

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

CHILTERN RAILWAYS' REBUTTAL PROOF OF EVIDENCE

IN RELATION TO

THE OBJECTION AND EVIDENCE OF

WOLVERCOTE COMMONERS' COMMITTEE

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 the objection and evidence of Wolvercote Commoners' Committee.
- 1.2 Wolvercote Commoners' Committee submitted a Proof of Evidence to the on 10 December 2010 which raised points that Chiltern Railways wish to address.
- 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 points raised in the evidence of Wolvercote Commoners' Committee and referred to above. In this respect, for cross-examination purposes, the name of the 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 letters exchanged between Chiltern Railways and Wolvercote Commoners' Committee dated 24 November 2010, attached as Appendix A to this rebuttal;

"the Objector" means Wolvercote Commoners' Committee;

<i>“the Objector’s evidence”</i>	means the proof of evidence of Wolvercote Commoners' Committee;
<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 The evidence on behalf of the Wolvercote Commoners’ Committee has been written by Mr Andrew Burchardt, the Honorary Secretary of the Committee.
- 3.2 The Wolvercote Commoners’ Committee was set up on 6 March 1929 to take over the functions of the former Parish Council with respect to the various Commons in Wolvercote. The rights of the Wolvercote Commoners were confirmed in 1279 and extended in 1562. The Objector states that despite the antiquity of the Committee and its predecessors there is little documentary evidence of its authority. The Objector states that a public inquiry in 1985 over encroachment on the commons, the Inquiry accepted the Wolvercote Commoners Committee’s rights to manage the land and represent those with grazing rights over it, as is recognised by Oxford City Council, and Natural England. The Objector states that the propriety of the Wolvercote Commoners Committee in representing the interests of graziers has been confirmed. The Objector states that the Committee has established legal rights over Port Meadow as well as over Wolvercote Common dating back to the 16 Century.
- 3.3 The Objector’s evidence relates in the main to that part of Port Meadow shown on Section Work No 3, Sheet no 29 and 30 and is particularly concerned with plots 29011, 29010, 29009, 29015, 29018, 29012, 29017, 29016 and 29008.

Use of the Track Over Port Meadow, Ian Gilder

- 3.4 The Objector states that they do not consider that it is necessary to allow vehicles to drive on Port Meadow in order to deliver the Order Scheme. The Committee objects to the proposed increase in the number of vehicles that would be allowed to drive onto Port Meadow and the high level of probability that this would result in an increase in unauthorised driving on Port Meadow itself.
- 3.5 Chiltern Railways has determined that, on the evidence before the Inquiry, it is no longer necessary to seek powers to provide a permanent vehicular access for allotment holders over Port Meadow. Proposed amendments to the Order will be submitted to the Inquiry to remove all powers from the Order which would grant permanent powers over Port Meadow. In addition, the application for a certificate under paragraph 6 of Schedule 3 to the Acquisition of Land Act 1981 will be withdrawn as regards to any permanent rights over Port Meadow.

The Impact of Vehicles on Port Meadow, Ian Gilder

- 3.6 The Objector states that the Committee's experience as key holders for the Wolvercote Common and to two other commons in Wolvercote is that vehicle owners sometimes do not close the gate after having driven through and often do not lock it. The Objector states that this lets livestock escape and unauthorised vehicles to enter the common. The Objector states that its experience is that people make copies of the keys and distribute them to unauthorised users and the original keys are not returned to them.
- 3.7 The Objector states that in the past, travellers have camped on the commons as they have been able to gain access and it has taken many years to evict them with costs running into thousands of pounds in legal fees.
- 3.8 The Objector states that there is a conflict between vehicles and grazing animals. The Objector states that the Committee has had claims from vehicle owners where cattle have damaged their vehicles while on the common and also claims from horse owners when their horses have been injured. The Objector is concerned that the more vehicles that are allowed onto Port Meadow the more likely it is that there will be claims made and cattle or horses injured.
- 3.9 The Objector states that should additional access be permitted on to Port Meadow, in face of its objection, it would require adequate insurance to be taken out to cover the risks and costs of damage and injury and the imposition of heavy penalties for key holders who lose or lend out their keys. The Objector suggests that it would preferable for Oxford City Council to take responsibility for limiting vehicle access rather than Chiltern Railways, although they object to increased access in principle.
- 3.10 Chiltern Railways does not now propose to seek powers for a permanent vehicular right of way over Port Meadow for the allotment holders, as noted in paragraph 3.5 above. Consequential changes to the Order are in hand and will be submitted to the Inquiry forthwith.

Compulsory Purchase Order, Richard Caten

- 3.11 The Objector seeks clarification as to why a Compulsory Purchase Order is necessary if, as stated by Chiltern Railways, there would be no diminution in grazing land and hence no diminution in the SSSI. The Objector states its understanding that land near the Aristotle Lane bridge may be required temporarily for works to improve the access to the bridge from the Port Meadow side whereas its understands that a Compulsory Purchase Order can be permanent. The Objector is seeking clarification as to whether, if a Compulsory Purchase Order is made, will the land be returned to the present owners and that the land would be out of use for grazing.
- 3.12 No land will be acquired in title permanently from Port Meadow, as noted in paragraph 3.5 above.

Upgrade of Path Leading West from Aristotle Lane, Ian Gilder

- 3.13 The Objector is seeking clarification as to whether the path leading from Aristotle Lane bridge to the west is to be upgraded with tarmac or concrete or similar hard

surface between the existing fenced and gated section and the main concrete path. The Objector states that it any improvement to tracks on Port Meadow as being a “dis-improvement” to Port Meadow itself as at the current informal path is perfectly acceptable.

- 3.14 The re-grading of the bridge approach ramp and inclusion of a short, level sections is being undertaken to make the bridge easier to use for those accessing the Trap Ground Allotments, when the existing level crossing is closed as part of the Order Scheme. This is intended to overcome a dip in the path, which becomes inundated at lower water levels than would flood the allotments themselves and is intended to maintain access for allotment holders at times of flooding.
- 3.15 The works will make the route over the footbridge, which is a public bridleway, easier to use for all users of the route as it will incorporate features designed to assist mobility-impaired users. In recognition of the current informal nature of the path, it is intended to avoid the use of hard surfacing materials such as bitmac and use instead a compacted stone surface, similar in appearance to the existing path.
- 3.16 The raising of the existing footpath/bridleway at the western end of the present Aristotle Lane bridge has been progressed to minimise potential impacts to the Special Area of Conservation and Site of Special Scientific Interest, in accordance with the requirements of Natural England and the Environment Agency.

Compensation for Grazing Rights, Richard Caten

- 3.17 The Objector states that there are a number of plots shown on the Deposited Plans (such as Plots 29009, 29015 and 29018) which if they are to be occupied by Chiltern Railways and their contractors during the course of construction of the railway the Committee would expect compensation for loss of grazing rights alongside the Freeman of the City of Oxford.
- 3.18 Compensation for land used temporarily under the powers of the Order, will be assessed in accordance with the provisions set out in the Order.

4 Conclusion

- 4.1 This rebuttal responds comprehensively to the evidence presented by the Objector.
- 4.2 Chiltern Railways has concluded that it no longer necessary to seek powers to provide a permanent vehicular access for allotment holders over Port Meadow. Therefore, Chiltern Railways consider that they have addressed this and any other concerns of the Wolvercote Commoners.

Appendix A

CRCL/R/OBJ321

Relevant Correspondence
between Chiltern Railways
and the Objector

Our Ref: PC/P3.wolvercote/EG3/001
Your Ref:

Mr Andrew Burchardt
8 Elmthorpe Road
Oxford
OX2 8PA

Dir Tel – 07900 052307
E-mail – paulclarke@ardent-
management.com

24th November 2010

Dear Mr Burchardt,

**Draft Chiltern Railways (Bicester to Oxford improvements) Order
Objection number - Wolvercote Common**

Further to our conversation, I have attached:

- Copies of Sheets 29 and 30 of the Deposited Plans and Sections and Open Space Plan.
- The draft Order.

The plans show the land over which Chiltern is applying for compulsory purchase and works powers. The pink coloured land is that within the Limits of Deviation. Basically that will give Chiltern full compulsory purchase powers, with out any limitations. The green coloured land is that within Limits of Land to be Acquired or Used. This land can only be used or acquired for certain specific purposes. These are set out in the draft Order in schedules 2 and 11, on a numbered plot basis. For example plots 29009, 29015 and 29018 are all within schedule 11. Therefore, they can only be used temporarily during the works, so they cant be acquired for use as a car park.

Please contact me if you need any further explanation or information. I am regularly in Oxford at the Inquiry venue, so I am more than happy to meet to hopefully allay The Commoners concerns about the project.

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Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Clarke', written in a cursive style.

Paul Clarke
Associate director

cc C Baker ERM
Enc Draft Order
Sheets 29,30