

GALLAGHER

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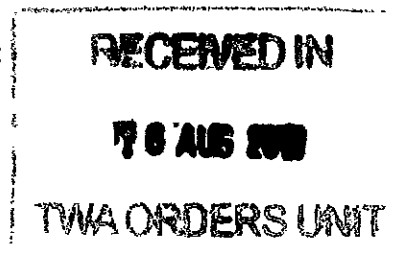
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Our ref: DAK/dj

13 August, 2010

Ms Angela Foster
Department for Transport
Transport and Works Act Orders Unit
Zone 1/31, Great Minster House
76 Marsham Street
London
SW1P 4DR

Your ref:



Dear Angela

Re: Transport and Works Act 1992: Application for the Proposed Chiltern Railways (Bicester to Oxford Improvements) Order

I refer to your letter dated 12th July 2010 and as requested, I am now submitting the following as the Statement of Case on behalf of this company. I would therefore be grateful if you would take the contents of this letter as the said Statement of Case. We reserve the right to supplement this Statement of Case should additional evidence emerge.

Firstly I should make clear this company's interests in land in the vicinity of Gavray Drive, which is subject, in part, to this Order. The company has an option to purchase land between Gavray Drive and the Birmingham to London Marylebone railway line at Bicester. This land was the subject of a planning application and, following a Public Inquiry, was granted approval by the Secretary of State for up to 500 houses, a primary school, public open space and a retained County Wildlife Site. One of the reasons for the Secretary of State granting permission was the pressing need for the delivery of housing, including affordable housing, in the Bicester area and this need has not diminished with the passing of time. Indeed Gavray Drive is now included in the Cherwell Core Strategy and makes a substantial contribution to its projected housing trajectory.

The Planning Approval is accompanied by a Section 106 Agreement which contains, inter alia, a plan detailing the extent of what is known as the Rail Chord Land, which is land to be made available for use as rail infrastructure for a period of 15 years from the date of the Section 106 Agreement (2006). The extent of the Rail Chord Land was the subject of extensive discussion and negotiation with Chiltern Rail and their agents, Laing Rail, and the plan attached to the Section 106 Agreement was agreed with them as being appropriate for the delivery of the Rail Chord. No objection to our application was lodged by or on behalf of Chiltern Rail. Indeed Chiltern Rail were supportive of the proposal.

J.J.G

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Subsequent to the granting of permission, we have prepared and submitted to Cherwell Council the following documents:

- a) Master Plan and Design Code document
- b) A Wildlife Management Plan
- c) An Ecological Construction Method Statement
- d) An Archaeological Specification
- e) A Reserved Matters Application for Roads and Drainage

All these documents have been submitted in preparation for the commencement of construction.

Given all of the above, it was with some surprise that we received notification via our landowners of the publication of the Order. Firstly, given that our interest in the land is recorded on the Title and is in any event well known to Chiltern Rail given our earlier agreement, we were surprised not to be approached directly; indeed it was only via our landowners that we came to hear of the publication of the Order. Secondly, given the consultation and negotiation that took place at the time of our original planning application and the completion of the Section 106 Agreement, the extent of land over which Chiltern Rail are now seeking an interest is considerably more than is reflected in the plan that was previously agreed and attached to the Section 106 Agreement.

Taking into account the previous contact over the matter with Chiltern Rail in 2006, it is somewhat surprising to us that we have not been approached by them or their agents in advance of the publication of the Order to see if there is a technical solution acceptable to both parties prior to resorting to compulsory purchase. This lack of consultation has resulted in the following:

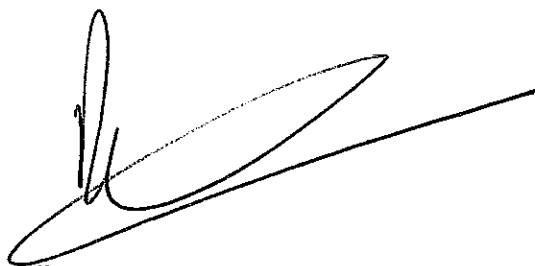
- a) The company has now had to take professional advice in respect of the whole issue and will, if matters aren't resolved, have to fund the cost of Inquiry Witnesses.
- b) The reduction in the developable area of our planning approval has a substantial impact on the asset value both to ourselves as developers, and to the landowners.
- c) The works as currently proposed could have significant impact on the value of the development as approved as a direct result of the engineering solution relied upon by the proposers. As a result of this, Chiltern Rail are in danger of blighting land that is required to meet an acknowledged need for new housing.

It is true to say that subsequent to the publication of the Order and the submission of our objections, the company has been approached by the agents acting for Chiltern Rail. As a result of this, Chiltern Rail are considering amending the engineering solution illustrated in the published Order, which may or may not remove or lead us to modify, our objections. However, we are yet to receive a formal submission from them and therefore must maintain our strong objections to the proposal whilst reserving the right to submit a further Statement of Case in the event that the ongoing discussions are constructively concluded.

In the meantime, I reserve the right for this company to appear at the Inquiry, represented by planning, engineering and valuation witnesses possibly led by leading Counsel. I am hopeful that the current negotiations will allow us to reduce the scale and nature of the evidence that these witnesses will provide, but until such time as we have had the opportunity of concluding the negotiations, it is impossible to be more precise.

I will be attending the Pre-Inquiry meeting on 7th September and will be able to answer any further queries you might have at that time.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Keyse', with a long horizontal flourish extending to the right.

David Keyse

Development Planner

Email: david.keyse@gallagheruk.com

c.c. J Aiton – London & Metropolitan
R Sherrott – VSL