

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

CHILTERN RAILWAYS' REBUTTAL PROOF OF EVIDENCE

**IN RELATION TO
THE OBJECTION AND EVIDENCE OF
MR AND MRS FARR**

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 Mr and Mrs Farr.
- 1.2 In particular, Mr and Mrs Farr have raised new points in their proof of evidence 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 has 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 evidence of Mr and Mrs Farr 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 Mr and Mrs Farr dated 15 February 2010 and 27 May 2010, attached as Appendix A to this rebuttal;

“the Objectors” means Mr and Mrs Farr;

“the Objectors’ evidence” means the proof of evidence of Mr and Mrs Farr;

“the Order application” means the application for the proposed Order submitted on 6 January 2010 and the Proposed Modification dated 9 September 2010; and

“the proposed Order” means the proposed Chiltern Railways (Bicester to Oxford Improvements) Order.

3 Chiltern Railways’ Rebuttal of the Objectors’ Evidence

Context

3.1 Mr and Mrs Farr are the owners of Chipping Farmhouse, Bletchingdon Road, Islip. The farmhouse and farm are accessed by a private track which both they and Mr and Mrs Howard, along with the freeholders, the Church Commissioners, share the use and maintenance of.

Condition of the Existing Chipping Farm Track, Richard Caten

3.2 The Objectors state that the reported condition of the farm track was based on a survey undertaken in dry conditions that does not take account of its poor state of repair in wet conditions. The Objectors state that the material they have used in the past to maintain the track would not be adequate for the increased levels of traffic and the upkeep would increase disproportionately with the increased usage. The Objectors state that a more robust surface is needed to cope with the extra traffic. The Objectors are concerned about the cost of the maintenance of the track.

3.3 Chiltern Railways has issued a draft agreement to the Objectors agents that provides for resurfacing of Chipping Farm Track in concrete, as requested by the Objectors. However, the Objectors’ agent has not responded to date.

Improvement of Chipping Farm Track, Richard Caten

3.4 The Objectors are seeking a permanent surface for the existing Chipping Farm Track and for the proposed new track from Brook Furlong to the spur at Chipping Farm. The Objectors state that Chiltern Railways is resisting the improvement of the

Chipping Farm Track as it is considered to be betterment whereas the Objectors state that they are seeking a functional equivalent. The Objectors state that if Steve and Anita Unwin (Brook Furlong) and John Henman (Manor Farm) acquire a right of access over Chipping Farm Track to reach their respective properties, the use of the track will be greatly increased. The Objectors state that there may be an additional party (the Calcutts) who have right of way over a short part of the track nearest the Bletchington Road for access to a field not owned by the Church Commissioners.

- 3.5 Whilst Chiltern Railways considers that the concrete improvement of the surface of Chipping Farm Track is a betterment to the existing situation, it has nevertheless issued a draft agreement to the Objectors' agent that provides for the resurfacing of Chipping Farm Track in concrete. The Objectors' agent has to date not responded, however, Chiltern Railways understands that this solution deals with the Objectors' concerns.

Restrictive Use of the Chipping Farm Track, Richard Caten

- 3.6 The Objectors are seeking to limit the use of the Chipping Farm Track to the existing users together with the owners of neighbouring property and land, the Unwins and Mr Henman. The Objectors are seeking to prevent construction vehicles using the track as they state that it would ruin the surface of the track.
- 3.7 Chiltern Railways intend to utilise Chipping Farm Track as an access route. However, before doing so, the track will be surveyed and if necessary improved, so as to be fit for the purpose of construction access. Upon completion of the works and in any event Chiltern Railways will reinstate the farm track to the reasonable satisfaction of the landowner in accordance with the Order. However, as stated above, Chiltern Railways has issued a draft agreement to the Objectors' agent, which provides for the improvement by way of concreting of Chipping Farm Track and Chiltern Railways understand from the Objectors that this work would remove this concern.

Property Values, Richard Caten

- 3.8 The Objectors state that if they were unable to use the Chipping Farm Track due to its poor condition it would have a 'huge' effect on the resale value of their properties.
- 3.9 The Objectors will not be prevented from using Chipping Farm Track and as stated above, Chiltern Railways has issued a draft agreement to the Objectors, which provides for resurfacing of Chipping Farm Track.

Drainage, Stephen Barker

- 3.10 The Objectors are concerned about the structure of the drainage stream which is in need of repair, specifically about the flooding on the corner of the only real passing place on the track, which will be inadequate due to the increased traffic.
- 3.11 Chiltern Railways will comply with the requirements of the Environment Agency in respect of drainage requirements resulting from the other proposed changes to the access track.

4 Conclusion

- 4.1 This rebuttal responds comprehensively to the evidence of the Objectors. The Objectors are concerned with Chipping Farm access track. Chiltern Railways has issued a draft agreement to the Objectors' agent, which provides for the improvement by way of concreting of Chipping Farm Track and Chiltern Railways believe this would remove their concern.

Appendix A

CRCL/R/OBJ118

Relevant Correspondence
between Chiltern Railways
and the Objector

035/118

Bircham Dyson Bell
Solicitors and Parliamentary Agents

RECEIVED IN
16 FEB 2010
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Your Ref

Our Ref
NAJ/ADW/Y062797

Date
15 February 2010

Dear Sir

**Transport and Works Act 1992
Objection to the Draft Chiltern Railways (Bicester to Oxford Improvements) Order**

This is a letter of objection to the proposed Chiltern Railways (Bicester to Oxford Improvements) Order ('the Order') applied for by Chiltern Railways on 6 January 2010. The objection is made on behalf of Mr Peter and Mrs Pia Farr, of Chipping Farmhouse, Bletchington Road, Islip, Kidlington, OX5 2TH.

Background

The Order is for works that would enable trains to run from London Marylebone to Oxford via Bicester. The Objectors' property comprises a family home and 0.4 acres of land to the east of Islip and near the railway line between Bicester and Oxford. The Order proposes that this section of line is upgraded from single-track to double-track to allow more trains, travelling at higher speeds, to use it. To carry out these works, the Order provides that Chiltern Railways can acquire Chipping Farm track ("the Track") (parcels 16a009 and 17a001) to provide accommodation access. This is currently a private track over which the Objectors and three others have rights of access. The Objectors have an obligation to pay 20% of the costs of maintaining the track. The freeholders of the land are the Church Commissioners.

The Objectors' specific concerns can be summarised as follows:

- (a) the Objectors do not wish to dilute or lose their use and enjoyment of the Track;
- (b) the Objectors do not wish the Track to be widened, with attendant loss of vegetation;
- (c) the Objectors do not wish the Track to be used by construction traffic;
- (d) the potential for services to the Objectors' property to be disrupted; and
- (e) the construction and operation of the railway may result in unacceptable levels of noise at their property.

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Details of each of these concerns are set below.

Use of the Track

The Track is described as being acquired for the 'provision of accommodation access' in Schedule 2 to the draft Order, and it is further mentioned in article 25(5), where new rights may be created over it to provide vehicular access to those affected by the closure of Brookfurlong Farm Crossing. The extent of the accommodation access, in terms of who it would involve both at present and in the future, is not specified, nor is it set out whether any of those with existing rights would be extinguished. The effect on the maintenance agreement of extending access to others is also unknown.

The Objectors object to any diminution or loss of their rights to use and enjoy the track. Not only is it the only access to their residence, but the security of the property would be reduced. Furthermore, it is a tranquil and restful area that contributes to the value of their property and is one of the reasons why they purchased it.

Alterations to the Track

The Track is presently single-track with two passing places. The land is described in the Book of Reference as comprising a track, trees, shrubbery and thickets. The implication is that Chiltern Railways will be able to acquire the trees, shrubbery and thickets as well as the Track itself, and remove or reduce them, either to widen the track or for any other reason. The Objectors object to any loss of vegetation along the Track, whether in order to widen it or for any other purpose.

Use of the Track during construction

The Track is not suitable for heavy vehicles and passes close to the Objectors' home. Although its acquisition is described as for 'accommodation access', this is not defined and the Objectors would object to its use by construction-related vehicles at any stage of the project.

Services

The Objectors are concerned that, as often occurs during construction projects, there are planned or accidental interruptions to services. They would wish to be assured that there will be no planned interruptions to any services to their property and that there is a protocol in place for dealing with any accidental interruptions swiftly.

Noise

The Environmental Statement ('ES') submitted with Chiltern's application does not identify the Objectors' house, Chipping Farmhouse, as a property that is likely to be affected by noise from the construction and operation of the railway. The Objectors would wish to be sure that the predicted noise impact during construction and operation will not be significant and that they will have adequate remedies should disturbance in fact occur.

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The most significant noise impacts will result from the operation of the railway line once the upgrading works are completed. Currently, one train every 90 minutes passes along the line. Once the works are completed, this will increase to 6 trains per hour which will travel at much higher speeds than the current service. The incidence and level of noise from passing trains will therefore be significantly increased.

If there is an impact, either predicted by Chiltern Railways' consultants or when construction and/or operation take place, the Objectors would wish steps to be taken, such a cessation or reduction in work or operation, until steps can be taken such as the construction of noise barriers or noise insulation works under Chiltern Railways' own non-statutory scheme, sufficient to reduce noise to an acceptable level.

The Objectors are concerned not only by noise levels inside their property, but also by noise outside and, in particular, the effect this is likely to have on local ecology at the site. The Objectors are concerned that noise from the construction and operation of the proposed railway will drive away the local wildlife and reduce the amenity of the area.

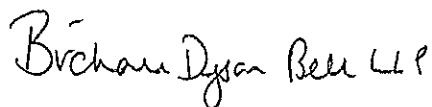
The Objectors submit that the Order should not be made unless appropriate mitigation measures are put in place which will ensure noise impacts at their property are reduced to an acceptable level.

Conclusion

The Objectors would wish to have their concerns satisfied prior to any public inquiry held in the application for the Order. Pending the outcome any such discussions, they would wish to have the opportunity to appear at any public inquiry. The Objectors also seek reassurance that their legal costs in objecting to the draft Order will be met by the Promoter.

Please send any correspondence relating to this objection to this address, marked for the attention of Nicola Jordan.

Yours faithfully



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27th May 2010

Dear sirs,

**Draft Chiltern Railways (Bicester to Oxford improvements) Order
Objection number 118 – Mr & Mrs Farr**

We refer to your letter dated 15th February 2010, addressed to the Secretary of State for Transport, setting out your clients' objections to the above Order application. The following are Chiltern's responses to the objections.

Use of the Track

Accommodation access to the track is only intended to be provided to your clients and those who are currently in possession of rights of access over Brookfurlong Farm Crossing. We can confirm that this proposal was discussed with your client at a meeting at their property with the undersigned.

Of the persons intended to be provided with accommodation access to the track one of these already has rights of access along the track by virtue of an interest in adjoining farmland. It is therefore envisaged that only one additional landowner will be granted rights over the track.

It is understood that at present those with rights over the track in question have a title obligation to bear a proportion of maintenance costs, based upon use of the track.

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Chiltern's intention would be to extend this obligation to the new users by agreement with all the existing users of the track.

Due to the limited extent of the new rights of access to be provided over the track it is Chiltern's assessment that the impact on your clients' current use of their rights of access over the track will be minimal.

Alterations to the Track

We can confirm that Chiltern will be required to carry out the construction of the works in accordance with the controls set out in the Code of Construction Practice submitted as part of the Environmental Statement for the scheme.

The Code of Construction includes specific controls which require Chiltern when constructing the works to avoid unnecessary vegetation removal. In addition, we can confirm that it is also not considered necessary by Chiltern to widen the track for the purposes of the works..

Use of the Track during construction

Heavy vehicles will generally gain access to work sites along the railway alignment. As the railway is being closed during the works this will be possible for this project.

In the event that the track was used for construction access the reinstatement obligations conferred upon Chiltern by article 29(4) of the Order in cases where Chiltern exercises the powers within the draft Order to temporarily use land would require Chiltern to reinstate the track to the reasonable satisfaction of the owners of the track.

Services

Specific measures to protect services to properties during the construction of the works are also dealt with in the Code of Construction Practice. However, if your clients feel that they may be the beneficiaries of private services which may not be detected during consultation with the Statutory Undertakers, will they please let us know so that appropriate protective measures can be taken.

Noise

The detailed noise assessments carried out by Chiltern as part of its environmental impact assessment of the scheme, copies of which are attached to the Environmental Statement, do not indicate that Chipping Farm will be subject to any significant increases in noise levels due to the property being located some distance from the railway. Therefore specific measures to mitigate noise from the operation of the railway were not deemed necessary for your client's property.

However, the trigger levels for noise mitigation measures for operational noise as set out in the Environmental Statement are obligations on Chiltern. Therefore, if during the detailed design phase other properties are identified as exceeding the specified levels, the same mitigation measures will be applied to those properties, as set out in the Environmental Statement.

During construction, the Code of Construction Practice sets out detailed controls which describe how noise impacts will be mitigated and monitored by Chiltern. In addition any noise impacts arising from the construction of the work will be subject to external control and verification, as all construction works will be subject to Chiltern obtaining s61 consent approvals from the local authority where a noise impact is predicted.

Fees

As you will know, Circular 3/34 states that objectors cannot reclaim fees incurred in objecting to a TWA Order application.

We hope that the above will reassure your clients. If you require any further information please contact the undersigned.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'P. Khan' or similar, written in a cursive style.

Paul Clarke
Associate director

cc C Baker ERM
Enc

Our Ref: PC/P3.2/EG3/001
Your Ref:

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15th July 2010

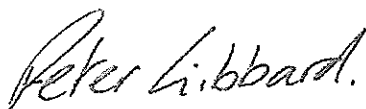
Dear Mr O'Connor,

**Draft Chiltern Railways (Bicester to Oxford improvements) Order
Objection number 118 – Peter & Pia Farr**

I am writing further to the letter we sent to you on 27.05.10 in response to your letter of objection, which was sent to the Department For Transport. We have not received any response to the letter we sent to you, I trust we have addressed all of your concerns.

If you do have any further questions in relation to the proposed Order or if we have not successfully addressed your concerns, please do not hesitate to contact the undersigned or Paul Clarke on paulclarke@ardent-management.com. If you feel that we have addressed your concerns with the above Order then you are able to withdraw your objection by writing to the Secretary of State for Transport. Ideally Chiltern will have no objections remaining at the Public Inquiry, we welcome the opportunity to work with you to achieve this position.

Yours faithfully,



**Peter Gibbard
Assistant Surveyor**

cc C Baker ERM