

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

CHILTERN RAILWAYS' REBUTTAL PROOF OF EVIDENCE

**IN RELATION TO
THE OBJECTION AND EVIDENCE OF
MARK AND DAVID RICHARDSON**

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 Mark and David Richardson.
- 1.2 Mark and David Richardson have not raised any additional points since their Statement of Case, dated 6 August 2010, that Chiltern Railways has 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 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 the points raised in the evidence of Mark and David Richardson 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 Mark and David Richardson dated 15 February 2010, 11 March 2010, 24 March 2010 and 24

June 2010 attached as Appendix A to this rebuttal proof;

“the Objector” means Mark and David Richardson;

“the Objector’s evidence” means the Statement of Case of Mark and David Richardson;

“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 Objector’s Evidence

Context

- 3.1 Mark and David Richardson are the freehold owners and occupiers of the property known as Bicester Bodyshop, London Road, Bicester. The Objector states that part of the property is included in the Order as Plot 04007. The Objector states that Chiltern Railways wish to acquire plot number 04012 on a permanent basis.

Inadequate Justification for Compulsory Purchase, Richard Caten

- 3.2 The Objectors state that Chiltern Railways has not demonstrated that the Scheme’s land acquisition is necessary and that there is sufficient need for the Scheme to justify compulsory purchase. The Objectors contend that the Scheme is not necessary.
- 3.3 The Objectors state that Chiltern Railways has not attempted to acquire the property by agreement and, therefore, cannot demonstrate that compulsory purchase is justified.
- 3.4 The Objectors operate a car body repair shop. The building used for this operation is the part of the building excluded from the draft Order, situated adjacent to Plots 04007 and 04061. These Plots are used for the storage of cars during the pre and post repair stage.
- 3.5 The Objectors own the freehold interest in the building and land not being acquired, a freehold interest in Plot 04007, together with a leasehold interest in Plot 04061. The Objectors do not, however, have an interest in Plot 04012. Chiltern Railways has explained to the Objectors that the scheme is proposed to be built by Chiltern Railways as a franchise obligation to the Office of the Rail Regulator and the Objector has been advised that the Statement of Aims sets out the purpose of the proposed Scheme.
- 3.6 Circular 06/04 recommends that applicants undertake a parallel process of promotion of compulsory purchase and acquisition by negotiation. The relevant paragraph is reproduced below:

” 24. *Before embarking on compulsory purchase and throughout the preparation and procedural stages, acquiring authorities should seek to acquire land by negotiation wherever practicable. The compulsory purchase of land is intended as a last resort in the event that attempts to acquire by agreement fail. Acquiring authorities should nevertheless consider at what point the land they are seeking to acquire will be needed and, as a contingency measure, should plan a compulsory purchase timetable at the same time as conducting negotiations. Given the amount of time which needs to be allowed to complete the compulsory purchase process, it may often be sensible for the acquiring authority to initiate the formal procedures in parallel with such negotiations. This will also help to make the seriousness of the authority’s intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.”*

3.7 Due to the size of this Scheme Chiltern Railways is not yet at the acquisition stage, as there are too many discrete land parcels and interests along the length of the Scheme to acquire land without the confidence of having a confirmed Order to ensure that the project can be delivered. Acquisition of land for a scheme of this nature, without the ability to deliver it, is not considered to be in the interest of the public.

Compulsory Purchase and Order Scheme Location, Stephen Barker

3.8 The Objectors state that Chiltern Railways has not demonstrated that the Order Scheme should be built in this location. The Objector contends that there are other parcels of land in this locality which could be acquired to meet the requirements of the scheme.

3.9 If Bicester Town station is to continue to effectively serve the both town centre at Bicester and the Bicester Village retail complex, the number of locations in which the station can be located are very limited. As evidenced in the Bicester Town Station Options Report [CD/2.17], a number of alternative options for the station layout were considered. All of the alternative options had considerable drawbacks compared to the option that forms part of the Order Scheme.

Compulsory Purchase and Statutory Notice Periods, Richard Caten

3.10 The Objectors state that they need significantly more than the statutory minimum notice to either reconfigure the property to cater for the loss of land or if that is not possible to find suitable alternative accommodation and relocate their business. The Objectors are concerned that they may not be able to continue carrying out their business operations due to the loss of the hard standing. The Objectors state that they need to remain in the locality, ideally on the same site, to maintain their business. The Objectors estimate that they will need a minimum of 12 months notice to achieve either a successful reconfiguration of the building or a relocation. The Objectors state that if they are not provided with sufficient notice there is a real risk that their successful local business will be extinguished and jobs will be lost.

3.11 Chiltern Railways has offered to the Objectors to extend the minimum notice period in relation to this property to a minimum of 6 months and has proposed an agreement on this basis. This offer has been declined by the Objectors.

- 3.12 In the event that the business is required to be relocated, the Objectors have not given any reasons as to why the relocation is expected to require a minimum of 12 months. Chiltern Railways understands that businesses of this type are, to a certain extent, tied to a general geographic area as they build up goodwill amongst the local population. They are not, however, tied to a specific building or precise location.
- 3.13 Notwithstanding this, the compensation code provides for compensation for the costs incurred by a dispossessed property occupiers, which includes losses of goodwill.

Order Scheme Design, Paul Tregear

- 3.14 The Objectors state that if the Order Scheme is to be built in this location it needs to be redesigned to minimise its detrimental impact on the locality and avoid the acquisition of the Objector's property. The Objectors state that their property is needed for alteration works to the London Road and Station Approach junction. The Objectors are concerned with the design of the junction and believe it could be redesigned to avoid the acquisition of their property. The Objectors include their proposed layout of the junction in their attached Appendix 1. The Objectors argue that the land to the north of the proposed junction (the land which houses an electricity sub station) could be used for the junction alteration, therefore avoiding acquisition of their land, or reducing the amount of their land needed.
- 3.15 The location of the proposed London Road/Station Approach junction improves the general arrangement of the existing junction by removing the acute angled alignment of Station Approach, and accommodates the right turn lane on London Road as well as a separate right turn lane on Station Approach. The junction needs to be located as shown to accommodate sufficient stacking capacity in the right turn lane on London Road, to accommodate the right turn lane on Station Approach and to provide adequate manoeuvring space to accommodate larger vehicles at the junction.

Access, Paul Tregear

- 3.16 The Objectors state that the temporary closure of Station Approach will cause severe disruption and is unacceptable. Moreover, the Objectors believe that there is likely to be severe access disruption from construction traffic during works.
- 3.17 The Objectors state that it is unclear whether the realigned Station Approach, McKay Estate Road and the revised Station Approach/London Road junction will operate effectively.
- 3.18 Access to the retained land during construction will be a matter for agreement between the parties.
- 3.19 Paul Tregear deals with the highway traffic related matters once the Order Scheme is operational at paragraphs 10.51 to 10.53 of his Proof of Evidence [CRCL/P/8/A], with reference to Section 7 and **CD/2.24**.

- 3.20 The Objectors state that there has been little consultation and no proposals put forward by Chiltern Railways to address their concerns. The Objector states that accordingly the Order Scheme should not be confirmed until the issues have been resolved fully to their satisfaction.
- 3.21 As set out in the consultation report [CD1/1.5], extensive local consultation has been carried out, in accordance with The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006. Public consultation exercises have taken place including exhibitions, newsletters and targeted info-mails, a website. Following submission of the Order Scheme Chiltern Railways, and their representatives, have been working with the Objectors to reach agreement.

4 Conclusion

- 4.1 This rebuttal proof responds comprehensively to the evidence presented by the Objector.
- 4.2 As evidenced in the Bicester Town Station Options Report [CD/2.17], a number of alternative options for the station layout were considered and public consultation exercises have taken place detailing these options. The location of the proposed London Road/Station Approach junction improves the general arrangement of the existing junction by removing the acute angled alignment of Station Approach and was considered, in whole, to be the best option for the station development.
- 4.3 Chiltern Railways has offered to the Objectors to extend the minimum notice period in relation to this property to a minimum of 6 months and has proposed an agreement on this basis. This offer has been declined by the Objectors. Notwithstanding this, the compensation code provides for compensation for the costs incurred by dispossessed property occupiers, which includes losses of goodwill.

Appendix A

CRCL/R/OBJ107

Relevant Correspondence
between Chiltern Railways
and the Objector

Our ref: MRD/RH05/M01M
15 February 2010

By Email:
transportandworksact@df.t.gsi.gov.uk

The Secretary of State for Transport
c/o Transport and Works Orders Unit
Department for Transport
Zone 1/31
Great Minster House
76 Marsham Street
London
SW1P 4DR

10 Stratton Street
London
W1J 8JR
Telephone: +44 (0)8449 02 03 04
Facsimile: +44 (0)20 7911 2560
www.gvagrimley.co.uk

Dear Sir

THE TRANSPORT AND WORKS ACT 1992
PROPOSED CHILTERN RAILWAYS (BICESTER TO OXFORD IMPROVEMENTS)
ORDER (the Order)
OBJECTION MADE ON BEHALF OF MARK RICHARDSON, DAVID RICHARDSON AND
BICESTER BODYSHOP (the Objectors)

We are instructed by the Objectors to act on their behalf in submitting an objection to the Order.

The Objectors' address is London Road, Bicester, OX26 6BY.

The Objectors are the freehold owners and occupier of the property known as Bicester Bodyshop, London Road, Bicester, OX26 6BY. Part of the property is included in the Order as Plot 04007 – 547.35 sq m hard standing, London Road, Bicester, Oxfordshire.

Accordingly, the Objectors are statutory objectors.

The objection to the Order is on the following grounds.

1. The acquiring authority has not demonstrated that the scheme underlying acquisition is necessary and that there is sufficient need for the scheme to justify compulsory purchase. The Objectors contend that the scheme is not necessary.
2. If the Secretary of State finds that the scheme is necessary then the Objectors would argue that the acquiring authority has not demonstrated that scheme should be built in this location. The Objectors would argue that it should be built in a different location. The Objectors contend that there are other parcels of land in this locality which could be acquired to meet the requirements of the scheme.
3. If the scheme is to be built in this location it needs to be redesigned to minimise its detrimental impact on the locality and avoid the acquisition of the Objectors' property.

4. The acquiring authority has not demonstrated that the scheme is deliverable and viable and that funding is available.
5. The acquiring authority has not attempted to acquire the property by agreement and therefore cannot demonstrate that compulsory purchase is justified.
6. The Objectors need significantly more than the statutory minimum notice period to reconfigure the business if the property is to be acquired.
7. There are several access related objections which are as follows.
 - 7.1. The temporary closure of Station Approach will cause severe disruption and is unacceptable.
 - 7.2. There is likely to be severe access disruption from construction traffic during works.
 - 7.3. It is unclear whether the realigned Station Approach, McKay Estate Road and the revised Station Approach/London Road junction will operate effectively.

We therefore request that the Secretary of State either refuses to confirm the Order, or amends the Order.

The Objectors reserve the right to expand these grounds of objection at the public inquiry. The Objectors also reserve the right to add to these grounds of objection should any further issues arise.

Please acknowledge safe receipt of this letter and please confirm that the Objectors have been noted as statutory objectors.

Please direct all correspondence regarding this matter to Mark Davey at GVA Grimley, 10 Stratton Street, London, W1J 8JR (020 7911 2812; mark.davey@gvagrimley.co.uk).


Yours faithfully



GVA GRIMLEY

Cc:

1. Mark and David Richardson, Bicester Bodyshop, London Road, Bicester, OX26 6BY
2. Chiltern Railway Company Limited, Great Central House, Marylebone Station, Melcombe Place, London NW1 6JJ.
3. Ardent Management, PO Box 3050, Wokingham, Berkshire, RG40 3YD, (info@ardent-management.com)

 GVA Grimley

OBJ 107

Nicola Finlay

From: Paul Clarke
Sent: 11 March 2010 10:23
To: 'mark-bodyshop@btconnect.com'
Cc: 'MARK.DAVEY@GVAGRIMLEY.CO.UK'; Peter Gibbard
Subject: OBJ 107
Attachments: 15c - Environmental Statement Volume 3 9.pdf

Mark

Further to our telephone conversation, I have attached a copy of the station layout plan for Bicester Town Station, which is from volume 3 of the Environment Statement. I have also spoken to the highway engineers. The highway arrangements were changed at the last minute, so a roundabout is no longer proposed. What is shown apparently maximises the efficiency of the junction.

I have stressed to the engineers that loss of parking land will have a big effect on your business, so they are re-considering the reasoning for this arrangement so that I have full details. I don't however anticipate them being able to move the access any further from your premises.

Looking at the Order plans it has occurred to me that there may be some vacant land behind your unit. This is currently owned by others, but we may be able to transfer that to you to help mitigate the loss of the frontage land. Please let me know if you think that this may be of benefit to you.

I have copied in Mark Davey to this as I obviously can't exclude him from our exchange. He will appreciate what I am proposing above.

I look forward to hearing from you and Mark further. It is in both your and Chiltern's interests that you remain in these premises, so I am more than happy to consider this issue further.

Regards,

Paul



Paul Clarke | Associate Director
Ardent Property Consultants
Tel: +44 (0)870 443 9100 | Mobile: +44 (0)7900 052307
PaulClarke@ardent-management.com | www.ardent-management.com |

107

From: Hukins, Ross [mailto:Ross.Hukins@gvagrimley.co.uk]
Sent: 24 March 2010 11:08
To: Paul Clarke
Subject: Bicester Bodyshop - Reconfiguration of existing building

Paul,

Following on from our various telephone conversations, I write in relation to the abovementioned matter.

As discussed, both parties are keen to establish if it is feasible for the Bicester Bodyshop to remain on site post development. With the loss of the car parking and car sales areas the business would not be able to continue without a reconfiguration of the current building to create new hard standing fronting London Road. Both our client and yourselves are keen to establish if this is feasible. The next step would be to establish an outline plan and development appraisal for the reconfiguration to understand cost and viability. Accordingly, I write to request an undertaking from yourselves to meet the payment of our fees. Once the necessary background work is completed we will then be in a position to send this to you and have a discussion about feasibility.

Look forward to hearing from you,

Best Regards,

Ross Alexander Hukins MRICS
Compulsory Purchase & Valuation Services
GVA Grimley LTD.
Direct Dial: 0207 911 2615
Mobile: 07738443553
E-Mail: ross.hukins @ gvagrimley.co.uk
Stratton Street, London, W1J 8JR



Save a tree...please don't print this e-mail *unless you really need to*

GVA Grimley Limited is registered in England and Wales number 6382509. A list of Directors is available for inspection at our registered office, 3 Brindleyplace, Birmingham B1 2JB.

The information within this email is intended solely for the stated addressee/s. Access to this email by anyone else is unauthorised. If you are not the intended recipient please note that any disclosure, copying, distribution, or any action taken or omitted to be taken in reliance on the information within this email is unauthorised and may be unlawful. When addressed to a client of GVA Grimley Limited any opinions or advice contained in an email are subject to the terms and conditions of our engagement.

Any files attached to this email will have been checked by us with virus detection software before transmission. You should carry out your own virus checks before opening any attachment. GVA Grimley Limited accepts no liability for any loss or damage which may be caused by software viruses.

Ardent Property Consultants is the trading name of Ardent Management Limited. Ardent Management Limited is a private limited company registered in England & Wales (company number 2698524. Registered office: Pastorate, Soldiers Rise, Finchampstead, Wokingham, Berkshire, RG40 3NF (Tel: +44 870 443 9100; Fax +44 870 443 9101); www.ardent-management.com

OBJ 107

Nicola Finlay

From: Paul Clarke [PaulClarke@ardent-management.com]
Sent: 24 June 2010 16:04
To: 'Dellore, Christina'
Cc: Peter Gibbard; ERM UK Chiltern Objections
Subject: RE: Bicester Bodyshop, London Road, Bicester
Follow Up Flag: Follow up
Flag Status: Red
Attachments: E094_39.pdf

Christina

I have attached the latest version of the layout plan for Bicester Town Station. This has this week been submitted to the Highway Authority for its comments. This is different to the plan that was in the application documents due to the need to improve bus interchange. It is very similar to the earlier plan from your clients point of view.

Please bear in mind that this is not at all final. Detailed design cannot be completed until after the Order is made and powers available are determined.

Please contact me if you need any further information or would like to discuss your clients objection in more detail.

Regards,

Paul



Paul Clarke | Associate Director
Ardent Property Consultants
Tel: +44 (0)870 443 9100 | Mobile: +44 (0)7900 052307
PaulClarke@ardent-management.com | www.ardent-management.com

From: Dellore, Christina [mailto:Christina.Dellore@gvagrimley.co.uk]
Sent: 24 June 2010 15:38
To: Paul Clarke
Subject: Bicester Bodyshop, London Road, Bicester

Good afternoon Paul,

I write in relation to the Bicester Bodyshop, London Road, Bicester property.

Could you please forward any concept plans available for the proposed junction changes at London Road and Station Approach?

Thank you in advance.

Kind regards,

05/07/2010