

STATEMENT OF CASE

OF

MRS ROSEMARY HARRIS

in relation to the

Transport and Works Act 1992

Transport and Works (Applications and Objections Procedure) Rules 2006

The Chiltern Railways (Bicester to Oxford Improvements) Order

Public Inquiry



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1. Background

1.1. Mrs Rosemary Harris is the owner and occupier of 396 Woodstock Road, Oxford. Mrs Harris is adversely affected by the terms of the proposed Chiltern Railways (Bicester to Oxford Improvements) Order and has formally objected to the making of it in its current form.

1.2. Mrs Harris' property is a substantial 17-bedroom residence used as both her principal residence and as accommodation for students. The property falls within limits of land to be acquired or used for work number 2 in the County of Oxfordshire. It is particularly adversely affected by the proposals for lowering of track through Wolvercote Tunnel, including powers under Article 27 of the Draft Order for compulsory acquisition limited to ground anchor rights.

1.3. Mrs Harris considers there will be extensive effects from the proposed works resulting in considerable disruption during construction and permanent long term adverse effects on her property. In addition, more suitable alternative routes have been discounted prematurely by the Promoters of the Order.

1.4. Mrs Harris' principal concerns are set out below.

2. Increase in Noise and Vibration

2.1. The draft Order envisages a significant increase in train movements and speeds along the route, including increased hours of operation and faster trains increased in passenger capacity and carriage length. There are also planned increases in freight train operation, including use for long distance freight services, and it is possible that the demand for freight trains will

increase further if the former South East England Regional Assembly's suggested increases in minerals and aggregate extraction in Oxfordshire are implemented. Any increases will result in increased levels of noise and vibration, and the draft Order proposals for new track are likely to bring trains closer in proximity to our client's property with a consequent permanent increase in levels of noise and vibration. The current operational railway already results in noise and vibration to the detriment of the property and the anticipated increase will mean that such train noise will be overwhelming in the garden of Mrs Harris' property and will necessitate windows remaining closed within the property at all times.

- 2.2. It is anticipated that cracking and structural defects will be greatly increased at the property as a result of increased number of trains and increased size and frequency of operation on the line. No measures appear to have been identified to assist in ensuring cracking and structural damage to the property does not occur. Mrs Harris fears that subsidence may also be an issue and requires details of what measures are being taken to protect properties from subsidence. To date no technical details of how the Promoters will deal with this issue have been provided.
- 2.3. The proposals under the draft Order will also result in night-time construction impacts on Mrs Harris' property in Woodstock Road, and those impacts are likely to be unacceptable without significant and extensive mitigation measures to alleviate disturbance from noise, vibration, light pollution and activities of night-time working. It is noted that 24-hour construction activity will occur within Wolvercote Tunnel.
- 2.4. Mrs Harris notes the proposals for adherence to a code of construction practice, and that it will encapsulate the relevant statutory codes. The provisions contained within it are not considered sufficiently comprehensive to alleviate or mitigate the adverse impacts of the scheme to any extent

likely to prove acceptable to those immediately neighbouring or within the limits of deviation for the scheme.

3. Loss of Business

3.1. Mrs Harris' business, which is run from 396 Woodstock Road, is likely to suffer significant adverse effects from the works proposed under the draft Order and from the anticipated operational effects of the upgraded railway in due course. Her business involves the hosting of students in student accommodation, including accommodation at Woodstock Road. If those students are adversely affected by noise, both during construction and operation, and are unable to study at the property, loss of income will arise. Mrs Harris relies on this income to finance her current mortgage on the property, and can provide full financial details in due course. Loss of income as a result of the scheme will occur unless significant and extensive mitigation measures are employed.

3.2. Mrs Harris is also fearful of future works to the proposed railway and improvements and upgrades that may be carried out under Permitted Development Rights once the railway is operational. These activities are likely to result in disruption, noise, inconvenience and potential further loss of business. Issues of air quality are also a concern.

4. Operational concerns

4.1. Mrs Harris is particularly concerned that the future operation of the railway will result in quiet enjoyment of her property being so adversely affected as to significantly affect living conditions. The anticipated noise levels will not be acceptable within the property without environmental mitigation measures. Operational issues such as trains using their horn or whistling before entering and again on exiting the Wolvercote Tunnel are of concern, as the tunnel entrance and exit are in close proximity to the property on

Woodstock Road. Mrs Harris also has concerns that the measures proposed to reduce noise caused by the wheel rail interface would not be maintained in practice. Details currently available of speed restrictions and night-time operation also cause concern and no mitigation measures have been proposed that are sufficient to address these concerns.

- 4.2. Under the current operational regime there is a problem with the presence of rats in and around the railway tunnel. An increase in the severity of this health hazard is envisaged, especially as it is understood effluent will be deposited directly from trains on to the railway line. It is currently Mrs Harris' practice to telephone the railway operators at frequent intervals to request baiting of the railway track at the entrance to the tunnel to keep the vermin population under control. The current situation will be aggravated as a result of the proposals in the draft Order. Again, no reassurances on operational methods to ensure control of vermin have been proposed.

5. Mitigation Measures

- 5.1. Mrs Harris will require significant and extensive mitigation measures which do not appear to have been offered as a standard measure for adversely affected properties or envisaged as necessary at the present time. As an occupant of a property near to the Wolvercote Tunnel, noise attenuation measures will be necessary to allow the property to continue to be utilised. Some noise barrier installation in the garden of the property to address the entry and exit of trains to the Wolvercote Tunnel may be required, and should be offered as part of the mitigation and protection measures for 396 Woodstock Road. In addition, the property is not currently fully double-glazed and should benefit from provision of full double-glazing provided by way of mitigation to minimise noise, as it is anticipated the property will suffer substantial noise impact. The installation of anti-vibration measures may also alleviate adverse impacts, particularly cracking and structural undermining, and should be in place to mitigate the effects of the Order. An

independent surveyor should be appointed by the Promoters to act for Mrs Harris and assess these risks and recommend preventative measures to be implemented by the Promoters. Measures such as welded track, rail dampers and track of the requisite quality and specification to allow the quietest possible operation should be the minimum specification for proposals to upgrade the railway as proposed in the draft Order. The rolling stock to be used in connection with the upgraded facilities will also need to be of the highest specification and standard to ensure operations are at the quietest level possible.

5.2. Concerns also arise in respect of the construction period of the railway should it be authorised under the draft Order. The increased vehicular movements to service the construction of the proposed works will result in heavy goods vehicles increasing in number and frequency within the local road networks. There is also the possibility of increased debris on the roads and wheel-washing facilities should be in place to ensure safety is maintained on the surrounding rail network.

5.3. The Wolvercote Roundabout is already at full capacity and the proposals for additional car parking at Water Eaton will exacerbate the situation in respect of that roundabout and access in and out of Mrs Harris' property will be considerably more difficult as a result of the proposals. In addition to concerns about the immediate access to her property, the proposals are likely to increase traffic congestion on the A34 and Oxford ring road generally. It also appears that the impact of commuters on any future Northern Gateway development has not been fully assessed. Conditions and mitigation measures to meet these points should be imposed by the Inspector.

6. Ecology

- 6.1. The proposals are likely to affect wildlife in the locality and in the immediate vicinity of 396 Woodstock Road and within the limits of deviation. The non-technical summary of the Environmental Statement refers to the adverse affect on bats roosting in the Wolvercote Tunnel and to the long-term affects on badger setts in the area. Proposals to protect ecology and habitats are uncertain. Conditions to ensure there is no net effect on habitats and wildlife should be imposed with strict conditions for monitoring and long term maintenance of mitigation measures.

7. Design

- 7.1. Mrs Harris has significant concerns in relation to the design and specification of the proposals, and whether all reasonable measures will be taken to reduce the impact of the proposals on her property. In particular she has concerns in relation to the specification for the rail track, track bed, engines and carriages, track dampeners', and the increased noise and vibration which may be caused if the Promoters are not required to use the latest technological developments in these areas.
- 7.2. Mrs Harris also has particular concerns in relation to the design of the ground anchors which are proposed to be placed on her property. The scale, design and siting of the anchors could significantly affect the impact of the proposals on Mrs Harris' property. At present, Mrs Harris has no idea of the detail of the ground anchors proposed and it should be a condition imposed by the Order that such anchors should be of the minimum number possible within Mrs Harris' property.
- 7.3. Mrs Harris is not clear what affect the ground anchors on her property would have for her ability to improve her property in the future. Mrs Harris had previously commissioned plans for nine studio flats to be erected in that

part of the garden, although an application for planning permission was never submitted. Mrs Harris has concerns that the ground anchors may prevent her from pursuing this type of improvement to her property in the future. If this is the case, it will impact on the value of her property and potential redevelopment of it.

7.4. The proposals for the new habitat for bats, although welcome from an ecology stance, are of concern to Mrs Harris, as these would require significant groundworks to be carried out on the land adjacent to her property. Mrs Harris is concerned that this would result in an additional risk to her property. Mrs Harris questions the siting of this proposal and alternatives away from residential property should be explored for this.

7.5. Mrs Harris is also not clear what level of landscaping would be maintained following the construction works. The removal of the current landscaping between her property and the railway would result in a significant loss of privacy and increase in noise pollution. She is concerned to ensure that any trees or hedgerows which would need to be removed during construction would be replaced with suitable replacements.

7.6. Mrs Harris is also unclear of the design proposals for Wolvercote Tunnel. Although all the concerns mentioned in this statement would still be relevant, Mrs Harris would be more supportive of the scheme if a cut and cover tunnel was constructed alongside her property and that of her neighbours' properties.

8. Compensation

8.1. Mrs Harris' objection is not solely an objection on potential compensation for loss and damage. However, matters of compensation are of relevance and, at the present time, the promoters of the draft Order have failed to offer any assurances in respect of mitigation measures such as sound

barriers, noise attenuation measures, working practices and codes of practices for night-time working, double-glazing and underpinning should properties be at risk of subsidence. Mrs Harris also notes that no compensation has been offered in respect of the inevitable noise, dust, and general interference she will suffer during the proposed construction works.

- 8.2. Mrs Harris is also concerned that no compensation has been offered in respect of payment of fees for advice from surveyors and legal representatives. It has been necessary for her to seek professional advice to protect her interests. Her property is subject to interference, but she has not been offered any reimbursement for the costs of a surveyor to professionally assess the impact on her property. Mrs Harris would also require compensation in relation to any loss of rent caused by the construction and operation of the proposals. Mrs Harris anticipates that the construction period will have a severe effect on the occupancy levels of her property.
- 8.3. Mrs Harris continues to object to the making of the Order on the basis that sufficient compensatory measures have not been put in place to allow objectors to secure satisfactory mitigation and compensation through negotiation and the Order to proceed. Nor has sufficient information been produced to address issues raised at the objection stage so that Mrs Harris can be sufficiently confident that measures are in place to allow withdrawal of her objection. Mrs Harris cannot accept several of the claims made in the Statement of Consultation.
- 8.4. Many of the questions she has raised to the applicant's professional advisors remain unanswered, and so she has been unable to assess the full impact of the proposed scheme on her enjoyment of her property, her business, and the safety and market value of her property.

9. List of Documents

9.1. Mrs Harris wishes to rely on the following documents at the Inquiry:

1. Correspondence/emails between Mrs Harris and ERM
2. Correspondence/emails between Mrs Harris and Ardent
3. Correspondence/emails between Mrs Harris and consultation@chiltern-evergreen
4. Notes of the meeting with Chiltern Railways set up by ENGAGE Oxford on 25th March 2010.
5. Commentary commissioned by Oxford City Council prepared by Peter Headicar "*Transport Implications for the LDP Core Strategy*"
6. "*Updating & Screening Assessment*" dated July 2009 prepared by Oxford City Council
7. "*Aggregate Wharves and Rail Depots in South East England*" Final Report prepared for SEERA by MDS Transmodal Ltd February 2009