

**PROPOSED CHILTERN RAILWAYS (BICESTER TO OXFORD IMPROVEMENTS)
ORDER**

CHILTERN RAILWAYS' REBUTTAL PROOF OF EVIDENCE

**IN RELATION TO
THE OBJECTION AND EVIDENCE OF**

IAN SALISBURY

1 Introduction

- 1.1 This rebuttal proof of evidence has been prepared on behalf of the Chiltern Railway Company Limited (Chiltern Railways) to respond to particular aspects of further evidence of Ian Salisbury [OBJ/5/19] submitted on 8 January 2011.
- 1.2 In particular, Ian Salisbury has raised new questions and presented new evidence in his submission of 8 January 2011, provided for the Inquiry that Chiltern Railways had not previously addressed in the proofs of evidence prepared by their witnesses, which were submitted to the Inspector and to certain objectors on 1 October 2010.
- 1.3 It is not intended that this rebuttal proof should repeat material that the witnesses for Chiltern Railways have already covered in their evidence. Cross-references to relevant paragraphs of those witnesses' proofs of evidence are given below, where appropriate.
- 1.4 It is intended that this rebuttal proof should be a composite response by Chiltern Railways to those new points raised in the further evidence of 8 January 2011 and referred to above. In this respect, for cross-examination purposes, the name of Chiltern Railways witness who is responsible for each aspect of this rebuttal proof is given at the beginning of each section below.

2 Defined Terms

- 2.1 The following defined terms are referred to throughout this rebuttal proof:

"the Correspondence" means correspondence in the form of an email dated 8 January 2011 with attachments submitted by Ian Salisbury appended to this rebuttal proof as Appendix A;

"the Objector" means Ian Salisbury;

<i>“the Objector’s evidence”</i>	means the further evidence of Ian Salisbury submitted on 8 January 2011;
<i>“the Order application”</i>	means the application for the proposed Order submitted on 6 January 2010 and the Proposed Modification dated 9 September 2010; and
<i>“the proposed Order”</i>	means the proposed Chiltern Railways (Bicester to Oxford Improvements) Order.

3 Chiltern Railways’ Rebuttal of the Objector’s Evidence

Context

- 3.1 In this rebuttal, Chiltern Railways is responding to new evidence provided by Ian Salisbury, which comprises responses from Bill Dennis of the Office of Rail Regulation (ORR), via email dated 13 September 2011, to questions of clarification asked by the Objector. Those questions and the responses from the ORR are set out below.
- 3.2 Bill Dennis in his response to Ian Salisbury dated 13 September 2010 states that there are no level crossings termed "pedestrian accommodation level crossings", for which Ian Salisbury sought data. Bill Dennis states that "accommodation crossings" are provided for the sole use of a landowner whose property was divided when the railway was constructed.
- 3.3 Bill Dennis states that the ORR only record incidents as being at footpath crossings (FP) and recommends that Network Rail’s Asset Management may be able to help the objector to identify which, if any, are accommodation crossings. Bill Dennis states that the ORR does not hold data relating specifically to “pedestrian accommodation level crossings”, but in answer to the Ian Salisbury’s questions, he has provided some data that the ORR holds on footpath crossings.
- 3.4 Bill Dennis states that incidents on the railways are reported to the Office of Rail Regulation (ORR) under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR 95).
- 3.5 Chiltern Railways agrees with the statement from the ORR that, although the use of the terms accommodation and occupation footpath level crossings can be used to distinguish between those that provide access between private footpaths which link land in common ownership and those which give access to a property, the ORR does not distinguish these from the generality of footpath crossings in terms of its recording of statistics. As safety performance at footpath level crossings is reported at this general level, it is not possible without disproportionate effort to identify accident statistics for such crossings.

Number of Pedestrian Level Crossings, Aidan Nelson

- 3.6 The Objector sought clarification on the number of pedestrian level crossings in the area for which the Office of Rail Regulation has responsibility, and of those, how many are accommodation crossings.
- 3.7 The ORR responded that the Rail Safety and Standards Board's (RSSB) Annual Safety Report (ASPR) shows that there are 2,462 footpath crossings on Network Rail's infrastructure, as shown in the Network Rail level crossing census, as at 31 December 2009 (<http://www.rssb.co.uk/SPR/REPORTS/Pages/default.aspx>). Further crossings can be found on heritage railways.
- 3.8 Chiltern Railways has already submitted evidence to the Inquiry in the form of the Rail Safety and Standards Board, Overview of Safety Performance for 2009/2010 [CD/3.35] detailing safety performance at level crossings.
- 3.9 The figures recorded by RSSB and ORR will not tally. This is because of their different approaches to dealing with suicides. The ORR records suicides where a Coroner gives a verdict of suicide. However, RSSB and the railway industry generally apply the Ovenstone Criteria, as defined in the annual safety performance report [CD/3.35] to open verdicts resulting in a categorisation of suicide and suspected suicides. However, the total number of deaths at footpath level crossings of Network Rail managed infrastructure should be consistent.

Number of Incidents on Pedestrian Level Crossings, Aidan Nelson

- 3.10 The Objector sought clarification on the number of pedestrians who have been struck by a train, for each year over the last most recent 10 years for which records are available for such pedestrian accommodation crossings.
- 3.11 The ORR supplied data for 1999 to 2009 for pedestrians struck by a train at footpath level crossings as set out in *Table 1*.

Table 1: Number of Pedestrians Struck by a Train at Footpath Level Crossings, 1999-2009

Pedestrians Struck by a Train at Footpath Level Crossings, 1999-2009			
	Injury Class		
Date	Fatal	Hospital	Total
1999	3	0	3
2000	5	1	6
2001	0	1	1
2002	2	1	3

2003	3	1	4
2004	2	0	2
2005	0	0	0
2006	4	1	5
2007	1	1	2
2008	4	1	5
2009	2	2	4
Total	26	9	35

- 3.12 The ORR states that the data is based on incidents reported to the ORR under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR 95) and the findings of Coroners' inquests. The data does not include trespassers and suicides.
- 3.13 Chiltern Railways agrees with the statement from the ORR that in so far as injuries are concerned, the ORR will only record those which are RIDDOR reportable. Chiltern Railways has previously provided the Inquiry with The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations, 1995 [CRCL/INQ/14] and the current HSE guidance in A Guide to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations, 1995 [CRCL/INQ/15].

Number of Near Misses on Pedestrian Level Crossings, Aidan Nelson

- 3.14 The Objector sought clarification on the number of near misses, for each year over the last most recent 10 years for which records are available for such pedestrian accommodation crossings.
- 3.15 The ORR states that near misses not reportable to ORR under RIDDOR. The ORR states that the Rail Safety and Standards Board's (RSSB) Annual Safety Performance Report (ASPR) contains some data on near misses (<http://www.rssb.co.uk/SPR/REPORTS/Pages/default.aspx>).
- 3.16 Chiltern Railways has presented evidence in relation to the issue of near misses in Aidan Nelson's evidence [CRCL/P/7/A] and in the rebuttal to the Objector's evidence [CRCL/R/OBJ5]. The evidence includes details of all the near misses on the Oxford to Bicester corridor and explains why near misses are under-reported.

Inquest Verdicts in Relation to Fatalities in the Case of Trains Striking a Pedestrian, Aidan Nelson

- 3.17 The Objector sought clarification on the inquest verdict and any elaboration of the verdict given by the Coroner for the fatalities listed in *Table 1*.
- 3.18 The ORR supplied data for 1999 to 2009 for fatalities of pedestrians struck by a train at footpath level crossings as set out in *Table 2*.

Table 2: Inquest Verdict for Fatalities for Pedestrians Struck by a Train at Footpath Level Crossings, 1999-2009

Fatalities at Footpath Level Crossings, 1999- 2009		
Date	Location	Coroner's Verdict
24/06/1999	RYLANDS LC	Open
04/07/1999	EASTLANDS LC	Accidental death
24/09/1999	OUTWOODS LC	Accidental death
11/02/2000	STANFORD LE HOPE LC	Open
20/03/2000	FERRYBOAT LANE LC	Accidental death
02/06/2000	GOLF LINK LC	Accidental death
03/06/2000	LANKESTERS/SPIKES LANE LC	Accidental death
11/10/2000	SOUTH LEAZE LC	Misadventure
06/08/2002	TYWYN STATION LC	Not known
29/10/2002	SPOONERS LEVEL CROSSING	Open
07/06/2003	RYLANDS LC	Accidental death
10/08/2003	GREEN DRIFT LC	Accidental death
11/10/2003	OUTWOODS LC	Accidental death
09/09/2004	MORETON HALL 1	Open
08/11/2004	BROTTON	Open
17/03/2006	PEGAMOID FOOTPATH	Accidental death
17/03/2006	PEGAMOID FOOTPATH	Accidental death
06/10/2006	BUNKER HILL FP LC	Not known

13/11/2006	GARFORTH MOOR	Accidental death
15/01/2007	JOHNSTOWN (FP) LC (Clwyd)	Accidental death
13/02/2008	LEYS LANE (FP) LC (ATTLEBOROUGH)	Accidental death
16/04/2008	MOOR LANE FC	Accidental death
10/05/2008	MARSH BARTON FC	Accidental death
21/07/2008	ITCHINGFIELD FP LC	Accidental death
07/09/2009	FOX COVERT LC	Accidental death
02/11/2009	ATTENBOROUGH NATURE RESERVE LC	Not known

3.19 Chiltern Railways has no comment on the data in *Table 2*.

Outcomes of Investigations and Inquiries into Non-Fatal Injuries in the Case of Trains Striking a Pedestrian, Aidan Nelson

3.20 The Objector sought clarification of the outcomes of investigations or inquiries into non-fatal injuries for the incidents listed in *Table 1*.

3.21 The ORR supplied data for 1999 to 2009 for the investigation results for non-fatal injuries at footpath level crossings between 1999 and 2009 as set out in *Table 3*.

Table 3: Investigation Outcomes for Non-Fatal Injuries at Footpath Level Crossings, 1999-2009

Non-fatal Injuries at Footpath Level Crossings, 1999 -2009		
DATE	Location	Investigation results
24/08/2000	BROOKSIDE LC	N/A
08/03/2001	GWERSYLLT STATION LC	See extract from the 2000/01 safety report below [1]
31/08/2002	DUDLEY	N/A
23/08/2003	BROOMHILL	N/A
18/08/2006	LLANTILIO PERTHOLEY LC	British Transport Police (BTP) were unable to confirm whether incident was attempted suicide or accidental. Also unable to identify where injured person gained access. Broken fence nearby

		repaired.
05/02/2007	GRAMSHAW FC	N/A
08/07/2008	POTTER'S LOCK No.1 FP LC	N/A
05/09/2009	OLIVERS LANE	N/A
29/12/2009	CHAWSON FOOTPATH LC	N/A
<p>[1] Extract from HM Chief Inspector of Railways Annual Report on the safety record of railways in Great Britain during 2000/01</p> <p><i>“12.40 At Gwersyllt Station (RTNW) Wrexham, a disabled person in an electric wheelchair was struck by a passing freight train on 8 March 2001. The train operator, First North Western, has placed signs advising disabled people to request advance assistance before travelling. The gentleman involved in the incident failed to request assistance and also ignored trespass signs. His wheelchair apparently became stuck on the barrow crossing and another member of the public helped him move out of the way. He was struck while at the side of the level crossing. The surface condition of the level crossing was poor and emergency repair work was carried out”.</i></p>		

3.22 Chiltern Railways has no comment on the data in *Table 3*.

Data Used in Network Rail’s All Level Crossings Risk Model (ALCRM), Aidan Nelson

3.23 The Objector sought clarification on the data collected and used for assessments of pedestrian level crossings for Network Rail’s routine assessment using its All Level Crossing Risk Model (ALCRM).

3.24 The ORR states it does not hold the data that is collected and used for assessments of pedestrian footpath crossings for Network Rail’s routine assessments using its All Level Crossings Risk Model (ALCRM). The ORR suggested the Objector contacted Network Rail for this information (<http://www.networkrail.co.uk/>).

4 Conclusion

4.1 Chiltern Railways has provided the Inquiry with comprehensive data on the number of fatalities and near misses both on the railway as a whole and more specific data on the Oxford to Bicester line. This is consistent with the information provided by ORR to Ian Salisbury and referred to in this rebuttal.

Appendix A

CRCL/R/OBJ5/2

Correspondence between
the Objector and the Office
of Rail Regulation

Charlene Baker

From: Dennis, Bill [Bill.Dennis@orr.gsi.gov.uk] on behalf of CCT Contact [contact.cct@orr.gsi.gov.uk]
Sent: 13 September 2010 17:33
To: la n Salisbury
Subject: RE: Accommodation pedestrian level crossings [Scanned]

Dear Mr Salisbury,

Thank you for your email of 11 August 2010. Firstly, I must apologise for the delay in responding to you.

Strictly speaking there are no level crossings termed "pedestrian accommodation level crossings". "Accommodation crossings" are provided for the sole use of a landowner whose property was divided when the railway was constructed.

We only record incidents as being at footpath crossings (FP). Network Rail's Asset Management may be able to help identify which, if any are accommodation crossings.

As we do not hold data relating specifically to "*pedestrian accommodation level crossings*", in answer to your questions, I have provided some data we hold on footpath crossings which may be of use to you.

Incidents on the railways are reported to the Office of Rail Regulation (ORR) under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR 95).

1. How many pedestrian level crossings are there in the area for which the Office of Rail Regulation has responsibility; and of those, how many are accommodation crossings?

The Rail Safety and Standards Board's (RSSB) Annual Safety Report (ASPR) shows that there are 2462 footpath crossings on Network Rail's infrastructure. - Data source: Network Rail level crossing census (as at 31 December 2009). Please see:

<http://www.rssb.co.uk/SPR/REPORTS/Pages/default.aspx>

Others can be found on heritage railways.

2. For each year over the last most recent 10 years for which records are available for such pedestrian accommodation crossings, how many:-

a) pedestrians have been struck by a train?

Pedestrians struck by a train at Footpath level crossings 1999-2009			
Date	Injury Class		Total
	Fatal	Hospital	
1999	3	0	3
2000	5	1	6
2001	0	1	1
2002	2	1	3
2003	3	1	4
2004	2	0	2
2005	0	0	0
2006	4	1	5

2007	1	1	2
2008	4	1	5
2009	2	2	4
Total	26	9	35

The data is based on incidents reported to the Office of Rail Regulation (ORR) under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR 95) and the findings of Coroners' inquests. The data does not include trespassers and suicides.

b) near misses with pedestrians have there been?

Near misses not reportable to ORR under RIDDOR. However, the Rail Safety and Standards Board's (RSSB) Annual Safety Performance Report (ASPR) contains some data on near misses. For further information please see: <http://www.rssb.co.uk/SPR/REPORTS/Pages/default.aspx>

3. In each case of a train striking a pedestrian that you have reported:-

a) for the fatalities listed in answer to question 2.a), the inquest verdict and an outline of any elaboration of the verdict given by the coroner.

Fatalities at Footpath level crossings 1999- 2009		
Date	Location	Coroner's Verdict
24/06/1999	RYLANDS LC	Open
04/07/1999	EASTLANDS LC	Accidental death
24/09/1999	OUTWOODS LC	Accidental death
11/02/2000	STANFORD LE HOPE LC	Open
20/03/2000	FERRYBOAT LANE LC	Accidental death
02/06/2000	GOLF LINK LC	Accidental death
03/06/2000	LANKESTERS/SPIKES LANE LC	Accidental death
11/10/2000	SOUTH LEAZE LC	Misadventure
06/08/2002	TYWYN STATION LC	Not known
29/10/2002	SPOONERS LEVEL CROSSING	Open
07/06/2003	RYLANDS LC	Accidental death
10/08/2003	GREEN DRIFT LC	Accidental death
11/10/2003	OUTWOODS LC	Accidental death
09/09/2004	MORETON HALL 1	Open
08/11/2004	BROTTON	Open
17/03/2006	PEGAMOID FOOTPATH	Accidental death
17/03/2006	PEGAMOID FOOTPATH	Accidental death
06/10/2006	BUNKER HILL FP LC	Not known
13/11/2006	GARFORTH MOOR	Accidental death
15/01/2007	JOHNSTOWN (FP) LC (Clwyd)	Accidental death
13/02/2008	LEYS LANE (FP) LC (ATTLEBOROUGH)	Accidental death
16/04/2008	MOOR LANE FC	Accidental death
10/05/2008	MARSH BARTON FC	Accidental death
21/07/2008	ITCHINGFIELD FP LC	Accidental death
07/09/2009	FOX COVERT LC	Accidental death

02/11/2009	ATTENBOROUGH NATURE RESERVE LC	Not known
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b) for the non-fatal injuries listed in answer to question 2.a), the decision of all investigations or inquiries into the incidents, if any.

Non-fatal injuries at Footpath level crossings 1999 -2009		
DATE	Location	Investigation results
24/08/2000	BROOKSIDE LC	N/A
08/03/2001	GWERSYLLT STATION LC	See extract from the 2000/01 safety report below [1]
31/08/2002	DUDLEY	N/A
23/08/2003	BROOMHILL	N/A
18/08/2006	LLANTILIO PERTHOLEY LC	British Transport Police (BTP) unable to confirm whether incident was attempted suicide or accidental. Also unable to identify where injured person gained access – broken fence nearby repaired.
05/02/2007	GRAMSHAW FC	N/A
08/07/2008	POTTER'S LOCK No.1 FP LC	N/A
05/09/2009	OLIVERS LANE	N/A
29/12/2009	CHAWSON FOOTPATH LC	N/A

[1] Extract from HM Chief Inspector of Railways Annual Report on the safety record of railways in Great Britain during 2000/01

12.40 At Gwersyllt Station (RTNW) Wrexham, a disabled person in an electric wheelchair was struck by a passing freight train on 8 March 2001. The train operator, First North Western, has placed signs advising disabled people to request advance assistance before travelling. The gentleman involved in the incident failed to request assistance and also ignored trespass signs. His wheelchair apparently became stuck on the barrow crossing and another member of the public helped him move out the way. He was struck while at the side of the level crossing. The surface condition of the level crossing was poor and emergency repair work was carried out.

4. What is the data that is collected and used for assessments of pedestrian accommodation level crossings for Network Rail's routine assessments using its All Level Crossings Risk Model (ALCRM).

ORR does not hold the data that is collected and used for assessments of pedestrian footpath crossings for Network Rail's routine assessments using its All Level Crossings Risk Model (ALCRM). You should contact Network Rail for this information. See: <http://www.networkrail.co.uk/>

Yours sincerely,

Bill Dennis
customer correspondence team

From: Ian Salisbury [mailto:ian@salisbury.uk.com]
Sent: 11 August 2010 07:39
To: Dennis, Bill
Subject: Accommodation pedestrian level crossings [Scanned]

Dear Mr Dennis,

Thank you for your letter of 26 July, your reference CCT/10-11/420, and for the very helpful information you have provided. I would be grateful if you would help me find out how safe pedestrian accommodation level crossings are in general, so as to assist me with the public inquiry that is to take place this autumn. May I please know:-

1. How many pedestrian level crossings are there in the area for which the Office of Rail Regulation has responsibility; and of those, how many are accommodation crossings?
2. For each year over the last most recent 10 years for which records are available for such pedestrian accommodation crossings, how many:-
 - a) pedestrians have been struck by a train?
 - b) near misses with pedestrians have there been?

(If your data is collected in different categories, please let me know what categories of data you hold.)

3. In each case of a train striking a pedestrian that you have reported:-
 - a) for the fatalities listed in answer to question 2.a), the inquest verdict and an outline of any elaboration of the verdict given by the coroner.
 - b) for the non-fatal injuries listed in answer to question 2.a), the decision of all investigations or inquiries into the incidents, if any.
4. What is the data that is collected and used for assessments of pedestrian accommodation level crossings for Network Rail's routine assessments using its All Level Crossings Risk Model (ALCRM).

Please note I am not interested in data collected for level crossings other than for accommodation level crossings.

Yours sincerely,

Ian Salisbury

24 Lathbury Road
Oxford OX2 7AU

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