

TRANSPORT AND WORKS ACT 1992

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

Statement of Case made in relation to the proposed Chiltern Railways (Bicester to Oxford Improvements) Order

Statutory Objectors:

**Mrs Maggie Smith and Mr Merlin
Graham Hawes Smith**

Reply Address:

**Mrs M Smith and Mr M G H Smith
c/o C R J Anstey Chartered Surveyors
Oakapple Farm
Marsh Gibbon
Bicester
Oxon
OX27 0AL**

Status of Statutory Objectors:

**Freehold owners of affected land and/or
beneficiaries of rights in land**

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We, C.R.J. Anstey, Chartered Surveyors, are instructed to prepare a Statement of Case for and on behalf of Mrs Maggie Smith and Mr Merlin Graham Hawes Smith (hereinafter referred to as Messrs Smith) the freehold owners of Northfield Farm, Water Eaton and beneficiaries of other rights in land affected by the Order.

This Statement represents the case that will be presented to the Public Inquiry into the proposed Chiltern Railways (Bicester to Oxford Improvements) Order which will commence on Tuesday 2nd November 2010.

General Background:

Northfield Farm, Water Eaton forms the hub of the farming operations of the Smith family, with the total farming acreage being in excess of 1,000 acres of predominantly arable land.

The farming operations can be briefly summarised as follows:-

(a) Land at Northfield Farm, Water Eaton	362 acres
(b) Land at Hampton Poyle, Oxon	123 acres
(c) Land at Rowles Farm, Bletchington	<u>107</u> acres

Total of owned land	<u>592</u> acres
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(d) Farmland farmed under Share Farming arrangement
with the Water Eaton Estate 462 acres

Total: 1,054 acres

All dwellings owned by Messrs Smith are located at Northfield Farm, Water Eaton and these comprise:-

Northfield Farmhouse - a Listed Grade 2 detached 18th Century Farmhouse.

Northfield Lodge - a detached farmhouse constructed circa 1974 subject to an agricultural occupancy condition

Nos 1-4 Northfield Farm Cottages - comprising two pairs of early 1900's brick built semi-detached dwellings

All of the farming operations are based at Northfield Farm, Water Eaton where there is also located a comprehensive range of both modern and traditional farm buildings. The modern farm buildings comprise an estimated 35,310ft² whilst the traditional farm buildings comprise some 8,000ft².

The sole vehicular access to Northfield Farm is taken off the public highway in Water Eaton Lane and from there by means of a private concrete access track over the existing railway bridge Ref. OXD47. The access leads directly into the main farm building complex around which are also located the six dwellings referred to above.

The existing railway bridge is well located in relation to the dwellings and farmstead and also provides easy access to the Northfield Farm Caravan Club certified location site and for members of the Gerrards Cross and Uxbridge District Angling Society who have a Lease of fishing rights on the River Cherwell at Northfield Farm.

Chiltern Railways intend to demolish the existing railway bridge Ref. OXD47 and replace it with a bridge approximately 1km to the south-west of the existing bridge which will also provide a vehicular access to the Water Eaton Estate.

Messrs Smith's case is as follows:-

1. Lack of detailed design information:

Messrs Smith acknowledge that detailed design for a Transport and Works Act Scheme is not undertaken until the Order powers are granted but they wish to make it clear that this is a most unsatisfactory situation.

Such a lack of information means that Messrs Smith are placed in an invidious position and could well find themselves significantly prejudiced should the Order be approved without details of the construction being negotiated. For instance, there is no detailed information on the construction and design details of either the proposed bridge; the bridge access ramps; or the access road that will serve both Northfield Farm Water Eaton and the Water Eaton Estate.

Furthermore there is no design information to satisfy Messrs Smith that heavily loaded agricultural and commercial vehicles will be able to negotiate the approaches to and off the bridge or safely negotiate the ramps.

There is also no information regarding accommodation works all of which are of prime importance to Messrs Smith.

2. Matters concerning the existing and proposed railway bridge:

Messrs Smith acknowledge that the existing railway bridge Ref. OXD47 that provides the current access to Northfield Farm will have to be demolished because of its outdated structure and design.

However, they object to the proposed location of the new and alternative railway bridge on the following grounds:

- 2.1. In the event that the existing railway bridge Ref. OXD47 is demolished, it is Chiltern Railways proposal to construct a new bridge (Ref. Work No. 17) almost 1km to the south-west which will serve both Northfield Farm, Water Eaton and the Water Eaton Estate.
- 2.2. This will give a significant additional length and time to each journey made by the occupants of the six dwellings at Northfield Farm and will have significant cost implications to all those parties. Compensation will be sought for any losses arising.
- 2.3. It will also mean that the existing Northfield Farm Caravan Club certified location site (which is currently situated on land to the north of the existing railway bridge Ref. OXD47) will effectively be isolated and may even be cut off altogether should part of the existing road to Northfield Farm be removed. This is a commercial diversification enterprise run by Messrs Smith and the loss of this enterprise will also have financial implications for Messrs Smith. Compensation will be sought for any losses arising.
- 2.4. The removal of the existing railway bridge Ref. OXD47 and the construction of a new railway bridge (Ref. Work No. 17) will severely inconvenience members of the Gerrards Cross and Uxbridge District Angling Society who currently lease the fishing at Northfield Farm and who will now face a lengthy journey in order to access lengths of fishing on the River Cherwell that lie on either side of the railway line. This could result in the surrender of the existing fishing Lease and subsequent loss of income to Northfield Farm, and compensation will be sought for any losses arising.

3. Access:

Messrs Smith are concerned at the failure of Chiltern Railways and its Agents 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 (Ref. Work No. 17).

Messrs Smith are advised that discussions on the detailed design of the access road, to include passing bays and the design of the bridge location and ramps, cannot be considered at this stage and therefore their only option is to raise objections to this lack of information at the Inquiry.

Messrs Smith need to ensure that the design of the proposed bridge and its ramps is such that it will minimise the area of agricultural land being acquired for the construction works whilst at the same time provide properly designed access and ramps so as to ensure that heavily loaded agricultural and commercial vehicles will be able to negotiate the approaches to and off the bridge and safely negotiate the bridge ramps.

4 Impact of noise and visual intrusion:

Messrs Smith are concerned about the level of increased noise and visual intrusion arising from the upgrading of the railway line and how this will impact on the quiet enjoyment of those living at Northfield Farmhouse; Northfield Lodge; and Nos. 1-4 Northfield Farm Cottage.

Messrs Smith are also concerned as to the impact of the upgraded railway line on the capital values of those properties.

Messrs Smith do not consider that the anticipated impacts of the scheme have adequately been examined by Chiltern Railways or explained within the Environmental Statement submitted as part of the Order application, and will be seeking compensation for any loss in capital values.

Furthermore, it does not appear that Chiltern Railways have allowed for any onsite or offsite landscaping and noise mitigation which would serve to reduce the impact of the very significantly increased number and speed of passenger and freight trains utilising the upgraded railway lines.

5. Future use of Water Eaton Park and Ride:

Messrs Smith are concerned about the future use of the Water Eaton Park and Ride, part of which is currently leased by Messrs Smith to Oxfordshire County Council specifically for Park and Ride use and for no other commercial purpose whatsoever.

The existing Lease is subject to covenants limiting the use of the Park and Ride to non-profit making purposes and it would be grossly unjust should Chiltern Railways and/or Network Rail acquire rights by compulsory purchase which would enable use of the Park and Ride site for financial profit and gain.

Document 1 attached to this Statement of Case provides an extract from the aforementioned Lease drawn up between Messrs Smith and Oxfordshire County Council. This clearly shows that Oxfordshire County Council are allowed to make use of the Park and Ride facility solely as a Park and Ride and for no other profit making or commercial concern.

During the consultation period Chiltern Railways have provided no indication as to how the railway upgrade proposals will impact upon the Park and Ride and what levels of payments will be made to Messrs Smith to reflect any profit making use that may be made of the site.

In the absence of any discussion and agreement Messrs Smith will maintain their objection to any impact that the Chiltern Railways proposals might have on the Water Eaton Park and Ride.

6. Water Eaton Railway siding:

Messrs Smith have similar concerns as to the proposal by Chiltern Railways to extend the existing Water Eaton railway sidings on to land owned by Messrs Smith.

Messrs Smith see no reason why Chiltern Railways or any other third party should benefit financially as a result of provision within the Order to extend the Water Eaton railway sidings leaving Messrs Smith without any financial benefit.

Until such time as discussions are held and agreement reached as to the use of any of Messrs Smith's land as a railway sidings extension Messrs Smith will maintain their objection to Chiltern Railways proposals.

7. Services:

Messrs Smith are concerned that Chiltern Railways have made no apparent provision for the reinstatement of existing services to Northfield Farm, Water Eaton following the demolition of the existing railway bridge (Ref. OXD47) at Northfield Farm.

Any services that currently serve Northfield Farm such as mains electricity; telephone etc. must be maintained preferably by means of cabling or conduits over or under the railway line.

Messrs Smith also believe it is only sensible and reasonable for other ducting to be put in place through the railway embankment so as to allow for future supplies and services such as mains water; gas; communication networking and other such services.

8. Overhead high voltage electricity supply:

Messrs Smith are concerned that no information has been provided by Chiltern Railways regarding the existing high voltage overhead lines which currently run both parallel to and across the existing railway line and which lie in close proximity to the site of the proposed bridge (Ref. Work No. 17).

Messrs Smith maintain that the existing overhead lines should be buried and placed beneath the railway as they present a danger to high sided vehicles and loads that will be using the proposed bridge to access both Northfield Farm, Water Eaton and the Water Eaton Estate.

Messrs Smith are not aware that any Health and Safety analysis has been undertaken by Chiltern Railways with regard to the retention or burying of these high voltage lines and feel that further information must be provided at this stage of the proceedings.

9. Repair and maintenance liability:

Messrs Smith are concerned that Chiltern Railways has given no assurances that either Chiltern Railways or Network Rail will undertake future liability for the repair and maintenance of both the proposed bridge and the ramps on either side of the bridge assuming that the Order is approved. It is most important that Messrs Smith should not have any repair or maintenance liability in this respect.

10. Security:

Messrs Smith are concerned that no statements or guarantees have been given by Chiltern Railways with regard to the issue of security and in particular the means of replicating the security currently enjoyed by Northfield Farm whereby Messrs Smith are able to prevent unauthorised vehicles and individuals accessing Northfield Farm.

Messrs Smith need assurances from Chiltern Railways that this high degree of existing security will not be compromised should the new bridge be built. Some similar system of locked vehicular gates as currently exist must be put in place together with adjoining fencing to ensure that security is not compromised and that unauthorised vehicular access to Northfield Farm will be prevented.

11. Environmental considerations:

Messrs Smith do not consider that Chiltern Railways or its Agents have provided sufficient information regarding the impact of the proposals on conservation; ecology; wildlife habitat; surface water run off and other environmental matters.

12. Northfield Farm Shoot:

Messrs Smith are concerned that Chiltern Railways have not adequately considered the impact of the proposals on the Northfield Farm Shoot which will result in either the downgrading or cessation of the Shoot and subsequent loss of income to Messrs Smith.

Document 2 attached to this Statement provides evidence of the concerns expressed by the Northfield Syndicate that currently shoots over Northfield Farm and the adjoining Water Eaton Estate.

Messrs Smith will seek compensation for any losses arising as a result of the Chiltern Railways proposals in this regard.

13. Professional costs:

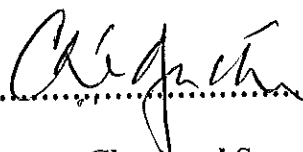
Messrs Smith are aggrieved that they have had to incur legal and professional costs r as a result of the Chiltern Railways proposal and the fact that they are unable to recover such costs.

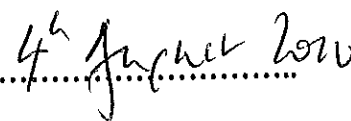
Messrs Smith believe that this is totally unreasonable and unfair. Messrs Smith have only sought to protect their interests and to seek further information by way of consulting with Chiltern Railways and their Agents and find that they are significantly prejudiced in financial terms by having to employ professional advisors whose costs cannot be recovered.

Messrs Smith will ask the Inquiry if there is any way in which their reasonable legal and professional fees can be recovered given their very genuine concerns arising from the Chiltern Railways proposal.

14. Right to amend and expand the Statement of Case:

Messrs Smith reserve the right to amend and add to this Statement and to add to any of the above points as well as provide further documents or evidence in support of those points as may be necessary in advance of the Public Inquiry.

Signed..........

Dated..........

C.R.J. Anstey, Chartered Surveyors authorised to sign for and on behalf of the Mrs M Smith and Mr M G H Smith.

LIST OF DOCUMENTS

- Document 1: Extract from the Lease between Merlin Graham Hawes Smith and the Oxfordshire County Council relating to land at Gosford, Kidlington, Oxfordshire (now forming part of the Water Eaton Park and Ride)
- Document 2: Copy of an email dated 6th May 2010 from Mr C Dalley relating to the Northfield Shooting Syndicate (this is the Shooting Syndicate that shoots over both Northfield Farm, Water Eaton and the Water Eaton Estate)

2001 Date

DATED _____ 2001

MERLIN GRAHAM HAWES SMITH

- and -

THE OXFORDSHIRE COUNTY COUNCIL

L E A S E

relating to
LAND AT GOSFORD KIDLINGTON OXFORDSHIRE

C J Impey
Solicitor to the Council
Oxfordshire County Council
County Hall
New Road
Oxford OX1 1ND

THIS LEASE dated

day of

2001

WITNESSES:

1. DEFINITIONS

In this Lease the following expressions

- 1.1. The Landlord: **MERLIN GRAHAM HAWES SMITH**
of Northfields Farm Water Eaton Oxford
- 1.2. The Tenant: **THE OXFORDSHIRE COUNTY**
COUNCIL of New Road County Hall
Oxford OX1 1ND
- 1.3. The Term: 45 years from the date of this Lease
- 1.4. The Rent: One Peppercorn per annum
- 1.5. The Permitted Use: a park and ride car park and strategic
transport/parking use with ancillary
facilities having regard to the statutory
functions of the Oxfordshire County
Council (or its successors in title) as
strategic planning and highway authority
and the provision of waste recycling
receptacles for use by the general public
Provided that such use or uses shall not
entitle the Tenant to carry on any trade
business or activity conducted for profit
- 1.6. The Demised Premises: the land shown edged brown on the Plan
being land at Gosford Oxfordshire
- 1.7. The Plan: the Plan attached to this Lease
- 1.8. Plan 2: the Plan attached to this Lease and
marked "Plan 2"

2. DEMISE

In consideration of the Premium of £18,501.00 (Eighteen thousand five hundred and one pounds) paid by the Tenant to the Landlord (receipt of which the Landlord acknowledges) and of the Rent and of the covenants on the part of the Tenant and the agreements and stipulations hereinafter

Chris Anstey

From: Chris Anstey [chris@ruraland.co.uk]
Sent: 06 May 2010 15:43
To: 'Chris Dalley'
Cc: 'Robert Sawyer'; 'Merlin Smith'; 'Merlin Smith'
Subject: Northfield Shooting Syndicate

Dear Mr. Dalley,

I write further to our telephone conversation this morning to confirm that both The Water Eaton Estate and Merlin Smith reluctantly agree your proposal to heavily discount the shoot rents over their respective land for the 2010/2011 Season.

Your offer is a payment to each of my Clients for the 2010/2011 Season in the sum of £1,000.00 inclusive of VAT as opposed to the anticipated payment to them each of £3,625.00 plus VAT.

You have made it clear that neither you, as Shoot captain, nor your shoot members are prepared to risk the very considerable capital outlay needed to support your usual bird numbers and shoot days given the proposals put forward by Chiltern Railways re: Project Evergreen 3 and that surveys and other line work have already interfered with habitat and caused disturbance to game birds. You are therefore not prepared to risk heavy financial losses despite Chiltern's assurances that the 2010/2011 Season will not suffer in any way.

My Clients find themselves caught in an invidious position but they acknowledge the long-standing and good working relationship that has existed between them and the Shoot for many years. They acknowledge your situation and accept your offer, and all they ask is that you be prepared to support any claim for losses or damages that they might make against Chiltern Railways arising in respect of lost shoot revenues. They might ask you to prepare written evidence, or even appear at the proposed Inquiry, to justify your position, and they hope you will be prepared to support them in this way.

In the meantime I hope that we can all move forward.

With regards,

Christopher Anstey.

06/05/2010