

**TRANSPORT AND WORKS ACT 1992**

**APPLICATION FOR THE PROPOSED CHILTERN RAILWAYS (BICESTER TO  
OXFORD) IMPROVEMENTS ORDER**

**OBJECTION TO THE APPLICATION BY MR AND MRS UNWIN (OBJ 222)**

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**SUMMARY PROOF OF EVIDENCE**

**OF**

**STEPHEN UNWIN**  
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**OCTOBER 2010**

1.1 I, together with my wife Anita and our three children, live at the property known as Brookfurlong Farmhouse.

## **2 Our concerns**

2.1 Our objection letter raised the following concerns:

- (a) the draft Order proposed to extinguish the only vehicular access to Brookfurlong Farmhouse;
- (b) it made no provision for an alternative new accommodation crossing for the benefit of our home;
- (c) the application documents did not clearly set out how the Promoter proposed to construct any alternative access; and
- (d) there was inadequate consultation regarding the changes to the footpath network, affecting the amenity we derive from our home.

2.2 Ardent responded with a proposal to deliver an alternative access route. Those proposals were inadequate and insufficient for the following reasons:

- (a) the Promoter does not take into account the fact that the property will lose the benefit of having an access route which is not shared (other than with Mr Henman who uses it irregularly for farming purposes);
- (b) the proposal takes no account of the fact that the greater part of the alternative access route will be used by 5 parties;
- (c) the Promoter refuses to upgrade the alternative access to a standard commensurate with these much higher levels of use, by both private and heavy agricultural vehicles; and
- (d) the Promoter refuses to construct the alternative route to a standard which would minimise, as far as possible, future maintenance costs.

2.3 I will now comment on each of these reasons.

## **3 Loss of private access route**

- 3.1 The road over Brookfurlong Crossing is currently our only vehicular access route to our home. The permanent compulsory acquisition of the Crossing would deprive us of this.
- 3.2 Although the permanent acquisition of the Crossing carries with it a claim for compensation, financial compensation will not give us fair equivalence for our loss. My wife and I are currently masters not only of our own castle, but also the route to that castle. This is a benefit which is difficult to put a financial value on. The “alternative” route will instead oblige us to be concerned with multiple users and how often they are using it and with what type of vehicles, matters outside of our control. Whether or not a maintenance agreement is achievable, I will henceforth be forced to enter into discussions and negotiations, and possibly endure disputes, with our neighbours. As is well known, shared occupancy of any land between neighbours often becomes the subject of acrimony that can drive a wedge between good neighbourliness and cause the souring of relationships, with the consequential harm on good mental health. It is difficult to put a financial price on good mental health.
- 3.3 We would far prefer not to have the risk of such worries and concerns arising, as is currently our situation.

Brookfurlong Crossing and the 1846 Act

- 3.4 We believe that our access route existed prior to the railway and was preserved by Brookfurlong Crossing, under the duties imposed by the Oxford and Bletchley Junction Railway Act 1846 and section 68 of the Railways Clauses Consolidation Act 1845. Although the Promoter states it has not seen any evidence for this, our solicitor’s inspection of the deposited plans for the 1846 Act show a crossing which I believe to be Brookfurlong Crossing. Under statute, this is a crossing to be maintained by the promoter of the 1846 Act “and at all times thereafter”.
- 3.5 In light of this, we consider the alternative access route proposed is inadequate because:
- (a) if our crossing is to be extinguished, then the equivalent recompense should be either the financial value of providing a similar crossing for our and Mr Henman’s benefit (such as a bridge over the railway) or alternatively the

financial benefit to the Promoter in no longer having to maintain the crossing in perpetuity;

- (b) alternatively, the equivalent recompense should nonetheless be something as close as possible to what is currently enjoyed i.e. an access route which minimises as far as possible any risks of future disputes and consequential disturbances to mental health;
- (c) the Promoter is obtaining a benefit in extinguishing a statutory duty of maintenance for the benefit of the private users of the crossing. That benefit (i.e. the ability to have faster trains on the track) should be taken into account when considering the financial quantum available for the provision of an adequate alternative route.

#### **4 Greater usage of alternative access route**

4.1 The alternative access can be divided into the following sections:

- (a) Section A – from Bletchington Road to the “sleeper bridge” (approximately 1000m in length);
- (b) Section B – from the sleeper bridge to John Henman’s haybarn (approximately 115m in length);
- (c) Section C – from the haybarn to Brookfurlong Farmhouse (approximately 300m in length).

4.2 Section A, the longest part of the alternative route, will be used by at least 5 parties:

- (a) myself, my family and visitors;
- (b) the owners of Chipping Farm
- (c) the owners of Chipping Farmhouse;
- (d) the owners of the surrounding farmland and
- (e) the Church Commissioners and their tenants and/or agricultural licensees.

- 4.3 The quality of Section A's surface is poor. With a significantly higher level of use, its quality will be inadequate for the majority of the time, unless it is upgraded to a different standard.
- 4.4 Section B is unsurfaced. It is subject to high levels of wear, often becoming a sea of mud.
- 4.5 Section C is a simple grass track. When used by vehicles it quickly becomes muddy.
- 4.6 An alternative gateway to Brookfulong Farmhouse needs to be provided (and listed building consent obtained).
- 4.7 It is necessary to ensure that the whole route is upgraded so it provides good access for all types of vehicles at all times of year, with a minimum amount of repair or maintenance work.

## **5 Proposals of the Promoter**

- 5.1 The Promoter proposes to make up the alternative access to a "standard which is functionally equivalent to [our] existing access". The offer to "make up" the alternative access route to a functionally equivalent one as my current access appears to mean that:
  - (a) no improvement will be made to Section A and Section C will be to the current standard of Section A; and
  - (b) minimal improvements will be made to Section B to cater only for the risk of flooding.
- 5.2 This is wholly inadequate and completely misses the point as to what kind of equivalence is required. The state of our current access should not be the comparator against which the Promoter defines what is "equivalent" to our loss. At the moment, maintenance is under our close control and Mr Henman has machinery which can assist with the repair work and we do some of the labour, so there is minimal cost to us. We do not have to look to multiple parties or enter into fraught negotiations regarding maintenance. By compulsorily acquiring our access route we lose that benefit.

- 5.3 In practical terms, the “offer” would mean the track would quickly deteriorate, requiring ongoing discussions and negotiations with each of the four other users regarding maintenance and costs. By this time, of course, the Promoter will have washed its hands of the issue and we will be left to sort out any disputes between us.
- 5.4 The duty of maintenance is currently on the Promoter to maintain Brookfurlong Crossing. If that duty is to be extinguished for the benefit of the Promoter, that should be taken into account when providing an alternative route.
- 5.5 Thus, our proposal made to the Promoter from the very beginning is that it makes up the alternative access route to a standard which reduces, as far as possible, any future maintenance costs, to give me the equivalent peace of mind that my current private access provides. We are advised that the most obvious solution for minimising future maintenance costs would be concrete surfacing of each of Sections A, B and C.

## **6 Diversion of Footpaths**

- 6.1 In view of its isolated and rural location, the current footpaths enhance the enjoyment of the Property considerably and were one of the reasons we originally decided to buy our home.
- 6.2 Under the Promoter’s current footpath closure proposals, we would suffer the following adverse effects:
- (a) we would need to make a considerable detour to walk along footpaths to Islip,
  - (b) out of the current three footpath crossings within easy access and our accommodation crossing, three will be closed;
  - (c) no proper consideration was given to the use of Brookfurlong Crossing as a location where a suitable bridge could be built, rather than a bridge at Oddington No.5.
- 6.3 Whilst it is acknowledged that the rights of different parties need to be balanced, we ask the Secretary of State to consider whether the consultation carried out was adequate, in particular with regards to those who own property which would be directly affected by the changes; whether Brookfurlong Crossing should have a bridge over it (rather than at Oddington No.5) in view of the statutory nature of the

accommodation crossing; and in overall terms whether the current proposals are the best solution for all concerned.

**Stephen Unwin**

**11 October 2010**