

OBJ/44, 45 & 46

WJA Rural Practice

Secretary of State for Transport
Transport and Works Act Orders Unit
Zone 1/31
Great Minster House
76 Marsham Street
LONDON
SW1P 4DR

4th August 2010

COPY

By Guaranteed Next Day delivery

Dear Sir,

**Transport and Works Act 1992
Proposed Chiltern Railways (Bicester to Oxford Improvements) Order**

Further to your letter of the 17th June 2010, please find enclosed a copy of the Statement of Case on behalf of the following clients:

1. Mr Jesse Benjamin Honour – TWA/10/APP/02/OBJ/46
2. Mrs Margaret Lily Honour – TWA/10/APP/02/OBJ/44
3. Mr Jesse Scott Honour – TWA/10/APP/02/OBJ/45

Please do not hesitate to contact me in the event of any queries. I confirm that I am sending a copy of this letter and of the Statement of Case with accompanying documentation direct to the solicitors acting for Chiltern Railways in accordance with your directions.

Yours faithfully,

Will Abbott FRICS FAAV
WJA Rural Practice Ltd
Company number 07254171 registered in England & Wales

The Transport and Works Act 1992

The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006

Proposed Chiltern Railways (Bicester to Oxford Improvements) Order

To:

The Secretary of State for Transport
c/o Transport and Works Act Orders Unit
Department for Transport
Zone 1/31, Great Minster House
76 Marsham Street
LONDON SW1P 4DR

Your ref: TWA/10/APP/02/OBJ/46
TWA/10/APP/02/OBJ/44
TWA/10/APP/02/OBJ/45

STATEMENT OF CASE

**for and on behalf of Mr Jesse Benjamin Honour and Mrs Margaret Lily Honour, together with their son Mr Jesse Scott Honour ("the Objectors")
of 8, The Broadway Charlton-on-Otmoor Kidlington OX5 2UB**

DP numbers:11008, 11009, 12002, 12003,12004, 12a003 and 12b001 and in respect of the private road known as Mansmoor Lane and the Public Bridleway (under the Definitive Map number BW 157/4) and the Public Footpath (under the Definitive Map number FP 157/2) and land shown on Ordnance Survey Sheet number SP5517 as field parcel numbers 6956 and 7255.

1. Mansmoor Lane is not capable of taking increased levels of traffic; and certainly not construction traffic, although it is accepted that some construction methodology and importation of materials can be effected directly from the existing railway line. The Objector will require road to be upgraded by Chiltern Railways with an ability to carry HGV **prior to commencement of works**.
2. The Objectors are concerned that the ditches lying to either side of Mansmoor Lane are maintained in good condition by Chiltern Railways both during the construction process and in perpetuity thereafter so as not to prejudice the track surface and condition of Mansmoor Lane.
3. The Objectors require clarification of the likely intensity of use of Mansmoor Lane as an "accommodation road" by Chiltern Railways both during the construction process and in perpetuity thereafter.
4. The Objectors will require uninterrupted access to land under their control as partners in the farming partnership trading as "J B & M L Honour + Son", over Mansmoor Lane (the subject land and other land farmed by the Partnership lies with frontage to the eastern side of Mansmoor Lane) both during the construction process and in perpetuity thereafter.

5. The Objectors require clarification of noise mitigation measures to be undertaken by Chiltern Railways both on a temporary basis during the construction process and in respect of the use and enjoyment of the property in perpetuity thereafter.
6. The Objectors require clarification of mitigation measures to be undertaken by Chiltern Railways during the construction process to minimise contamination and damage from dust and dirt to property and livestock.
7. Whilst the Objectors are prepared to concede that land might be required on a temporary basis during the course of the railway and associated ancillary construction works (and there is no objection raised to such use provided that there is compensation payable for temporary losses, etc. arising from this occupation), Chiltern Railway have not demonstrated need for permanent acquisition of land or rights from this Objector.
8. The Objector is concerned that his land will be compulsorily acquired from him merely to provide access and to accommodate the needs of a neighbouring landowner, rather than any need arising from the Railway scheme itself. The land parcel shown on Ordnance Survey as SP5517 7255 (shown as DP numbers 11008 and 12003) is traversed by a Bridleway and it is reported that there is a Legal Agreement in place whereby in return for a perpetual annual payment vehicular access is granted to users of land owned by the BBOWT lying to the north-west of the existing railway line. No case has been presented by Chiltern Railways to justify extending those rights of access or for allowing acquisition of freehold lands or any parts thereof merely to site a replacement building for a neighbouring landowner.
9. The Objectors assert that the principle of Greater Hardship applies; and robustly reject a callous and unsympathetic scheme that will only impose ill-will and bad feeling between neighbouring farmers.
10. The right is reserved to claim costs.

Documentation

- Copy of letter from Ardent Management dated 24th March 2010 - attached
- Copy of letter to Mr Paul Clarke MRICS of Ardent Management dated 17th July 2010 – attached
- Copy of letter from Ardent Management dated 26th July - attached
- Copy of letter to Mr Paul Clarke MRICS of Ardent Management dated 3rd August 2010 – attached
- Plan to show the relative land holdings of the Objectors and their neighbour - attached



Signed

Will Abbott FRICS FAAV

Dated: 4th August 2010

Agent for and on behalf of **Mr Jesse Benjamin Honour (Obj. 46) Mrs Margaret Lily Honour (Obj. 44) and Mr Jesse Scott Honour (Obj. 45)**

WJA Rural Practice 1, Church Street Twyford Buckingham MK18 4EU

Our Ref: PC/P3.180.2.1/EG3/001and PC/P3.191.2.1/EG3

Mr. W Abbott
WJA Rural Practice
1 Church Street
Twyford
Buckinghamshire
MK18 4EU

COPY

24 March 2010

Dear Mr. Abbott,

**Proposed Chiltern Railways (Bicester to Oxford Improvements) Order
Objection Numbers 42 to 46**

I refer to your letter dated 11 February 2010, addressed to the Secretary of State for Transport. Please accept this letter as a reply in respect of all of the above numbered objections.

Our responses to the point of objection raised on behalf of your clients are set out below:

1. I am prepared to recommend to my client that it enters into an agreement with your clients stating that Mansmoor Lane will be kept in the condition that it is prior to the commencement of the works until their completion, as far as that is reasonably possible. This would be based on a survey of the road prior to works commencement.
2. As above, I would recommend that the drainage is similarly maintained throughout the period of the works. I cannot recommend that the drainage is kept in such a condition in perpetuity thereafter as Chiltern will only need to use the track during the works. Subsequent maintenance will remain with the users of the Lane, has now.
3. The actual usage of the Lane during construction will not be known until detail design has been carried out. This work will not be carried out until the order powers are gained. However, I am prepared to recommend to my client that it agrees to keep

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the access free for your clients use at all times, as far as is reasonably possible. It is envisaged that the road will be used as an Accommodation Access by those who already have rights of access along the lane. This however is again subject to detailed design based on the environmental requirements in the area.

4. As above.
5. Noise impact during the works is discussed in the Code of Construction Practice, submitted as part of the environmental statement. This sets out the means by which construction noise will be mitigated. Home Farmhouse is not identified in the environmental statement as being subject to construction or operational noise impacts of any significance, due to its distance from the railway.
6. Measures to mitigate construction impacts are dealt with in the Code of Construction Practice, as mentioned above.

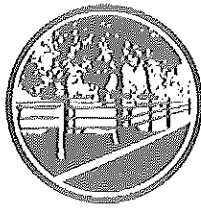
I look forward to hearing from you further, if you have further questions arising from the above, or if your clients would like to enter into an agreement as I have suggested above.

Yours sincerely,



Paul Clarke
Associate director

cc C Baker ERM



WJA Rural Practice

Mr Paul Clarke – Associate Director
Ardent Management Ltd.
PO Box 3050
Wokingham
RG40 3YD

17th July 2010

COPY

Dear Mr Clarke,

Draft Chiltern Railways (Bicester to Oxford Improvements) Order
Objection number 46: Mr Jesse Benjamin Honour
Objection number 44: Mrs Margaret Lily Honour
Objection number 45: Mr Jesse Scott Honour

I write in response to the letter of the 15th instant from your colleague, Mr Peter Gibbard. In accordance with our subsequent telephone discussions, I am afraid that I am of the opinion that I was never sent your letter of the 24th March 2010. I am grateful to Mr Gibbard, however, for his e-mail of yesterday afternoon attaching a copy of the said letter.

1. You will please in future deal with representation and objections on a case by case basis: the matters raised on behalf of my above clients differ substantially from those raised on behalf of their neighbours.
2. Your letter of the 24th March does not address the most important objections raised by my clients in February, viz. that of knowing how much of their land will be required for the scheme – either on a permanent or temporary basis; how much of their land will be required for restitution works in favour of the neighbouring farmer; what further rights of way or access are to be granted and to whom over their land.
3. We met at Holts Farm on the 25th January and during the course of that (third party) meeting you asserted that land in the ownership of my above clients would be compulsorily acquired for the purpose of erecting a replacement building for the benefit of the neighbouring farmer, Mr Paul Miller. The Representation and Objection number 8 on behalf of my above clients was drafted as a result.
4. During the course of our discussions of the late afternoon of Friday 16th July, you once again asserted that land belonging to my above clients will be acquired to accommodate the need for a replacement building for Mr Miller. Please confirm your requirements in writing.

contd.

5. I must immediately direct you to the matter of greater hardship. My clients have a disparate holding in and around the parish of Charlton-on-Otmoor that extends, in total to some 19.6 hectares (48 acres) or thereabouts. Mr Miller is reported to own (inter alia) a block of land adjoining to the north-east (and to the south of the railway) representing part only of the land that he farms, and which extends alone to 48.6 hectares (120 acres) or thereabouts. It immediately begs the question of why any replacement building for Mr Miller must be placed on the limited land available to my client rather than his own land?

6. Does the answer to this question lie in the SSSI land designation imposed by Natural England on the land owned by Mr Miller? If yes, then I seek urgent written justification of the need for Mr Miller to be provided a replacement building; and further written confirmation of the recommendations from Natural England for the siting of that replacement building.

I emphasise to you in this open letter that my clients will both comply with legislation and will also co-operate with Chiltern Railways in their aspirations to improve the Oxford to Bicester railway line. It is probably not possible to construct a cogent argument in opposition to any requirement for land acquisition for the purposes of the railway infrastructure; or for a temporary lay-down area for the construction phase.

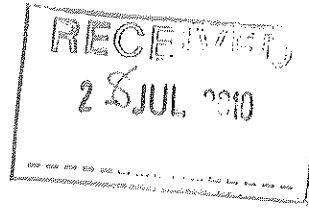
To date, apart from the relatively vague mutterings of comfort about how Mansmoor Lane will be maintained during the course of the construction works as set out in your letter of the 24th March (but only received yesterday), there is no correspondence on my file from either you or your clients to explain how much land you wish to acquire from my clients; for what purpose that land will be acquired; or, if it is so acquired, how much compensation you might propose they should be awarded. I feel that my clients are being treated with disdain and your disingenuous and opaque policy of hiding behind the legislation as an excuse for failing to negotiate in a straightforward and transparent way will, with respect, only encourage landowner resistance.

I will be absent from my office between the 22nd to the 31st July inclusive but would welcome specific **written** answers to the points set out above upon my return.

Yours sincerely,



Will Abbott FRICS FAAV
WJA Rural Practice Ltd.
Company number 07254171 registered in England & Wales



Our Ref: PC/P3.180.2.1/EG3/002

Mr Abbott
1 Church Street
Twyford
Buckingham
MK18 4EU

COPY

Dir Tel – 07900 052307
E-mail – paulclarke@ardent-
management.com

26th July 2010

Dear Mr Abbott,

Draft Chiltern Railways (Bicester to Oxford Improvements) Order

I write further to your letter of 17th July 2010 regarding Margaret Honour (OBJ44), Jesse Scott Honour (OBJ45) and Jesse Benjamin Honour (OBJ46).

As we have discussed, the letter to you was posted by my colleague peter Gibbard and so I have no doubts that it was put into the postal system. I appreciate that you do not agree with this. I am however surprised that you had not sought a response to objections on behalf of your clients until we wrote to you asking why we had not heard from you.

1. Noted.
2. As set out in my letter, Transport and Works Act Orders and Private Bill applications do not specify the exact extent of land to be acquired or used, as other Order applications do. This is as required by The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 and explained in the Guide that accompanies the Rules. This detail will not be known until detailed design has been completed, which is not done until Orders are made.
3. The draft Order states that Plot number 12002, 11009, 12003 and 11008 are required for "Provision of accommodation works, access and temporary access". As you know from earlier discussions the accommodation works anticipated are the erection of a barn to replace a facility lost by another landowner.

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4. As above.

5. The plots of land in question currently appear to be only used as access. Your client will be compensated for the loss of the land. A replacement barn cannot be built on Mr Millers land as it is all designated as a SSSI. We have consulted with Natural England who very closely control the use of that land. This is the only plot of land that is close enough to Mr Millers land to enable him to continue farming his land in accordance with Natural England requirements. Hence, re-sighting the barn here is an Accommodation Work.

6. If you require confirmation of Natural England's requirements within the SSSI I would suggest that you contacted them, so that you obtained it directly from them.

Compensation is assessed under the compensation provisions as are set out in the draft Order. This is determined at the appropriate valuation date for the powers used, not during the application for the powers.

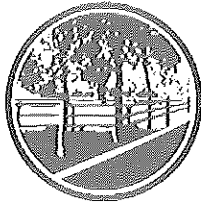
Will you please clarify where you feel that Chiltern has failed to comply with the above mentioned Rules to substantiate the accusations you make in your last but one paragraph.

In previous correspondence I did offer to propose to Chiltern that it entered into protective agreements with your clients. Does your lack of response to this offer indicate that your client does not want to take it up? Will you please confirm that your clients do not require this protection.

I too will be away from the office, until 10/8/10. In my absence you can contact my colleague Peter Gibbard if you wish to progress matters in my absence.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'P. Gibbard', written in a cursive style.



WJA Rural Practice

Mr Paul Clarke – Associate Director
Ardent Management Ltd.
PO Box 3050
Wokingham
RG40 3YD

3rd August 2010

COPY

Dear Mr Clarke,

Draft Chiltern Railways (Bicester to Oxford Improvements) Order

Objection number 46: Mr Jesse Benjamin Honour

Objection number 44: Mrs Margaret Lily Honour

Objection number 45: Mr Jesse Scott Honour

Thank you for your letter of the 26th July. I take particular issue with points 3, 4, 5 and 6:

- Point 3: plot nos. 12002, 11009, 12003 and 11008 are required for "provision of accommodation works, access and temporary access".

In my opinion you have verbally indicated in the past that you will seek to provide a replacement barn for one claimant (i.e Mr Paul Miller) on land owned and occupied by my clients. As such this replacement barn **cannot** be an "accommodation work" because it is not being erected on retained land of the particular claimant (i.e Mr Paul Miller), but rather on land owned and occupied by my clients.

- Point 4: proposed replacement building for Mr Miller.

As above.

- Point 5: greater hardship.

It is nonsensical and derisory for you to assert that the plot numbers 12002, 12003, 11009 and 11008 owned and occupied by my clients "appear to be only used as access". Following your return to the office with effect from 10th August, please contact me for a meeting on site with my clients and myself to look in detail at the agricultural land management practices undertaken on an annual basis by my clients on this land.

You then go on to assert that "this is the only plot of land that is close enough to Mr. Miller's land to enable him to continue farming his land in accordance with Natural England's requirements. Hence re-si(gh)ting the barn here is an Accommodation Work".

As far as I can see, there are 14(no) enclosures with frontage to the Mansmoor Lane, that border the land owned and farmed by Mr Paul Miller. Why is land owned by my clients considered in preference over adjoining paddocks?

- Point 6: Natural England.

I do not require proof of Natural England's management requirements; merely written evidence either (at the very least) that they will not concede to the erection of a barn on Mr Miller's land; or, that they require the proposed replacement barn to be erected on land owned by my clients.. This appears to be the basis of your requirement for land acquisition from my clients rather than the railway scheme per se, and therefore my clients will continue to resist your efforts to compulsorily acquire their land for the benefit of Mr Miller rather than for the Chiltern Railways scheme.

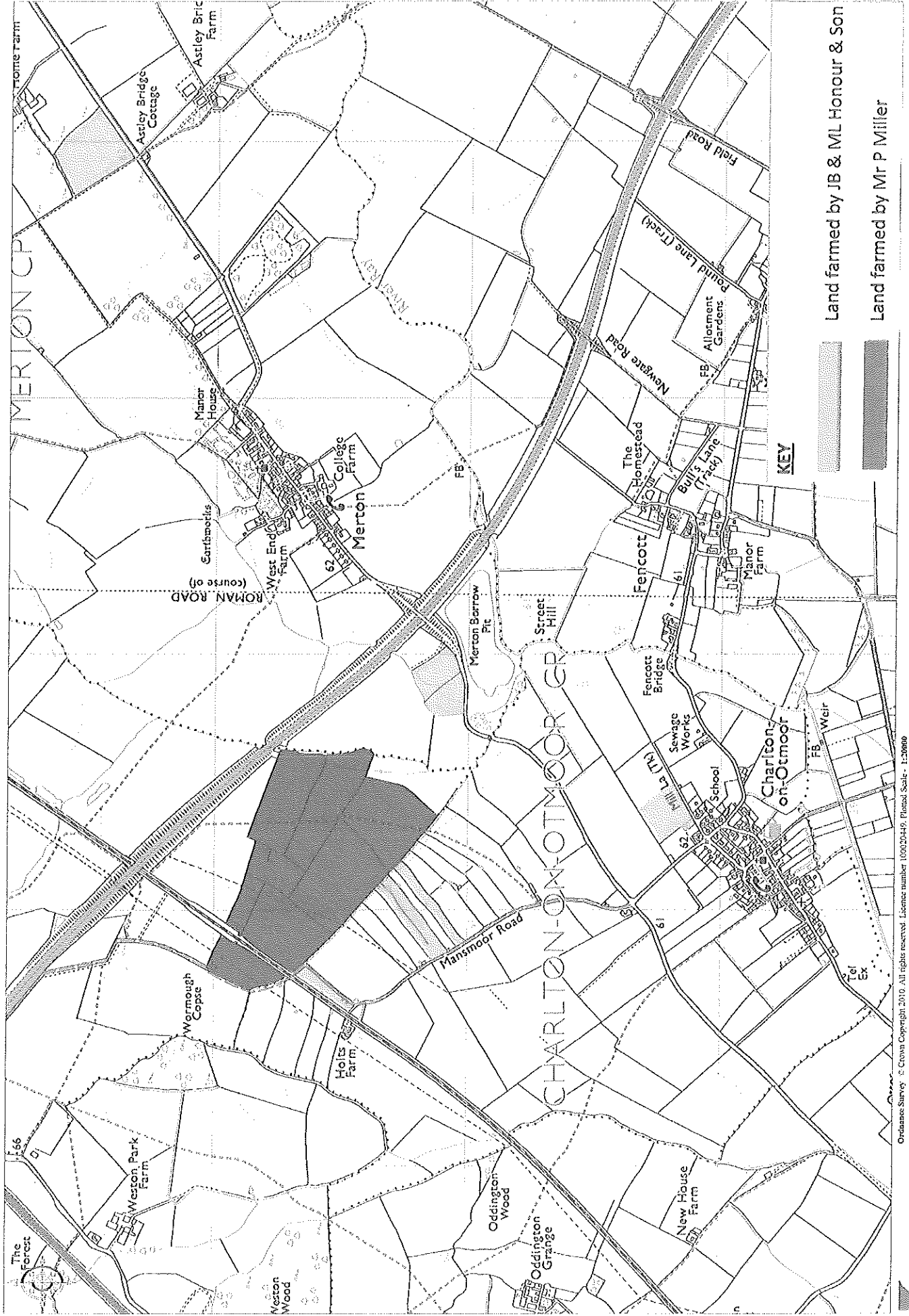
Otherwise, I confirm that I remain of the opinion that your efforts at compromise remain scant and inadequate: you have never sought to meet with the Objectors or previously entered into any form of correspondence with them (or myself as their appointed agent) other than service of official notices. To date on my file, I have but one single letter from you: so please tell me when and in which letter you purport to have offered to enter into a "protective agreement" with my clients, and send me a copy of same by return.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'W.A.' with a horizontal line underneath.

Will Abbott FRICS FAAV
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Company number 07254171 registered in England & Wales

Three Acres Farm Charlton-on-Otmoor OX5 2UB



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