9.8.2 Grounds of Objection

9.8.2.1 *Objecting to the compulsory acquisition of the whole property and the demolition of the materials recovery facility.*

9.8.3 Response to Grounds of Objection

9.8.3.1 The requirement for the acquisition of this waste facility site is dealt with in the Proof of Evidence of Mr Ian Gilder (CRCL/P/12/A).

9.8.3.2 Through meetings with the Objector, Chiltern has agreed to undertake a valuation of the site in the interests of coming to an agreement that regulates the acquisition price of the land and the Objector withdrawing its objection. Chiltern is currently

undertaking the valuation work to facilitate an agreement on this basis.

9.8.4 Status and Comments

9.8.4.1 As at the date of this Proof of Evidence, the valuation for this site is currently being undertaken. I expect to provide a further update of progress, towards reaching agreement with this Objector by the time of the inquiry.

9.9 **Objection 103 - Wolseley UK Limited t/a Plumb Centre**

9.9.1 Date of Objection –15 February 2010

9.9.2 Grounds of Objection

9.9.2.1 *Chiltern has not demonstrated that the scheme underlying acquisition is necessary and that there is sufficient need for the scheme to justify compulsory purchase.*

9.9.2.2 *Chiltern has not demonstrated that the scheme should be built in this location and if this is demonstrable it should not include the Objector's land.*

9.9.2.3 *No attempt to acquire the property by agreement has been made and therefore Chiltern cannot demonstrate that compulsory purchase is justified.*

9.9.2.4 *Access related objections as follows;*

9.9.2.4.1 Temporary closure of Station Approach.

9.9.2.4.2 *Severe access disruption from construction traffic during works.*

9.9.2.4.3 *Unclear whether the realigned Station Approach, McKay Estate Road and revised Station Approach/London Road junction will operate effectively.*

9.9.3 Response to Grounds of Objection

9.9.3.1 The justification and planning policy framework for the station enhancement, increased parking requirements and road access requirements are described in the Proofs of Evidence of Mr Paul Tregear (CRCL/P/8/A), Mr Leo Eyles (CRCL/P/5/A), Mr Graham Cross (CRCL/P/1/A), Mr Ian Gilder (CRCL/P/12/A) and Mr Allan Dare (CRCL/P/2/A).

9.9.3.2 As set out at paragraph 3.18 of this Proof of Evidence, the transfer of all land and rights will be undertaken either by agreement, or where the parties are unable to agree, or where it is impractical to do so, by exercising the powers of compulsory acquisition contained within the draft Order (CD/1.2).

9.9.3.3 Access concerns are dealt with in the Proof of Evidence of Mr Paul Tregear (CRCL/P/8/A).

9.9.3.4 Chiltern will use reasonable endeavours to minimise disruption to access during the works as far as is

reasonably possible. Detailed design of the station layout will have regard to the access needs of the remaining businesses in the McKay Trading Estate. Chiltern is incentivised to minimise any adverse effects during construction and thereafter as any adverse effects caused will affect the liability for compensation.

9.9.4 Status and Comments

9.9.4.1 Chiltern has been in discussion with the agent acting for the objector with the intention of entering into an agreement to formalise the points raised by the Objector.

9.10 **Objection 104 – Hartwool Limited trading as Grayline Coaches, Alan Gray and Brian Gray**

9.10.1 Date of Objection – 15 February 2010

9.10.2 Grounds of Objection

9.10.2.1 *Chiltern has not demonstrated that the scheme underlying acquisition is necessary and that there is sufficient need for the scheme to justify compulsory purchase.*

9.10.2.2 *Chiltern has not demonstrated the scheme should be built in this location.*

- 9.10.2.3 *If the scheme is to be built in this location, it needs to be redesigned to minimise its detrimental impact on the locality and avoid acquisition of the objectors' property.*
- 9.10.2.4 *No attempts have been made to acquire the property by agreement and therefore Chiltern cannot demonstrate that compulsory purchase is justified.*
- 9.10.2.5 *Objectors need significantly more than the statutory minimum notice period to find suitable alternative accommodation and relocate the business. Objectors estimate they will need a minimum 18 months notice to achieve a successful relocation.*
- 9.10.2.6 *There has been little consultation and no proposals put forward by the applicant to address the Objectors concerns.*

9.10.3 Response to Grounds of Objection

- 9.10.3.1 The justification and planning policy framework for the station enhancement, increased parking requirements and road access requirements are described in the Proofs of Evidence of Mr Paul Tregear (CRCL/P/8/A), Mr Leo Eyles (CRCL/P/5/A), Mr Graham Cross (CRCL/P/1/A), Mr Ian Gilder (CRCL/P/12/A) and Mr Allan Dare (CRCL/P/2/A).
- 9.10.3.2 Chiltern has been in discussions with the agent acting for the Objectors and previously with the Objectors,

before the objection was made by the agent. Chiltern is currently investigating how it can maximise the notice period it will be able to give to the company prior to entry being taken.

9.10.4 Status and Comments

9.10.4.1 Chiltern has been in discussions with the agent acting for the Objectors. Chiltern is currently investigating how it can maximise the notice it will be able to give to the company prior to entry being taken. Once this is known the intention is to enter into an agreement with the Objectors to minimise business disruption.

9.11 **Objection 108 - Worcester College**

9.11.1 Date of Objection – 15 February 2010

9.11.2 Grounds of Objection

9.11.2.1 *Inappropriate location for working site.*

9.11.2.2 *Inappropriate means of access.*

9.11.2.3 *Not clear how private road which is currently being used for the Park and Ride is to be used.*

9.11.2.4 *Mitigation of noise, vibration and other disturbances.*

9.11.2.5 *Incorrect plans and book of reference against parcel 25001 as Worcester College have an interest in part of the site as seen on title number ON246429.*

9.11.3 Response to Grounds of Objection

9.11.3.1 Title issues have been clarified with Network Rail and Network Rail will amend its records to accord with title number ON246429.

9.11.3.2 Mitigation has not been considered for the Objector's proposed development of the site, as it does not have planning consent, nor is the land allocated for development by the Local Planning Authority. Chiltern considers that the park and ride site access can be used for site access without causing detriment to the current users.

9.11.3.3 Noise and vibration issues are dealt with in the Proof of Evidence of Mr Michael Fraser (CRCL/P/9/A).

9.11.3.4 Construction impacts are dealt with in the CoCP (CD/1.24) to be enforced by way of planning condition.

9.11.4 Status and Comments

9.11.4.1 Chiltern has discussed the issues raised with the Objector and is investigating how effects can be minimised, with the intention of entering into an agreement with the Objector. Heads of terms of which are now agreed.

9.12 Objection 130 - Plumbase Limited

9.12.1 Date of Objection – 15 February 2010

9.12.2 Grounds of Objection

9.12.2.1 *Insufficient justification for the compulsory acquisition of the property.*

9.12.2.2 *Financial viability of the project doubtful in uncertain economic times.*

9.12.2.3 *Insufficient consultation between applicant and objectors.*

9.12.2.4 *Council denied property would be affected as client checked limits of property from proposed railway line before acquiring an interest.*

9.12.2.5 *Compulsory acquisition of property will result in the permanent loss of local employment at the property.*

9.12.2.6 *Loss of business to local businesses if property is compulsory acquired.*

9.12.3 Response to Grounds of Objection

9.12.3.1 The justification and planning policy framework for the station enhancement, increased parking requirements and road access requirements are described in the Proofs of Evidence of Mr Paul Tregear (CRCL/P/8/A), Mr Leo Eyles (CRCL/P/5/A), Mr Graham Cross (CRCL/P/1/A), Mr Ian Gilder (CRCL/P/12/A) and Mr Allan Dare (CRCL/P/2/A).

9.12.3.2 Chiltern is currently investigating maximising the notice period it will be able to give to the company prior to entry being taken, which is intended to mitigate loss of business and minimise the disruption associated with business relocation.

9.12.3.3 Financial viability is dealt with in the Proof of Evidence of Mr Graham Cross (CRCL/P/1/A).

9.12.3.4 Chiltern undertook a public consultation exercise, land referencing exercise and a landowner consultation exercise. The public consultation exercise that was undertaken is described in the Statement of Consultation (CD/1.4). The land referencing exercise was undertaken in accordance with best practice and the Objector was contacted for the purposes of land referencing and the land referencing team engaged in telephone and email contact with the Objector. Through the landowner consultation the Objector was contacted by telephone and letter explaining the proposals.

9.12.4 Status and Comments

9.12.4.1 Chiltern is currently investigating how it can maximise the notice period it will be able to give to the company prior to entry being taken. The intention is to confirm this in an agreement with the Objector.

9.13 Objection 183 – The Church Commissioners

9.13.1 Date of Objection – 16 February 2010

9.13.2 Grounds of Objection

9.13.2.1 *Value of land, including any future development value as a result of the works will be significantly diminished.*

9.13.2.2 *The land is subject to a number of agricultural tenancies and the proposals will make the land untenable, in places severed, and no longer suitable for modern agriculture.*

9.13.2.3 *Closure of a number of level crossings without proposed alternative accommodation works.*

9.13.3 Response to Grounds of Objection

9.13.3.1 Chiltern is satisfied that the Church Commissioners' concern in relation to the perceived diminution in the value of land, is a compensation matter and the provisions of the compensation code will apply in the assessment of compensation. Any disputes that arise in relation to compensation will be referred to the Lands Tribunal.

9.13.3.2 We understand through correspondence that Messrs John and Brian Henman are agricultural tenants of the Church Commissioners who farm at Manor Farm, Islip and Pegtop Farm, Woodeaton respectively.

9.13.3.3 In relation to concerns regarding closure of the level crossings, Chiltern is in discussion with both tenants having assessed the use of the existing crossings. In relation to Mr John Henman, proposals have been put forward that will enable the tenanted land to continue to be farmed by providing an upgraded access from the B4027 Islip to Bletchington Road (known as the “Chipping Farm Track”) to land north of the railway if proven to be required. In relation to Mr Brian Henman, he will still have road access to all of the land he leases from the Church Commissioners. The Church Commissioners agent has not to date been able to explain why the proposals leave the land untenable. Compensation issues are explained in Section 8 of this Proof of Evidence.

9.13.4 Status and Comments

9.13.4.1 Whilst to date Chiltern has been unable to reach agreement on the points of objection with Mr John Henman, there remains a practical solution to the points of objection, which will result in the land continuing to be farmed by the existing tenants. Therefore the land and rights that will be acquired are not considered to result in a detrimental effect on the use or enjoyment of

the Objector's land and their status as a Landlord. I expect to provide a further update of progress, towards reaching agreement with this Objectors' tenants by the time of the Inquiry. The Objectors' agent has not been instructed to respond to us by the Objector.

9.14 Objection 184 – Mr Mark Howard, Weston Park Farm, Weston on the Green

9.14.1 Date of Objection – 16 February 2010

9.14.2 Grounds of Objection

9.14.2.1 *Consultation in connection with the Order has been inadequate.*

9.14.2.2 *No provisions made within the Order for rights of access allowing Mr Howard to reach the Severed Land.*

9.14.2.3 *Any compulsory purchase of land will negatively impact on the viability of the Farm and environmental support for the farm under the ELS Agri-environment scheme.*

9.14.2.4 *Stopping up of access over the existing railway crossing (Manor Farm Crossing) at the farm will have a severe adverse effect on Mr Howard's business.*

9.14.2.5 *Proposed scheme will impact on the visual amenity of the Farm as vegetation on the railway embankment that runs through the farm will need to be removed to facilitate the Order Works.*

9.14.3 Response to Grounds of Objection

9.14.3.1 Chiltern undertook a public consultation exercise, land referencing exercise and a landowner consultation exercise. The public consultation exercise that was undertaken is described in the Statement of Consultation (CD/1.5). The land referencing exercise was undertaken in accordance with best practice and the Objector was contacted for the purposes of land referencing and the land referencing team engaged in telephone and email contact with the Objector. Through the landowner consultation the Objector was contacted by telephone and letter explaining the proposals and discussions have continued to develop.

9.14.3.2 The closure of Mr Howard's crossing (known as "Manor Farm Crossing") is outlined in the Proof of Evidence of Mr Aidan Nelson (CRCL/P/7/A), where he sets out the safety considerations for closure. In the Proof of Evidence of Mr Stephen Barker (CRCL/P/6/A) it states that the Manor Farm Crossing use is sporadic with the majority of the Manor Farm holding being to the north west of the railway.

9.14.3.3 Chiltern is in detailed discussions with Mr Howard in order to provide him with a viable alternative access following closure of his private crossing. It is proposed

that Mr Howard will be granted access rights over a new bridge constructed to provide an access to Holts Farm. Mr Howard's existing farm track, which currently serves his land to the west of the railway, will be extended over his holding to join the new access. Chiltern is proposing to construct an access track from Mansmoor Road running parallel to the southern boundary of the railway, in order to connect directly into Mr Howard's land to the south of the railway. The construction of this track is subject to Natural England's views, as it requires construction over a SSSI. Chiltern is in active discussions with Natural England to secure their confirmation that they are content.

9.14.3.4 Mr Howard and other landowners have presented an alternative access proposal to Chiltern. This is described and analysed in the 'Review of Landowners' Alternative Access Proposal', Appendix IMG 19 of the Proof of Evidence of Mr Ian Gilder (CRCL/P/12/B).

9.14.3.5 In relation to Mr Howard's concerns regarding potential severance of land south east of the railway and the effect on subsidy payments under the ELS Agri-Environment Scheme and any other associated losses, I am satisfied that the provisions of the compensation code are adequate to mitigate the effect of this.

9.14.3.6 In relation to loss of visual amenity as a result of the scheme, the Environmental Statement (CD/1.15-1.18) sets out the position on planting following completion of the works.

9.14.4 Status and Comments

9.14.4.1 Whilst to date Chiltern has been unable to reach agreement on the points of objection, there remains a practical solution to the points of objection, which will enable Mr Howard to access his land for his farming enterprises and protect his Agri-Environmental Payments. Therefore the rights that will be acquired are not considered to result in a significant detrimental effect on the use or enjoyment of the Objector's land. I expect to provide a further update of progress, including an update on securing consent from Natural England, towards reaching agreement with this Objector by the time of the Inquiry.

9.15 Objection 185 - Mr G and Mrs N Honour, Holts Farm, Charlton-on-Otmoor

9.15.1 Date of Objection – 16 February 2010

9.15.2 Grounds of Objection

9.15.2.1 *Level of consultation during development of the proposals has been inadequate. Current bridge proposals will create serious detriment to farming operation and enjoyment of property.*

9.15.2.2 *Concerns regarding use of Mansmoor Lane for construction traffic, surface of Mansmoor Lane not suitable for continuous movement of heavy goods vehicles. Seeking undertaking from Chiltern that ditches lying either side of the land will be maintained at Chiltern's expense both during constructing of the works and after they are completed.*

9.15.2.3 *Seek undertaking from Chiltern that they will concrete those parts of the proposed access routes to and from the bridge that will be used for vehicular traffic at their own cost and at a standard suitable for agricultural vehicles.*

9.15.2.4 *Impacts on security and privacy of farm buildings once bridge is constructed.*

9.15.2.5 *Seek assurance that pedestrian and vehicular access to the farm on both sides of the railway will be maintained at all times during construction of the works. Important*

that access across the existing level crossing will not be stopped up until the bridge is available.

9.15.2.6 *Considerable increase in noise at the property which will affect both the objector's and their livestock. Objector seeking undertaking that appropriate noise mitigation will be provided both during and after construction of the works.*

9.15.2.7 *Clarification of mitigation measures to be undertaken by Chiltern during the construction and operation of the works to minimise adverse effects caused by dust, dirt and vibration.*

9.15.2.8 *Seeking assurances from Chiltern that replanting and landscaping will take place following completion of the works to minimise impact on visual amenity.*

9.15.3 Response to Grounds of Objection

9.15.3.1 Chiltern undertook a public consultation exercise, land referencing exercise and a landowner consultation exercise. The public consultation exercise that was undertaken is described in the Statement of Consultation (CD/1.5). The land referencing exercise was undertaken in accordance with best practice and the Objector was contacted for the purposes of land referencing and the land referencing team engaged in telephone and email contact with the Objector.

Significant discussions have continued with Mr Honour in relation to the proposals, before and after the Order application was made.

9.15.3.2 The options for a replacement bridge are extremely constrained by the presence of the SSSI. Chiltern is satisfied that the location of the bridge included within the Order (CD/1.2) meets the requirements of all landowners, occupiers and users of the existing level crossings, within the physical constraints of the SSSI protected area.

9.15.3.3 Mr Honour and other landowners have presented an alternative access proposal to Chiltern. This is described and analysed in the 'Review of Landowners' Alternative Access Proposal', Appendix IMG 19 of the Proof of Evidence of Mr Ian Gilder (CRCL/P/12/B).

9.15.3.4 Mansmoor Lane has been identified in the Order (CD/1.2) for temporary use. Following completion of the works, Mansmoor Lane will be reinstated to its former condition as set out in Article 29 of the Order. This includes maintaining ditches to their former condition. Chiltern has offered to enter into an agreement to keep the track useable at all times as far as is reasonably practicable during the works.

9.15.3.5 In respect of Mr & Mrs Honour's concerns regarding the impacts of the scheme during construction and

operation, these issues are dealt within the CoCP (CD/1.24) to be enforced by way of a planning condition. Issues relating to noise intrusion are dealt with in the Proof of Evidence of Mr Michael Fraser (CRCL/P/9/A).

9.15.3.6 Security measures have been discussed with the objector and it has been principally agreed (notwithstanding the objection to the bridge generally) that the provision of a gate on the western side of the railway to prevent public access to Holts Farm would be appropriate mitigation.

9.15.3.7 In relation to concerns regarding access to Holts Farm, Clause 17(2) of the draft Order confirms that Holts Farm private right of way will not be extinguished until the accommodation facility identified in Schedule 9 (being Accommodation access and Work No. 13) of the draft Order (CD/1.2) have been provided.

9.15.3.8 In respect of Mr & Mrs Honour's concerns regarding any perceived losses in value to their retained land and potential disturbance caused by the construction, maintenance and use of the railway, then those who are displaced or suffer a loss as a result of the construction and operation of the works, permitted by the Order have the ability to claim compensation, in the normal way, in accordance with the compensation code under the

usual heads of claim, including value of interest acquired, injurious affection/severance, loss payments and disturbance. This is set out in more detail in Section 8 of this Proof of Evidence.

9.15.3.9 Noise issues are dealt with in the proof of Mr Michael Fraser (CRCL/P/9/A).

9.15.3.10 In relation to loss of visual amenity as a result of the scheme, the Environmental Statement (CD/1.15-1.18) sets out the position on planting following completion of the works. Furthermore, the bridge will be landscaped under the Planning Conditions proposed.

9.15.4 Status and Comments

9.15.4.1 Whilst to date Chiltern has been unable to reach agreement on the points of objection, there remains a practical solutions to most of the objection points so that the Scheme will not impact materially on the Objectors use and enjoyment of his land. The land and rights that will be acquired are not considered to result in a significant detrimental effect on the use of the Objectors land holding as a unit. I expect to provide a further update of progress, towards reaching agreement with this Objector by the time of the Inquiry.

9.16 Objection 187 - Allan Plant and Bicester Auto

9.16.1 Date of Objection – 16 February 2010

9.16.2 Grounds of Objection

9.16.2.1 *Chiltern has not demonstrated that the scheme underlying acquisition is necessary and that there is sufficient need for the scheme to justify compulsory purchase.*

9.16.2.2 *Chiltern has not demonstrated the scheme should be built in this location.*

9.16.2.3 *If the scheme is to be built in this location, it needs to be redesigned to minimise the detrimental impact on the locality and to avoid acquisition of the objectors' property.*

9.16.2.4 *No attempts to acquire the property by agreement have been made and therefore Chiltern cannot demonstrate that compulsory purchase is justified.*

9.16.2.5 *Objectors need significantly more than the statutory minimum notice period to find suitable alternative accommodation and relocate the business. Objectors estimate they will need a minimum of 12 months notice to achieve a successful relocation.*

9.16.2.6 *There has been little consultation and no proposals put forward by the applicant to address the Objectors concerns.*

9.16.3 Response to Grounds of Objection

9.16.3.1 The justification and planning policy framework for the station enhancement, increased parking requirements and road access requirements are described in the Proofs of Evidence of Mr Paul Tregear (CRCL/P/8/A), Mr Leo Eyles (CRCL/P/5/A), Mr Graham Cross (CRCL/P/1/A), Mr Ian Gilder (CRCL/P/12/A) and Mr Allan Dare (CRCL/P/2/A).

9.16.3.2 Chiltern is currently investigating how it can maximise the notice it will be able to give to the company prior to entry being taken.

9.16.3.3 Chiltern undertook a public consultation exercise, land referencing exercise and a landowner consultation exercise. The public consultation exercise that was undertaken is described in the Statement of Consultation (CD/1.5). The land referencing exercise was undertaken in accordance with best practice and the Objector was contacted for the purposes of land referencing and the land referencing team engaged in telephone and email contact with the Objector. Through the landowner consultation the Objector was contacted by telephone and letter explaining the proposals

9.16.4 Status and Comments

9.16.4.1 Once Chiltern has ascertained the maximum notice period that it will be able to give to the company, prior to entry being taken, then Chiltern intends to confirm this in an agreement with the Objector.

9.17 **Objection 189 - Topbreed Limited**

9.17.1 Date of Objection – 16 February 2010

9.17.2 Grounds of Objection

9.17.2.1 *Incomplete consultation, lack of consultation and prior notice with landowners.*

9.17.2.2 *Insufficient consultation with land owners in regard to the consultation with English Heritage.*

9.17.2.3 *The proposed route will increase the distance travelled to the main road.*

9.17.2.4 *The proposed route will increase the cost to the owners gaining access to and from their property.*

9.17.2.5 *The distances to be travelled are greater than those suggested within the consultation document.*

9.17.2.6 *There will be an increase in pedestrian traffic crossing the Topbreed Limited farmland with walkers much more likely to use the footpath FP295/3 as a shortcut to the Bridleway.*

9.17.2.7 *The extent of works required in flood plain zone 3 increases the risk of uncontrolled flooding.*

9.17.2.8 *English Heritage has not had a full opportunity to comment on the proposed route and the Objector's suggested alternative route.*

9.17.2.9 *The Objector's have suggested an alternative road access route which is shown on the plan with the Objector's Statement.*

9.17.3 Response to Grounds of Objection

9.17.3.1 Chiltern has explained the consultation that has been carried out and this is set out in the Statement of Consultation (CD/1.5).

9.17.3.2 Chiltern has undertaken extensive discussions with English Heritage in respect of the route of the revised highway alignment. The consultation undertaken with English Heritage is dealt with in the Proof of Evidence of Mr Ian Gilder (CRCL/P/12/A).

9.17.3.3 The route applied for has benefits for some users and dis-benefits for others. One route cannot provide equal benefit for all potential users.

9.17.3.4 In relation to footpath FP295/3, consultation with Oxfordshire's Rights of Way Officer has been undertaken and the future use was not raised as a point of concern by the Council. Public Rights of Way are dealt with in the Proof of Evidence of Mr Ian Gilder (CRCL/P/12/A).

9.17.3.5 All works in the flood plain will be subject to approval by the Environment Agency and its requirements in relation to the risks of flooding will be implemented.

9.17.3.6 Chiltern is satisfied that the route as applied for through the Order Modification (CD/1.28), is on balance the most appropriate route, for the reason set out in this Proof of Evidence and that of the other witnesses.

9.17.4 Status and Comments

9.17.4.1 The Objector is aware of Chiltern's intention to pursue the revised highway as applied for in the Order Modification (CD/1.28). However, it is anticipated that the Objector will wish to pursue its position at the Public Inquiry.

9.18 Objection 190 – Primepark Limited

9.18.1 Date of Objection –

9.18.2 Grounds of Objection

9.18.2.1 *Incomplete/Lack of consultation/Prior notice, with landowners.*

9.18.2.2 *Incomplete consultation with English Heritage.*

9.18.2.3 *The proposed route will increase the distance travelled to the main road.*

9.18.2.4 *The proposed route will increase the cost to the owners gaining access to and from their property.*

- 9.18.2.5 *The distances to be travelled are greater than those suggested within the consultation document.*
- 9.18.2.6 *The Objector believes that there will be an increase in pedestrian traffic crossing the Primepark Limited farmland with walkers much more likely to use the footpath FP295/3 as a shortcut to the Bridleway.*
- 9.18.2.7 *The degree of works required in flood plain zone 3 increases a risk of uncontrolled flooding.*
- 9.18.2.8 *The Objector believes English Heritage has not had a full opportunity to comment on the proposed route and our suggested alternative route.*
- 9.18.2.9 *The Objector has suggested an alternative road access route which is shown in Appendix 1 of its Statement of Case.*

9.18.3 Response to Grounds of Objection

- 9.18.3.1 Chiltern has explained the consultation that has been carried out and this is set out in the Statement of Consultation (CD/1.5).
- 9.18.3.2 Chiltern has undertaken extensive discussions with English Heritage in respect of the route of the revised highway alignment. The consultation undertaken with English Heritage is dealt with in the Proof of Evidence of Mr Ian Gilder (CRCL/P/12/A).

9.18.3.3 The route applied for has benefits for some users and dis-benefits for others. One route cannot provide equal benefit for all potential users.

9.18.3.4 All works in the flood plain will be subject to approval by the Environment Agency and its requirements in relation to the risks of flooding will be implemented.

9.18.4 Status and Comments

9.18.4.1 The Objector is aware of Chiltern's intention to pursue the revised highway as applied for in the Order Modification (CD/1.28). However, it is anticipated that the Objector will wish to pursue its position at the Public Inquiry.

9.19 **Objection 191 The Owners and Residents of Merton Grounds Farm**

9.19.1 Date of Objection - 16 February 2010

9.19.2 Grounds of Objection

9.19.2.1 *The line of the route that has been chosen and to the point where it accesses the highway.*

9.19.2.2 *Lack of consultation with affected parties.*

9.19.2.3 *Additional distance to the new road.*

9.19.2.4 *Lack of consideration given to horse and bicycle traffic.*

9.19.2.5 *Unsatisfactory road layout at the point where the proposed new route joins the existing road at Bramlow.*

9.19.2.6 *Dangerous location of the proposed access point to the highway, west of the railway.*

9.19.2.7 *Proposed diversion of footpath (FP398/6) likely to cause increase of footpath traffic near Merton Grounds Farm.*

9.19.2.8 *Proposed road crosses the access road to the archaeological site Roman Parade Ground.*

9.19.2.9 *Potential effect on flood zone 3.*

9.19.2.10 *Unnecessary use of green field land.*

9.19.3 Response to Grounds of Objection

9.19.3.1 Chiltern has explained the consultation that has been carried out and this is set out in the Statement of Consultation (CD/1.28).

9.19.3.2 Chiltern has undertaken extensive discussions with English Heritage in respect of the route of the revised highway alignment. The consultation undertaken with English Heritage is dealt with in the Proof of Evidence of Mr Ian Gilder (CRCL/P/12/A).

9.19.3.3 The route applied for has benefits for some users and dis-benefits for others. One route cannot provide equal benefit for all potential users.

9.19.3.4 Through consultation with Oxfordshire's Rights of Way Officer, future use of (FP398/6) was not considered to

be of concern. Public Rights of Way are dealt with in the Proof of Evidence of Mr Ian Gilder (CRCL/P/12/A).

9.19.3.5 The final highway layout is still to be subject to detailed design, in accordance with all statutory requirements. The route in the application documents is only indicative.

9.19.3.6 This access point has now changed, due to the Order Modification (CD/1.28), relating to the Langford Lane diversion.

9.19.3.7 All works in the flood plain will be subject to approval by the Environment Agency and its requirements in relation to the risk of flood will be implemented.

9.19.4 Status and Comments

9.19.4.1 The Objectors are aware of Chiltern's intention to pursue the revised highway as applied for in the Order Modification (CD/1.28). However, it is anticipated that the Objectors will wish to pursue their position at the Public Inquiry.

9.20 **Objection 192 – Norman Trust**

9.20.1 Date of Objection – 16 February 2010

9.20.2 Grounds of Objection

9.20.2.1 *The land is already subject to a Planning Consent with a safeguarded area for the railway chord acquisition of*

further land will affect the ability to deliver the proposed development that has outline consent.

9.20.2.2 *The habitat of the marsh fritillary butterfly needs to be properly considered in the environmental assessment of this site.*

9.20.3 Response to Grounds of Objection

9.20.3.1 Through consultation with the Objector, Chiltern has been advised that JJ Gallagher (Objector Number 249) is representing the Norman Trust. CRCL is accelerating detailed design to ascertain whether the land requirements can be reduced in this location. At the date of this Proof of Evidence, it remains uncertain whether the land requirements can be reduced.

9.20.4 Status and Comments

9.20.4.1 Work by the CRCL engineering team is being undertaken to ascertain whether the land included within the Order (CD/1.2) can be reduced to overcome the Objector's concerns. I expect to be able to update the Inquiry on this matter once this work has been completed and further discussion with the Objector are held.

9.21 Objection 193 – Mr R Klottrup of Tract Limited

9.21.1 Date of Objection – 16 February 2010

9.21.2 Grounds of Objection

9.21.2.1 *Concerned that access will be restricted both during the building and the construction phases.*

9.21.2.2 *Increases usage of the level crossing on London Road.*

9.21.3 Response to Grounds of Objection

9.21.3.1 Chiltern will use reasonable endeavours to minimise disruption to the Objector's access during the works, as far as is reasonably possible. Detailed design of the station layout will have regard to the access needs of the remaining businesses in the McKay Trading Estate. Chiltern is incentivised to minimise any adverse effects during construction and any adverse effects caused will affect liability to compensation.

9.21.3.2 The operation of the London Road crossing in Bicester is dealt with in the Proof of Evidence of Mr Paul Tregear (CRCL/P/8/A).

9.21.4 Status and Comments

9.21.4.1 Chiltern has had no further response from the objector since sending its objection response and subsequent letters seeking a response from the Objector.

9.22 Objection 227 – Mr S Cook of Gilman and Soame Limited

9.22.1 Date of Objection – 16 February 2010

9.22.2 Grounds of Objection

9.22.2.1 *Insufficient consultation, especially when the Objectors relocated to Bicester in 2008 and there was no mention of this project.*

9.22.2.2 *Insufficient justification for using this site to be used for parking.*

9.22.2.3 *Financial viability.*

9.22.2.4 *Uncertainty as not knowing whether relocation will be necessary is affecting decisions in regard to investment in the business.*

9.22.3 Response to Grounds of Objection

9.22.3.1 Chiltern undertook a public consultation exercise, land referencing exercise and a landowner consultation exercise. The public consultation exercise that was undertaken is described in the Statement of Consultation (CD/1.5). The land referencing exercise was undertaken in accordance with best practice and the Objector was contacted for the purposes of land referencing and the land referencing team engaged in telephone and email contact with the Objector. Through the landowner consultation the Objector was contacted in writing on 28 August 2009.

9.22.3.2 The justification and planning policy framework for the station enhancement, increased parking requirements and road access requirements are described in the Proofs of Evidence of Mr Paul Tregear (CRCL/P/8/A), Mr Leo Eyles (CRCL/P/5/A), Mr Graham Cross (CRCL/P/1/A), Mr Ian Gilder (CRCL/P/12/A) and Mr Allan Dare (CRCL/P/12/A).

9.22.3.3 Financial Viability of the scheme is dealt with in the Proof of Evidence of Mr Graham Cross (CRCL/P/1/A).

9.22.3.4 Chiltern is currently investigating how it can maximise the notice it will be able to give to the company prior to entry being taken.

9.22.4 Status and Comments

9.22.4.1 Once Chiltern has understood the maximum notice it will be able to give to the company prior to entry being taken then, the intention is to enter into an agreement with the Objector to confirm this notice period.

9.23 Objection 239 - Mrs M Smith and Mr M G H Smith, Northfield Farm, Water Eaton

9.23.1 Date of Objection – 15th February 2010

9.23.2 Grounds of Objection

9.23.2.1 *Lack of consultation by Chiltern and its Agents.*

9.23.2.2 *Lack of detailed design information.*

- 9.23.2.3 *Proposed location of the new and alternative railway bridge.*
- 9.23.2.4 *Inability to provide any indication of the specification; construction and width of the proposed new access to and from Northfield Farm via the new railway bridge.*
- 9.23.2.5 *Increased noise and visual intrusion and the impact on the capital values of their properties.*
- 9.23.2.6 *Concerned over the future use of the Water Eaton Park and Ride and the possibility of it being used for financial profit and gain should it be compulsory purchased.*
- 9.23.2.7 *Similar concerns as to the proposals by Chiltern to extend the existing Water Eaton railway sidings onto land owned by Messrs Smith.*
- 9.23.2.8 *Any services that currently serve Northfield Farm such as electricity, telephone etc. must be maintained.*
- 9.23.2.9 *Concern over the overhead high voltage electricity supply.*
- 9.23.2.10 *No assurances over the future liability for the repair and maintenance of both the proposed bridge and the ramps either side.*
- 9.23.2.11 *Assurances that the high degree of existing security will not be compromised should the new bridge be built.*
- 9.23.2.12 *Lack of sufficient information regarding the impact of the proposals on conservation; ecology; wildlife habitat; surface water run off.*

9.23.2.13 *Potential downgrading or cessation of the Northfield Farm Shoot and subsequent loss of income.*

9.23.3 Response to Grounds of Objection

9.23.3.1 Chiltern undertook a public consultation exercise, land referencing exercise and a landowner consultation exercise. The public consultation exercise that was undertaken is described in the Statement of Consultation (CD/1.5). The land referencing exercise was undertaken in accordance with best practice and the Objectors were contacted for the purposes of land referencing and the land referencing team engaged in telephone and email contact with the Objectors. Through the landowner consultation the Objectors were contacted by telephone, in writing and meetings were held with his agent providing information about the proposals and working to mitigate the effects of the scheme.

9.23.3.2 The Proof of Evidence of Mr Aidan Nelson (CRCL/P/7/A) describes the dormant nature of the existing Northfield Farm level crossing. This evidence explains that the proposal of a replacement bridge is acceptable as a reasonable alternative. The replacement bridge is also providing an alternative to

the existing road bridge which no longer meets Network Rail's safety requirements.

9.23.3.3 In respect of the proposed location of the new bridge, this was determined by Chiltern having full regard to the needs of Mr & Mrs Smith as well as the need of others in the area including users of the bridleway.

9.23.3.4 The new access road will be constructed to a standard which replicates the existing functionality of the access to Northfield Farm. Detailed design work will continue to be developed by Chiltern as the scheme develops. The replacement access route is intended to provide the same level of functionality as the existing track. Any new bridge structure and surface will be maintained by Network Rail, to fulfil its statutory obligations.

9.23.3.5 The scheme during construction and operation have already been assessed in the Environmental Statement (CD/1.15-1.18) and noise intrusion issues are dealt with in the evidence of Mr Michael Fraser (CRCL/P/9/A). The majority of the work in the vicinity of Northfield Farm will be carried out in the existing cutting and in any event the appointed contractors will be obliged to work in accordance with the CoCP (CD/1.24), which will be enforced through the contract and by means of a planning condition.

- 9.23.3.6 As set out in Section 3 of this Proof of Evidence, Chiltern has assessed the need for the acquisition of private land and has sought to minimise the extent of its acquisition, as far as is practicable. The Order seeks to authorise Chiltern to carry out those works specified in the application and other works which are ancillary to the authorised works.
- 9.23.3.7 Existing services will be fully investigated prior to the start of the works as set out in the CoCP (CD/1.24).
- 9.23.3.8 In respect of Mr & Mrs Smith's concerns regarding any perceived losses in value to their retained land and potential disturbance caused by the construction, maintenance and use of the railway, those who are displaced or suffer a loss as a result of the construction and operation of the works permitted by the Order may claim compensation, in the normal way, in accordance with the compensation code under the usual heads of claim, including value of interest acquired, injurious affection/severance, loss payments and disturbance. This is set out in more detail in Section 8 of this Proof of Evidence.
- 9.23.3.9 The objector considers that it is wrong that Chiltern will profit from the scheme built on his land. The public benefits of the Scheme are dealt with in the Proof of Evidence of Mr Graham Cross (CRCL/P/11/A).

9.23.4 Status and Comments

9.23.4.1 Whilst to date Chiltern has been unable to reach agreement on the points of objection, there are practical solutions to most of the objection points so that the Scheme will not impact materially on the Objectors use and enjoyment of his land. The acquisition of the land in questions is not considered to result in a detrimental effect on the use of the Objectors land holding as a unit. I expect to provide a further update of progress, towards reaching agreement with this Objector by the time of the Inquiry.

9.24 **Objection 241 – Mr Paul Miller, Home Farm, Wendlebury**

9.24.1 Date of Objection – 15 February 2010

9.24.2 Grounds of Objection

9.24.2.1 *Non-adherence to government guidelines on consultations and insufficient consultation by Chiltern and its Agents;*

9.24.2.2 *No impact assessment comparing proposal to close Home Farm crossing with alternatives for providing access to the SSSI. No consideration of the option to provide access via proposed bridge at Holts Farm.*

- 9.24.2.3 *Impact of closure of Home Farm crossing and therefore restricting access to SSSI missing from the Environmental Impact Assessment.*
- 9.24.2.4 *Impact of any proposed third party rights to be granted over Mr Miller's land and the potential loss of privacy, disturbance and loss of capital value.*
- 9.24.2.5 *Home Farm crossing is the only access to the SSSI and to farm buildings during wet winter months.*
- 9.24.2.6 *Failure by Chiltern to provide a vehicular bridge in close proximity to existing crossing point.*
- 9.24.2.7 *Failure by Chiltern to adequately link the two parcels of SSSI land that currently lie adjoining the Home Farm crossing and west and east of the railway line.*
- 9.24.2.8 *Access to 128 acres of land to east of railway will only be accessed via Mansmoor Lane. The final stretch is impassable during wet winter months.*
- 9.24.2.9 *Impractical access proposals to eastern parcel of SSSI in terms of time and costs given considerable extra distances required to access severed land.*
- 9.24.2.10 *Failure to provide a viable alternative access to eastern land may jeopardise primary subsidy income and risk future sustainability of whole farming business.*
- 9.24.2.11 *Failure of Chiltern to provide any details regarding possible relocation of farm building(s) used to overwinter cattle, and so to protect SSSI during winter*

months, from land lying west of railway to land lying east of railway.

9.24.2.12 *Inadequacy of land to east of railway as a suitable alternative to provide sole access to Mr Miller's 128 acres and also for Mr M Howard. This could lead to significant damage to the SSSI.*

9.24.3 Response to Grounds of Objection

9.24.3.1 Chiltern undertook a public consultation exercise, land referencing exercise and a landowner consultation exercise. The public consultation exercise that was undertaken is described in the Proof of Evidence of Mr Ian Gilder (CRCL/P/12/A). The land referencing exercise was undertaken in accordance with best practice and the Objector was contacted for the purposes of land referencing and the land referencing team engaged in telephone and email contact with the Objector. Through the landowner consultation the Objector was contacted by telephone and in writing and meetings were held with his agent to provide information about the proposals and to discuss mitigation measures.

9.24.3.2 The Proof of Evidence of Mr Stephen Barker (CRCL/P/6/A) sets out the status of Mr Miller's private crossing, known as "Home Farm Crossing". It is an

accommodation crossing primarily for the movement of cattle between Mr Miller's land to the east of the railway and the west of the railway and to access the agricultural building to the east of the railway. Mr Barker explains that the presence of the SSSI, which straddles the railway constrains the available options for mitigating closure of the crossing. The Proof of Evidence of Mr Barker also sets out the option appraisal exercise carried out by Chiltern in the assessment of each private crossing and the consideration of alternative access arrangements.

9.24.3.3 Chiltern is in detailed discussions with Mr Miller in order to provide him with a viable alternative access following closure of his private crossing. It is proposed that Mr Miller will be granted access rights over a new bridge constructed to provide a new access to Holts Farm. Mr Miller's existing farm track which currently serves his barn to the west of the railway will be extended to join the new access. This solution enables Mr Miller to have continuous access to his land on either side of the railway.

9.24.3.4 It is considered that the proposed alternative arrangements will enable Mr Miller to continue to access his land to the east of the railway at all times of

the year and to farm his land in accordance with SSSI requirements and obligations.

9.24.3.5 Mr Miller and other landowners have presented an alternative access proposal to Chiltern. This is described and analysed in the 'Review of Landowners' Alternative Access Proposal', Appendix IMG 19 of the Proof of Evidence of Mr Ian Gilder (CRCL/P/12/B).

9.24.3.6 Chiltern is proposing to relocate Mr Miller's existing barn to the west of the railway to a position within the field identified in DP 11009.

9.24.3.7 In respect of agricultural owners and occupiers, those who are displaced or suffer a loss as a result of the construction and operation of the works permitted by the Order have the ability to claim compensation, in the normal way, in accordance with the compensation code under the usual heads of claim, including value of interest acquired, injurious affection/severance, loss payments and disturbance. The provisions of the code should apply to any perceived or actual reduction in value to Mr Miller's land as a result of the granting of third party rights across his land.

9.24.4 Status and Comments

9.24.4.1 Whilst to date Chiltern has been unable to reach agreement on the points of objection, there are practical

solutions to most of the objection points so that the Scheme will not impact materially on the Objector's use and enjoyment of his land. The provision of a new access bridge, extended track and new livestock building will enable Mr Miller to continue to farm his land in an effective and productive manner whilst maintaining the status of the SSSI. The acquisition of the land in question is not considered to result in a detrimental effect on the use of the Objector's land holding as a unit. I expect to provide a further update of progress, towards reaching agreement with this Objector by the time of the Inquiry.

9.25 Objection 242 – Mr T Howard, College Farm, Wendlebury

9.25.1 Date of Objection – 15 February 2010

9.25.2 Grounds of Objection

9.25.2.1 *Failure by Chiltern to provide a vehicular bridge to enable Mr Howard to access land to the east of the railway.*

9.25.2.2 *Failure by Chiltern Railway to provide viable alternative access to land south of the railway may result in placing the future of Mr Howard's farming and livery operations in jeopardy.*

9.25.2.3 *Potential loss in capital value of land to the east of the railway line.*

9.25.2.4 *Failure to provide any new livestock buildings and handling facilities on land south of the railway once the existing crossings are closed.*

9.25.3 Response to Grounds of Objection

9.25.3.1 The Proof of Evidence of Mr Aidan Nelson (CRCL/P/7/A) outlines the need to close the crossing (known as “College Farm No.2”) currently used by Mr Howard, on grounds of safety. The Proof of Evidence of Mr Stephen Barker (CRCL/P/6/A) outlines the process undertaken by Chiltern in assessing the current use of the crossing, the assessment of the future use of the crossing and the proposals to create a new access.

9.25.3.2 During the pre-application consultation, College Farm was on the market, for sale. We were advised that after a period of marketing, the decision was to offer the land in two lots, one north of the railway to include land and buildings and one south of the railway to include land only. The purpose of this was to increase the saleability and value of the holding. On this basis Chiltern wrote to Mr Howard to expressly confirm that due to the imminent sale of College Farm, Chiltern did not propose to provide accommodation works by way of an access bridge over the railway in return for the closure of the two level crossings. We understand that for personal

reasons, Mr Howard no longer wishes to proceed with the sale of College Farm and he is concerned over the closure of the level crossings.

9.25.3.3 Discussions are continuing with Mr Howard in respect of providing him with a new access to the land to the east of the railway from the Merton – Ambrosden Road. New bridges will be constructed over two watercourses that intersect the course of the new access route. This proposed access will enable Mr Howard to farm his unit effectively and satisfy his wish to diversify his farming enterprises in the near future.

9.25.3.4 In respect of Mr Howard's concern regarding losses in capital values, severance and disturbance I am satisfied that the provisions of the compensation code are adequate to deal with these matters. Any disputes that arise in relation to compensation will be referred to the Lands Tribunal. Furthermore the provisions of sections 53-57 of the Land Compensation Act 1973 offer adequate protection for an owner or lessee who considers their remaining holding incapable of being farmed.

9.25.4 Status and Comments

9.25.4.1 Whilst to date Chiltern has been unable to reach agreement on the points of objection, there are practical

solutions to most of the objection points so that the Scheme will not impact materially on the Objectors use and enjoyment of his land. Chiltern is continuing to work closely with Mr Howard and his advisor to reach a solution which is acceptable to all parties. I expect to provide a further update of progress, towards reaching agreement with this Objector by the time of the Inquiry.

9.26 Objection 249 – Mr D Keyse of JJ Gallagher Limited

9.26.1 Date of Objection – 16 February 2010

9.26.2 Grounds of Objection

9.26.2.1 *Extent of land over which Chiltern is now seeking an interest is considerably more than is reflected in the plan that was previously agreed and attached to the Section 106 agreement over which the Objector has an Option to purchase.*

9.26.2.2 *Although had communications with agents on behalf of Chiltern, we are yet to receive a formal submission from them and therefore must maintain our objections.*

9.26.3 Response to Grounds of Objection

9.26.3.1 Through the development of the outline design of the Bicester to Oxford railway improvements and upgrade scheme in bringing forward the Order Application (CD/1.1), the land requirements to deliver the scheme

have been correctly identified. The proposed engineering for the chord is dealt with in the Proof of Evidence of Mr Stephen Barker (CRCL/P/6/A).

9.26.3.2 I have met with the Objector and discussed with both them and CRCL's engineering team, the prospect of reducing the land required for the Scheme, through accelerating detailed design. At the date of this Proof of Evidence, it remains uncertain whether the land requirements can be reduced.

9.26.4 Status and Comments

9.26.4.1 Work by CRCL engineering team is being undertaken to ascertain whether the land included within the Order (CD/1.2) can be reduced to overcome the Objector's concerns. I expect to be able to update the Inquiry on this matter once this work has been completed and further discussions with the Objector have been held.

9.27 Objection 257 – London & Metropolitan International Developments Limited

9.27.1 Date of Objection – 16 February 2010

9.27.2 Grounds of Objection

9.27.2.1 *The land is already subject to a Planning Consent for mixed use development the achievement of which will*

be materially adversely affected by the loss of land in question.

9.27.2.2 *Land is already being made available for the implementation of the proposed railway link and the Objector does not believe further land to be necessary for its achievement.*

9.27.3 Response to Grounds of Objection

9.27.3.1 Through consultation with the Objector Chiltern has been advised that JJ Gallagher (Objector Number 249) is representing them. CRCL's engineering team is accelerating detailed design to ascertain whether the land requirements can be reduced in this location. At the date of this Proof of Evidence, it remains uncertain whether the land requirements can be reduced.

9.27.4 Status and Comments

9.27.4.1 Work by CRCL's engineering team, is being undertaken to understand whether the land included within the Order (CD/1.2) can be reduced to overcome the Objector's concerns. I expect to be able to update the Inquiry on this matter once this work has been completed and further discussion with the Objector are held.

10 ISSUES RAISED IN THE STATEMENT OF MATTERS

10.1 The Secretary of State issued the Statement of Matters relating to the draft Chiltern Railways (Bicester to Oxford Improvements) Order Application (CD/1.1). The Secretary of State requires the issues identified in the Statement of Matters to be addressed at the Public Inquiry.

10.2 Two of the matters raised concern land and property provisions;

10.2.1 *(6) The likely impacts of the scheme on users of the rights of way network, including:*

(c) the effects of the proposed permanent closure of road, footpath, bridleway and accommodation level crossings of the Bicester to Oxford railway line.

10.2.2 The scheme necessitates the permanent closure of private accommodation level crossings. The need for closure is required on grounds of safety and engineering as set out in the evidence of the Chiltern witnesses. Chiltern has fully assessed the impact that the closure of private crossings will have on those individuals and businesses which rely on permanent access. In most cases alternative bridge structures are being provided to allow safe access across the railway, but in some cases the need for a permanent bridge structure has not been deemed essential to provide an alternative means of access. In these cases alternative access routes are to be provided using existing road or track networks and by providing new connecting roads where

appropriate. In all cases Chiltern is satisfied it has assessed the current use of the accommodation crossing and the need for an alternative. Furthermore, I am satisfied that the provisions of the compensation code will compensate for any financial losses or disturbance caused by the closure of private accommodation crossings.

10.2.3 *(14) Whether there is a compelling case in the public interest for conferring on Chiltern Railways powers compulsorily to acquire and use land for the purposes of the scheme, having regard to the guidance on the making of compulsory purchase orders in ODPM Circular 06/2004, paragraphs 16 to 23; and whether the land and rights in land for which compulsory acquisition powers are sought are required by Chiltern Railways in order to secure satisfactory implementation of the scheme.*

10.2.3.1 It is considered that all of the evidence of the Chiltern witnesses and the totality of the Chiltern case for the Scheme, demonstrates that there is a compelling case for the Scheme. It is further considered that compulsory acquisition and use of all of the land and property permanently and temporarily required for the Scheme, is in the public interest. In addition, it is my opinion that the necessary land for the Scheme can not be assembled on this basis without the exercise of compulsory purchase powers.

11 CONCLUSIONS

11.1 It is Chiltern's purpose to mitigate the effects of the construction of the Scheme and to reduce as far as is possible the impact on private property.

11.2 I am satisfied, that from a land and property perspective, that Chiltern has;

11.2.1 Worked to minimise the extent of land, property and rights both temporarily and permanently required;

11.2.2 Limited the land and property requirements to what is reasonable for a Scheme of this complexity and extent;

11.2.3 Sought to minimise demolition of property and minimise property blight; and

11.2.4 Demonstrated the need for compulsory purchase powers.

11.3 Chiltern has corresponded and/or met with those land and property objectors with an interest as listed in the Book of Reference (CD/1.10). Where there are reasonable opportunities to minimise the impact of the Scheme and it is reasonably possible to address legitimate concerns, Chiltern has, or is proposing to offer undertakings, or to enter into agreements, that regulate the interface, so as to minimise the Scheme's impacts. In many instances, this process is ongoing.

11.4 Where there are inevitable land and property impacts, Chiltern will compensate affected owners in accordance with the statutory Compensation Code and the provisions of the draft Order (CD/1.2).

12 STATEMENT OF TRUTH

12.1 I confirm that insofar as the facts stated in my report are within my own knowledge I have made clear which they are and I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion.

12.2 I confirm that my report includes all facts which I regard as being relevant to the opinions which I have expressed and that attention has been drawn to any matter which would affect the validity of those opinions.

12.3 I confirm that my duty to the Inquiry as an expert witness overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in giving my evidence impartially and objectively, and that I will continue to comply with that duty as required.