

# Bircham Dyson Bell

Solicitors and Parliamentary Agents

Bircham Dyson Bell LLP  
50 Broadway  
London  
SW1H 0BL

Tel +44 (0)20 7227 7000  
Fax +44 (0)20 7222 3480  
DX 2317 Victoria  
www.bdb-law.co.uk

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

Your Ref

Our Ref  
ADW/Y062884

Date  
6 August 2010

BY EMAIL

Dear Sir

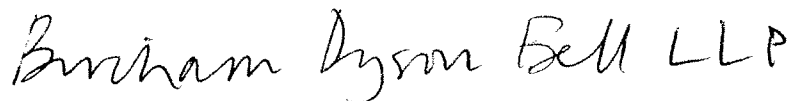
**Transport and Works Act 1992**  
**Objection to the Draft Chiltern Railways (Bicester to Oxford Improvements) Order**  
**Objection of Lewis and Sarah Butler (Obj 212)**

We refer to your letter of 17 June, referring to the intention to hold an inquiry into the application for the above Order. You requested that a Statement of Case be served on you by 6 August.

We have received a response from the promoter to our objection (and its Statement of Case) and are in correspondence with the promoter with regards to settling the objection by way of agreement.

Pending the outcome of these discussions, as our letter of objection sets out in detail the issues on which our client objects, we would ask that our letter of objection be taken as our Statement of Case. Whilst we have not settled on a full list of the documents we would intend to rely on at the inquiry should that be necessary, the documents listed in the promoter's Statement of Case would form the majority of such documents.

Yours faithfully



**Bircham Dyson Bell LLP**

Direct Line: +44 (0)20 7783 3441  
Mobile: +44 (0)7932 508210  
Email: anguswalker@bdb-law.co.uk

cc. Eversheds LLP (by email)

# Bircham Dyson Bell

Solicitors and Parliamentary Agents

Bircham Dyson Bell LLP  
50 Broadway  
London  
SW1H 0BL

Tel +44 (0)20 7227 7000  
Fax +44 (0)20 7222 3480  
DX 2317 Victoria  
www.bdb-law.co.uk

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

Your Ref

Our Ref  
ADW/Y062884

Date  
17 February 2010

Dear Sir

## **Transport and Works Act 1992 Objection to the Draft Chiltern Railways (Bicester to Oxford Improvements) Order**

This is a letter of objection to the proposed Chiltern Railways (Bicester to Oxford Improvements) Order ('the Order') applied for on 6 January 2010 by the Chiltern Railway Company Limited ('Chiltern'). The objection is made on behalf of Lewis and Sarah Butler ('the Objectors') of 23 Lime Road, Oxford OX2 9EQ, who own the property at 53 London Road, Bicester OX26 6BU ('the Property').

### **Background**

The Order is for works that would enable trains to run from London Marylebone to Oxford via Bicester. The Objectors own the freehold to the Property and currently let it out. The Property is on the north side of London Road nearest to the railway to its west. The land owned by the Objectors is triangular, with the long side of the triangle adjoining the railway and the short side adjoining London Road.

The Objectors consider that the Secretary of State has prejudged this application by granting a franchise extension to Chiltern in return for the Evergreen project that includes this application. Additionally, the public interest in the project is not sufficient to overcome the harm it will cause to private interests and therefore it should not be allowed to go ahead. If it does go ahead, the Objectors are concerned that without further mitigation (and potentially in any event) the value of the Property will significantly decrease as a result of both the construction and operation of the works.

The Objectors' specific concerns can be summarised as follows:

- (a) the Secretary of State appears to be biased, having already backed this project;
- (b) the benefits of the project are not sufficient to overcome the harm that will be caused to private interests;

# Bircham Dyson Bell

- (c) the currently-proposed frequency of trains will mean that access to the Property will be severely restricted for most of the day;
- (d) queuing traffic at the London Road level crossing will have a severe impact on air quality at the Property;
- (e) the project should not be allowed to go ahead without proper mitigation of its noise effects on the Property;
- (f) a scheme for preventing or rectifying damage to the property should be put in place before the project can go ahead;

Details of each of these concerns are set below.

## **Bias or appearance of bias**

The Secretary of State for Transport, who will decide this application, is biased or has the appearance of bias in doing so. On 14 January 2010 he granted a 7½ year franchise extension to Chiltern on the understanding that they would secure this scheme. The press release on the DfT website was headed thus:

*“Chiltern Railways are to be granted an extension to their rail franchise in return for making £250m of improvements which will cut journey times to the Midlands and could see a new main line from London Marylebone to Oxford established, Transport Secretary Andrew Adonis has announced.”*

The Oxford Mail reported this thus on 15 January 2010:

*“Chiltern Railways has secured the right to run trains between Oxfordshire and London until 2021 after the Government yesterday backed the firm’s plans to create a second route from Oxford to London.”*

From those reports the Government has or appears to have already decided to approve this scheme before considering the objections to it.

## **Benefits of the project**

The principal aim of the project is to provide an alternative route between London and Oxford, which at first sight appears to be a commercial matter rather than one of public interest. It will provide additional capacity between London and Oxford, but no evidence has been put forward to demonstrate that capacity is needed. The project will provide an alternative route during the construction of Crossrail and the reconfiguration of Reading Station, but these are only short term and indeed the latter will increase capacity on the Great Western Main Line once it is complete.

The only new direct routes being provided by the project are between Islip and London, which will benefit very few people, and Oxford and High Wycombe. The promoter has not provided

# Bircham Dyson Bell

any figures as to how many people are likely to take advantage of the latter route but in the absence of evidence to the contrary this appears likely to be small.

Although one benefit of rail over road transport in general is a reduction in carbon emissions, the Environmental Statement (ES) accompanying the application states that emissions will increase as a result of the project due to pent up demand for road travel by 3,600 tonnes of carbon dioxide per annum by 2026 (section 14.8).

The Objectors consider therefore that the test that there be a compelling case in the public interest to justify the acquisition of over 400 parcels of land is not made out and so the Order should not be made.

## **Access to the Property**

Currently, around three freight trains pass along the stretch of railway north of Bicester Town station per day, which are the only occasions on which the London Road level crossing is closed. The operation of the scheme will allow two Chiltern trains, two East-West rail trains, one Cross-country train and one freight train to pass every hour, which means the barrier being closed every ten minutes.

This is likely to cause queuing traffic in both directions – the rail link is unlikely to remove traffic from a road running perpendicular to it, as suggested by the ES (volume 3, page 142), and much of the traffic cannot avoid the area, as it is accessing it. Vehicular, bicycle and pedestrian access to the Property will be severely restricted for long periods. If the level crossing barriers were moved closer to the Property this would make matters worse. Increased congestion also has the potential to impact on the safety of residents of the Property.

The reconfiguration and increased use of the junction of Station Approach and the addition of a taxi rank and a further bus route visiting the station are also likely to have an effect on access to the property and general disturbance in the area.

The project should not be allowed to go ahead without adequate mitigation of these impacts being put in place.

## **Air quality**

The Property not only lies next to the London Road level crossing but is also near Bicester Town station. Trains slowing down and accelerating to and from the station as well as traffic queuing at the level crossing with their engines running will have an undoubted impact on air quality at the Property, despite the ES concluding that it will not (section 13.6). This may be because air quality from road traffic during operation has only been assessed at Station Approach in Bicester and not at the level crossing.

No mitigation measures are proposed to deal with air quality issues during the operation of the railway. The Objectors would wish suitable mitigation measures to be put in place to eliminate any significant air quality issues that were predicted or actually occurred, both from construction and operation

# Bircham Dyson Bell

## **Noise**

The ES identifies the Property (it must be one of the ‘closest properties on London Road’ as it is the closest) as a property that is likely to be affected by high levels of noise impact from the construction and operation of the railway. This noise would cause undue interference with the Objectors’ tenants’ peaceful enjoyment of the Property and would affect the value of the Property significantly.

The most significant noise impacts will result from the operation of the railway line once the upgrading works are completed, but there will also be noise from construction activity, as a construction compound is planned nearby. As already mentioned, the number of trains passing along this section of the route has the potential to increase from three trains per day to six per hour. The level of noise from passing trains will therefore be significantly increased.

The ES estimates that there will be moderate noise impacts at the Property after Phase 1 of the project and substantial noise impacts after Phase 2, even after mitigation. This is unacceptable and further measures should be undertaken to reduce predicted noise to an acceptable level, and to deal with unacceptable noise levels if they actually occur.

Limits on the hours of construction and operation, the rates of acceleration and deceleration of trains, measures to limit noise from braking and revving of engines, the siting, quality and maintenance of track joints in the vicinity, the erection of barriers and double glazing are all measures that Chiltern should consider (among others) in order to mitigate the noise effects of the scheme on the Property so that they are at an acceptable level at all times of day and night.

## **Potential for damage**

The ES states that the expected vibration from 5m from the railway is much higher than the existing freight trains cause, and so it is both this impact and the much greater frequency of trains that concerns the Objectors. The ES concludes that vibration impacts will occur at the Property if there is no mitigation, and concludes that “specialist resilient track forms will be used, if practicable” (page 6-42). This does not give sufficient comfort to the Objectors that vibration effects will be reduced to acceptable levels. The Property has suffered subsidence in the past and the Objectors would wish to ensure that this was not aggravated by the project, either during construction or initial or later operation.

## **Conclusion**

The Objectors would wish to have their concerns satisfied prior to any public inquiry held in the application for the Order. Pending the outcome any such discussions, they would wish to have the opportunity to appear at any public inquiry.

# Bircham Dyson Bell

Please send any correspondence relating to this objection to this address, marked for the attention of Mothiur Rahman.

Yours faithfully

## **Bircham Dyson Bell LLP**

Direct Line: +44 (0)20 7783 3421

Mobile: +44 (0)7973 316942

Email: [duncanconnor@bdb-law.co.uk](mailto:duncanconnor@bdb-law.co.uk)