

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

CHILTERN RAILWAYS' REBUTTAL PROOF OF EVIDENCE

**IN RELATION TO
THE OBJECTION AND EVIDENCE OF
OXFORD FIELDPATHS SOCIETY**

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 the Oxford Fieldpaths Society.
- 1.2 In particular, the Oxford Fieldpaths Society has raised new points in its 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 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 evidence of the Oxford Fieldpaths Society 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 Oxford Fieldpaths Society dated 12 February, 28 April 2010, 12 June 2010, 28 June 2010 and 1 October 2010 appended to this rebuttal proof in Appendix A;

“the Objector” means Oxford Fieldpaths Society;

“the Objector’s evidence” means the Proof of Evidence of Oxford Fieldpaths Society;

“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

Beebont/Holts Farm Crossing, Ian Gilder

3.1 The Objector states that the Level Crossing Replacement Options Report reference **CD/2.16** only considers bridge options that are a dual farm accommodation and public right of way bridge. The Objector states that such a large structure is not compatible with its environmentally sensitive location. The Objector believes that for these reasons the proposed structure is causing concern to Natural England and the Buckinghamshire, Berkshire and Oxfordshire Wildlife Trust [BBOWT] with regard to its scale and nature. The Objector states that a more minimal foot or bridleway bridge would meet with the approval of these organisations.

3.2 Natural England has given consistent advice to Chiltern Railways during the design process that a bridge structure of any design within the Wendlebury Meads and Mansmoor Closes SSSI would be unacceptable. This led Chiltern Railways to devise a solution that provided one bridge to combine two farm accommodation crossings and the bridleway in this environmentally sensitive location. The proposed Holts Farm bridge will remove the need for both the bridleway and a farm accommodation track to cross the Wendlebury Meads and Mansmoor Closes SSSI as the replacement bridge has been deliberately located outside of the SSSI. Neither Natural England, in its Written Submission [**OBJ/246/3**], or the evidence of BBOWT [**CRCL/P/OBJ/211/2**] raise any direct objection to the location of the Holts Farm bridge. Both organisations do raise concerns regarding indirect impacts from the hardened track around the SSSI, in relation to hydrology. Evidence provided in Andy Coates’ evidence [**CRCL/P/10/A**] and Appendix ASC 4 leads to the conclusion that

none of the works, outside the SSSI, will have an adverse impact on the SSSI. This has been shared with both Natural England and BBOWT.

- 3.3 As stated in paragraph 11.87 of Ian Gilder's evidence, the Environmental Statement (ES) [CD/1.16] assessed the impact of the Beebont/Holts Farm crossing on the Otmoor Lowlands landscape character area and components of the historic landscape that give it its character. The conclusion of the ES is that the magnitude of change in the Otmoor landscape will be small and the impacts will not be significant.

Use of the Beebont Bridleway by Cyclists, Ian Gilder

- 3.4 The Objector states that the Beebont crossing being a bridleway is also used by cyclists. The Objector quotes the survey results from June 2010 [CD/2.18] which show the use of the bridleway by eight cyclists in a single three hour period. The Objector states that the Oxford Fieldpaths Society should have sought the views of Sustrans with regard to the closure of this bridleway. The Objector states that it could form part of a vital off-road link forming a direct cycle route between Oxford and Bicester, avoiding the A34 trunk road. The Objector states that the use of this bridleway by cyclists alone should be enough to preserve its long term use. The Objector states that it would be extremely doubtful that cyclists, other than mountain bike riders, could manage the diversion as proposed.

- 3.5 Although the Objector did not seek the views of Sustrans, Chiltern Railways did consult with them and other organisations promoting the interests of cyclists such as the Cyclists Tourist Club on a number of occasions. In its representation the Cyclists' Touring Club [REP/12] state that its generally supports the Order Scheme and with respect of the Holts Farm/Beebont Crossing '*support the proposed bridge*'. Sustrans submitted an objection letter **OBJ/188** in which it stated that it was '*generally happy with the proposals for the various level crossings*'. Sustrans also support the suggestions made by the Cyclists' Touring Club '*regarding crossing points throughout the route*'. Sustrans has not pursued any of its points of objection and is not appearing at the Inquiry.

- 3.6 Chiltern Railways fully expects that the diversion of the Beebont bridleway will continue to be used by cyclists. As part of the works to provide the Holts Farm dual bridleway and farm accommodation bridge, as well access for the local landowners and to the Wendlebury Meads and Mansmoor Closes SSSI it has been proposed that the track which forms the bridleway from the bridge to the entrance of the SSSI will be provided as a hardened surface as set out in Appendix ASC 4. A considerable length of the bridleway will be a hardened surface and will improve conditions for cyclists and make it more accessible for all.

Safety Case and Closure of Crossings, Stephen Barker

- 3.7 The Objector states that the evidence contained in the Office of Rail Regulator's 'Policy on Level Crossing' [CD/3.16] only appears to be applicable to new railways and as the Order Scheme isn't a new railway it is not subject to those standards.
- 3.8 The Objector states that experienced walkers are well used to the variability of field paths, stiles, with the very real risk to both themselves and of course car drivers, when crossing the high speed trunk roads that so many footpaths have to cross. The

Objector states that in such situations they are more often than not, without the benefit of any traffic warning signs or central refuges. The Objector states that walkers have, on occasion, to use an unmanned rail crossing, together with the much more predictable risk of an approaching train. The Objector states that members of the Society occasionally use the footpath crossings of the Great Western main line railway, with its significantly higher line speed and certainly greater train frequency than that proposed by Chiltern Railways. The Objector states that these crossings are currently without the benefit of any form of train warning devices.

- 3.9 The Objector states that it would welcome any form of bridge, or crossing upgrade in accordance with Network Railway's current Rail Group Standards, that would be a more acceptable alternative than the diversions currently proposed.
- 3.10 As set out in Section 11 of Chiltern Railways Statement of Case [CD/1.27] Chiltern Railways' policy with respect to the existing level crossings is to seek the closure of all the level crossings with the exception of London Road crossing where it is not practicable to close it; and to avoid the creation of any new level crossings on the existing, new and reinstated sections of railway.
- 3.11 Chiltern Railways' stance stems from the premise that level crossings, which, by their very nature, place crossing users in direct conflict with the moving trains, present a far greater level of safety and operational risk than do grade-separated railway crossings. Given advances in risk reduction in other areas of railway operations, level crossings now present the largest source of train accident risk. The vast majority of incidents and accidents at level crossings are attributed to user behaviour, a factor that is clearly beyond the direct control of the railway. Chiltern Railways' policy seeks, so far as is reasonably practicable, to eliminate the direct interface between members of the public and train movements that uniquely occurs at level crossings, thereby eliminating the safety hazard they create.
- 3.12 Chiltern's policy is founded upon national policy on the subject of level crossings. ORR performs the role of safety regulator in respect of the railway in Great Britain. ORR's 'Policy on Level Crossings' [CD/3.18] states that *"other than in exceptional circumstances, there should be no new level crossings on any railway"*. This policy is mirrored in Network Rail's policy "Our Approach to Managing Level Crossing Safety", which states *"only in exceptional circumstances shall we permit new crossings to be introduced onto the network"*.
- 3.13 An important implication of this statement is that if the railway promoted by this Order application were being constructed entirely anew (rather than mainly utilising existing and former railway corridors), no level crossings would be permitted. But the scale of reconstruction of the existing and former sections of railway comprised in the order scheme is such that the completed railway will, in effect, be a new railway. It will not only involve a different design, with two tracks replacing the existing single line (in Phase 1 and/or Phase 2, depending on location) but it will also function very differently compared to the current and previous passenger and freight operators that occupy and have occupied the same railway corridors. In particular, the speed of trains will increase from the current 40 mph maximum to up to 100 mph and the number of trains passing each hour will increase by a factor of three. The rebuilt railway will comply in all respects with current technical and railway safety standards

and it is therefore appropriate to apply current good practice in respect of the closure of level crossings on this railway where the opportunity arises.

- 3.14 The ORR policy sets out what is expected from railway companies in respect of level crossings. The policy requires railway companies to “*take all reasonable opportunities to remove or replace existing level crossings*” [CD/3.18]. The reconstruction of the existing railway under the authority of an Order under the Transport and Works Act 1992 [CD/5.7] clearly presents a “reasonable opportunity” to secure the closure of the level crossings in a way that would not normally be possible in the day-to-day management and operation of the railway. This is because the Order provides for the exercise of powers of compulsory acquisition of land (and rights over land) and the powers to divert public rights of way, both of which are necessary if the existing level crossings are to be closed with consequential diversions of highways and the provision of alternative grade-separated means of crossing the railway.
- 3.15 Chiltern Railways’ approach to level crossings is also compatible with the ORR requirement, as carried forward from the HMRI Railway Safety Principles and Guidance Part 1, to ensure “*that all intolerable risks have been eliminated and that all remaining risks have been reduced to as low as reasonably practicable*” (paragraph 13) [CD/3.1]. Again, the powers available through the TWA Order provide, with regard to the majority of level crossings in the Order scheme, a ‘reasonably practicable’ opportunity to eliminate the safety hazard caused by crossing the railway on this level by closing the level crossings and by providing alternative grade separated routes for crossing the railway.
- 3.16 It is Chiltern Railways’ approach to the elimination of at-grade crossing that has influenced the consideration of alternative provision and the solutions proposed for Oddington Foot Number 6 and Beebont bridleway. The Objector states in conclusion that *‘in the preservation of these historic routes, it is not for Oxford Fieldpaths Society to express their views as to how the crossing of the railway should be achieved’*. Chiltern Railways takes this as an acceptance of the principle that the level crossings should be closed.

Cultural Heritage Value of the Oddington Foot Number 6 and Beebont Bridleway, Ian Gilder

- 3.17 The Objector states that it is seeking the preservation of the two rights of way which form part of their cultural heritage. The Objector states that with regard to cultural heritage, PPG15 Planning and the Historic Environment Report [CD/3.3] serves to highlight the lack of consideration given by Chiltern Railways to the cultural heritage or local historic value of the either of these historic rights of way.
- 3.18 The Objector states its surprise that the regional and local planning authorities have failed to address the policy framework with regard to the historic environment and heritage assets that are evident in these two ancient rights of way as required by Policy HE2 of PPG15. The Objector states that Policy HE3 *‘requires a number of factors to be implemented from the plan making evidence the most notable being:*
- (i) *‘its influence on the character of the environment and the area’s sense of place’*

- (ii) *'its potential to be a catalyst for regeneration in an area, in particular through leisure, tourism and economic development'*
 - (v) *'its mixed and flexible patterns of land use that are likely to be and remain sustainable'*
- 3.19 The Objector states that while it is evident that these factors are demonstrated in Cherwell District Council's local development plans they are not recognised or acted upon by the Cherwell District Council or Chiltern Railways. The Objector states that *'that clearly some lack of communication has occurred and it is thus even more important that the preservation of their cultural heritage is not allowed to suffer through some bureaucratic failure'*.
- 3.20 PPS5 Planning for the Historic Environment [CD/3.29] replaced PPG15 Planning and the Historic Environment [CD/3.3] in March 2010. While the Objector refers to a number of policies from PPG15 these are, in fact, those contained in the more up to date guidance in PPS5. The policies referred to in HE2 and HE3 contain advice to local planning authorities on the evidence base and factors that should be taken account of in developing policies for the conservation and enjoyment of the historic environment. Chiltern Railways has no role in policy development and can only seek to conform with those policies developed by the local planning authorities.
- 3.21 The Cherwell Draft Core Strategy February 2010 considers the Built Environment in Policy SD 13, where it is stated that new development should *"preserve and enhance designated historic assets, features, areas and their settings, and ensure new development is sensitively sited and integrated"*. In support of this policy, the Landscape Character and Sensitivity Assessment 2009 formed part of the Local Development Framework evidence base. Within this assessment, Appendix 2 describes the hierarchy of cultural heritage building types, covering Scheduled Monuments, Listed Buildings, Registered Battlefields, Conservation Area, and non-designated archaeological sites with a local, or otherwise negligible value. Ancient footpaths do not feature on this list and have not formed part of the evidence base for plan making purposes. It is not for Chiltern Railways to comment on the rationale behind the priorities given on Cherwell District Council's cultural heritage policies.
- 3.22 The Objector states that Policy HE9.1 contains a presumption in favour of conservation of designated heritage assets and that once lost, heritage assets cannot be replaced. The Objector states that whilst this statement is made in the context of designated sites, Policy HE9.6 recognises that there are heritage assets that are not currently designated but that the absence of designation does not confer lower significance and that they should be considered to be subject to the protection in Policy HE9.1.
- 3.23 Policy HE9.1 relates to the presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset the greater the presumption in favour of its conservation should be. Historic rights of ways, unless explicitly covered by another designation is not included in the definition of a designated heritage asset in Annex 2 of PPS5 [CD/3.3]. Policy HE9.6 of PPS5 states that many heritage assets that are not currently designated as scheduled monuments *'but which are demonstrably of equivalent significance'* should be subject to the protection afforded by Policy HE9.1. The Oxford Fieldpaths Society does not

present any evidence that to show that these two footpaths are ‘demonstrably of equivalent significance’.

- 3.24 The Objector states that Policy HE12.1 (of PPS5) concludes that ‘a *documentary record of our past is not as valuable as retaining the heritage asset.....*’. The Objector states that PPS5 requires Chiltern Railways to safeguard the cultural heritage and consider the place that Oddington Foot Number 6 and the Beebont bridleway have in maintaining Otmoor's sense of place.
- 3.25 The diversion of the two public rights of way will not result in any physical works and the character of the historic landscape will be preserved. The two public rights of way of themselves are not significant physical features in the landscape over and above where they follow existing field boundaries. The alignment of the paths leading to Oddington Foot Number 6 Crossing, in particular are not physically discernable on the ground. As set out in paragraph 11.87 of Ian Gilder’s proof [CRCL/P/12/A] the Environmental Statement [CD/1.16] assesses the impact of the new bridges and crossing diversions on the Otmoor Lowlands landscape character area and components of the historic landscape that give it its character. The conclusion of the ES is that the magnitude of change in the Otmoor landscape will be small and the impacts will not be significant. The proposed diversion of both the Beebont bridleway [BR 157/4] and Oddington Foot [FP 318/6] will not preclude walkers from enjoying the historical quality of this part of the landscape. Views of the Otmoor landscape will be able to be enjoyed from the new bridge proposed at Holts Farm and there will be little or no impact on the medieval field system.
- 3.26 Chiltern Railways does not consider that the diversion of the two public rights of way runs contrary to policies in PPS5, the adopted Cherwell Local Plan, 1994 the Non-statutory Cherwell Local Plan, 2004 or in the emerging Core Strategy [CD/4.12].
- 3.27 The Objector states its surprise that Cherwell District Council has not raised the issue of the cultural heritage that arises from Charlton-on-Otmoor's local history and more particularly how this is reflected in the retention of Oddington Foot 6 and Beebont bridleway right of way. The Objector believes that this cultural heritage could easily allow some of their key core strategic issues to be achieved in this area. The Objector refers to objectives in paragraphs 11.32 and 11.33 from the Core Strategy which call for ‘*promoting rural economy*’ and ‘*sustainable tourism development. Tourist related development being extremely diverse with potential to contribute significantly to the District's economy. Tourist related development can support local facilities and create local employment opportunities in addition to a stimulant to preserve local heritage*’. The Objector also refers to paragraph 11.42 that notes ‘*Cherwell District Council's challenge of nearby tourist hotspots of Oxford and the Cotswolds*’. The Objector states that Chiltern Railways should be seeking to maximise these aspects of the historic environment.
- 3.28 The diversion of the two public rights will not affect the overall integrity of the public rights of way network and its potential contribution to the sustainable tourism offer of the district.

- 3.29 The Objector quotes from the Oxfordshire County Council's Cabinet Agenda and Minutes of 15 September 2009 [CD/4.13] that gave in principle support to the Order Scheme 'on the basis that Chiltern Rail also pay due regard to all other impacts in Oxfordshire of their proposals including in particular the rights of way issues mentioned in the report'.
- 3.30 The Objector states that Cherwell District Council Planning Meeting of 11 March 2010 [CD/4.14] conflicts with this qualified approval. The Objector states that Cherwell District Council has 'no objection to closure and diversion of Oddington [FP318/6] and Beebont bridleway [BR157/4]'. Stating that the 'overall integrity of the public rights of way network has been retained where crossings are closed either replacement or diversion to a nearby bridge has been proposed'. The Objector states that this is not in accordance with the views of the County Council.
- 3.31 Chiltern Railways welcomes the conclusion of Cherwell District Council in CD/4.14 that 'there would be no significant harm as a result of these proposals'. Since the Cabinet on 15 September 2009, Chiltern Railways has undertaken further consultation with the County Council, which has led them to withdraw its objection relating to the impacts on the public rights of way network. In its Statement of Case [OBJ131/1], the County Council withdrew its Former Concern 14 relating to the stopping up and diversion of specific footpaths. The County Council does not maintain a point of objection in relation to public rights of way. The County Council and Cherwell District Council are, therefore, in accord in relation to their respective positions on the impacts of the public rights of way network.

4 Conclusion

- 4.1 This rebuttal proof has sought to deal fully with all the Objector's outstanding concerns.
- 4.2 Evidence provided in Andy Coates' evidence [CRCL/P/10/A] leads to the conclusion that none of the works, outside the SSSI, will have an adverse impact on the SSSI. This has been shared with both Natural England and BBOWT. The conclusion of the Environmental Statement is that the magnitude of change in the Otmoor landscape will be small and the impacts will not be significant.
- 4.3 Chiltern Railways fully expects that the diversion of the Beebont bridleway will continue to be used by cyclists. The majority of the diverted bridleway will have a hardened surface and will improve conditions for cyclists and make it more accessible for all.
- 4.4 Chiltern Railways seek, so far as is reasonably practicable, to eliminate the direct interface between members of the public and train movements that uniquely occurs at level crossings, thereby eliminating the safety hazard they create. Chiltern Railways' approach to the elimination of at-grade crossings has strongly influenced the consideration of alternative provision and the solutions arrived at Oddington Foot Number 6 and Beebont bridleway.

- 4.5 The diversion of the two public rights of way will not result in any physical works and the character of the historic landscape will be preserved. The two public rights of way, of themselves, are not significant physical features in the landscape over and above where they follow remaining field boundaries. The proposal is considered to comply with PPS5.
- 4.6 The County Council does not maintain a point of objection in relation to public rights of way, nor does Cherwell District Council. The County Council and Cherwell District Council are, therefore, in agreement in relation to their respective positions on the impacts of the public rights of way network.

Appendix A

CRCL/R/OBJ55

Relevant Correspondence
between Chiltern Railways
and the Objector

OBS/SS

The Secretary of State for Transport
C/O The Transport & Works Act Orders Unit
Department of Transport
Zone 1/31
Great Minster House
76 Marsham Street
London SW1P 4DR

Peter Ewart
Oxford Fieldpaths Society
Yew Tree Cottage
7 Church Road
Horspath
Oxford OX33 1RU

12th February 2010

Dear Sir

The Chiltern Railways (Bicester) to Oxford Improvements: Evergreen 3 Project

I am writing on behalf of the Oxford Fieldpaths Society, who are one of the Public Rights of Way Consultees listed in Part 11 of Chiltern Railway's Transport & Works Act, TWA documentation. We are a long established walking group based in Oxford dedicated to both the use of footpaths and their preservation and view the threat of closure and diversion of the footpaths that cross the Islip to Bicester railway line with great concern.

Having viewed the TWA documents we remain supportive of the principle of upgrading of this railway line that will clearly be of great benefit to the area as a whole. We would however object to the closure of two crossings, one being situated on one of the few sections of straight track with excellent visibility, the other still having good visibility. These crossings are referred to as Oddington Foot FP318/6 and what is referred to in the TWA, as Beebont bridleway crossing BP 157/4. We would comment on the later with regard to its use as a footpath and not as a bridleway crossing.

Our grounds for this objection stem from the Public Rights of Way Report forming part 11 of Chiltern Railways TWA application. We will commence our comments with regard to the area in which we consider we have most expertise that being the pedestrian survey:

1. Section 5 Description of Public Rights of Way Affected

- 1.1. Paragraphs 5.20 & 21 refer to photographs 13 & 14 in respect of Beebont bridleway and 15 & 16 for Oddington Foot crossings. We are greatly concerned that these photographs misrepresent the facts relating to these crossings. We were disappointed not have received a response to our letter sent to the Chiltern Railways Team in August 2009 by our Chair, Elizabeth Adams and our subsequent e mail dated 1st December 2009 that was responded to, in which we recorded the grossly unsatisfactory state of these crossings. Photos 13 & 14 fail to show the bailing rope that was the only method provided to close the rickety old pedestrian gates at the Beebont crossing. Nor do they show the prominent and well maintained sign, warning of a substantial fine for failure to close the gates. Oddington Foot photographs 15 & 16 carefully avoid showing that both stiles had their single step set at a height of between 540 & 580mm. This is twice the 300m maximum height

stated in British Standard 2209 (2001) or any known earlier standard. The stile steps were also not fixed securely and being of such excessive height, wobbled alarmingly and speaking personally I found it most difficult to manage these stiles and I am a regular and fit walker.

- 1.2. It is therefore of little surprise to us that Paragraphs 5.20 and Table 5.2 records that over the one hour pedestrian count survey carried out on Sunday 14th June 2009 no users were recorded on either the Beebont bridleway or the Oddington Foot crossings. We have no record to hand of the weather conditions on that date, which was at a time when usage would be expected to be highest. The subsequent further three day survey carried out on the Beebont crossing, in September 2009 during the week only recorded two pedestrians and no horse riders over the whole of the three days.
- 1.3. We would note however that we don't believe that a further survey was carried out in respect of the Oddington Foot crossing.
- 1.4. The TWA application also fails to note that the Oddington Foot crossing had not been fitted with a boarded walkway to avoid the risk of tripping on the rails, loose track ballast and possibly slippery sleepers. It is our understanding that this itself was in breach of Rail Standards.
- 1.5. It is thus hardly surprising that with these stiles and gates being in such deplorable condition, that these two hazardous crossings were not well used. We therefore consider the survey results to be invalid.

2. Section 2 Legal Tests in Respect of Extinguishment and Diversion of Rail Crossings

- 2.1 The closure of these two crossings fails to comply with the Government's Policy as set out in Defra's circular 1/09 Rights of way (Version 2, October 2009). Paragraph's 2.4 & 5 of section 2 refer to this document and provides for, "*the effect that the diverted way will have on the rights of way network as a whole.*" This document is referred to once again in paragraph 5.1 of Section 5 Public Rights of way Affected and makes clear that public rights of way, "*are a unique and valuable resource and a significant part of the Country's heritage*". We consider that the diversions proposed for Oddington Foot and the Beebont bridleway will have an adverse effect both on the network of Otmoor rights of way as whole and on Otmoor's heritage.
- 2.2 Oxfordshire County Council's Rights of way Improvement Plan 2006 is also considered in paragraph 5.1. Quoting from that document, somewhat out of context perhaps, that in places the rights of way networks were, "*disjointed, fragmented and obstructed*". We would consider that this report was seeking ways to overcome this problem but this is precisely the problem that will occur, as a result of the 1.67km track side diversion of Oddington Foot and the severing of the Beebont bridleway. What this report actually calls for is stated in paragraph 3.8, "*a better joined up network that meets the demands of the users....*". Thus a right of way cannot be considered to be "*joined up*" after the insertion of such a length of trackside diversion,

along what will be a busy fast railway, in place of the direct line it currently takes between two rural communities.

2.3 It is also evident that their closure fails Cherwell District Council's plan quoted in paragraph 3.9, "*a diversion will not be considered suitable if it is substantially less convenient to the public or would be detrimental to the public's enjoyment of the route*". It cannot be considered convenient or enjoyable that a footpath from one community, sadly suffering from a decline in village facilities, has its link, to what appears to be a more thriving village, marred by a long march down, what will be a busy fast railway line.

2.4 We therefore consider that the closure of Oddington Foot and Beebont bridleway fails to comply with Defra's circular 1/09, Oxfordshire County Council's Rights of way Improvement Plan 2006 or Cherwell District Council's quoted plan.

3 The case for Retaining Oddington Foot and Beebont bridleway

3.1 The footpaths being extinguished form a vital part of the fabric of Otmoor as a whole and they undoubtedly precede the coming of the railway. Each side of the Railway, Oddington Foot FP318/6 is a well maintained path, with good footbridges over the ditches, linking the village of Charlton upon Otmoor with its neighbour Weston-on-the-Green. With the decline of village facilities in Charlton it is more important than ever that such a historic footpath link is maintained and on the shortest route. Whilst both these crossings form part of the historic land use of Otmoor it is the Beebont bridleway crossing BP 157/4 that is adjacent to and forms part of the small remaining area of traditional land use that is now preserved in the Wendlebury Meads SSSI site. We consider that the Beebont bridleway that passes to the side of the long narrow fields forming the Meads should be preserved and used as a footpath.

4 Crossing safety

4.1 Whilst we can see that the footpath crossings are dealt with under the same generic heading as unmanned level crossings or other passive crossings, it does appear to be somewhat disingenuous to include footpath crossings as level crossings. The statement set out in paragraph 1.4 of the introduction to the Scheme that closure, "*is to meet the current Network Rail & Office of Rail regulation guidelines that, wherever possible crossings should be closed, combined with adjacent crossings and or replaced with a bridge,*" is at odds with Network Rail's web site and paragraph 4.15 of the Safety case stated in the TWA application itself.

4.2 Network Rail actually states, "*Where reasonably practicable, close or divert crossings OR enhance their safety through provision of improved safety features equipment*" This is repeated again in their web site which we would refer to under our proposals for mitigation.

4.3 As responsible users of unmanned rail crossings we share the concerns as to the unacceptable number of non rail passenger fatalities that unfortunately do occur. What does appear to be the case however is that table 4.2 Accident Rates at Passive

Crossings relate to misuse of what we would consider gated crossings and it is difficult to see any statistical evidence with regard to footpaths alone?

4.4 Paragraph 4.14 notes the Rail Standard Safety Board's comments on "*level crossings being hazardous to trains and the first and best solution being their closure*". It is evident that a pedestrian misusing a footpath crossing is not likely to be a hazard to a passing train.

5 Mitigation of Oxford Fieldpaths Society Objections

5.1 We feel certain that had the Oddington Foot crossing been in a reasonable condition, many more walkers would have been evident. This is part of what would be an attractive footpath from the centre of Charlton, either continuing directly to Weston-on-the Green or forming part of a circular walk, with a return via the Beebont bridleway. This is precisely the type of circular walk that Oxford County Council is aiming to achieve by way of its Rights of Way **Improvement** Plan's strategy and also in compliance with Defra's report. Should the track visibility be considered adequate at this location an upgraded crossing in accordance with the abstract from Network Rail's web site set out below, should be provided. Failing this a footbridge should be installed as an investment in the future use of both of these rights of way

5.2 The Beebont footpath crosses the railway on a long straight section of track with resulting good visibility. It is therefore evident that there is no objection to the continued use of existing footpath track crossings. What is evident is that some form of active warning system can now be installed to upgrade crossings where required. Although we note that this is limited to when such an upgrading can be economically provided in conjunction with the provision of a new signalling system as is the case with this project.

5.3 We would refer once again to Network Rail's actual statement set out in 4.2 above, "*Where reasonably practicable, close or divert crossings **OR** enhance their safety through provision of improved safety features equipment*". It is our understanding that "*Where reasonably practicable*" also applies to the "*provision of improved safety features equipment*" and can be taken to include when new signalling and communication systems are installed. We would refer to the TWA documentation; section 8 page 1 of the Estimate of Costs and section 17 Environmental Statement Non Technical Summary page 5 and the statement and the apparent scale of the new signalling and communications that are to be provided, from which we would hope that an entirely new system is being installed, allowing the improved safety features to be provided. Thus should a footbridge at both locations be unachievable we should be able to expect the upgrading of the existing footpath crossings as provided in the following abstract from Network Rail's web site with regard to track crossings:-

Community & Environment; Community Relations; Level Crossings:

.... making safer, risk co-ordinating, work hard to maintain so they are safe & enhanced where justified by the application of controls.

The crossings in question are described as Passive crossings of the following types:

.... user worked crossings	UWC
.... User worked crossings with phone	UWC-T
.... User worked crossings with warning lights	UWC- WL
.... Footpath crossings	FP

UWC- WL

Have user operated gates or full lifting barriers& miniature warning lights to warn the user of an approaching train. These lights are red / green the operation of which is linked to the signalling system.

5.4 FP

Primarily for pedestrians, with stiles or wicket gates to restrict access to the crossing point. There is a requirement for minimum sighting time for the crossing. In cases where sufficient sighting time is available the railway may provide a whistle board or Miniature warning lights to warn user of the presence of an oncoming train. A variation is the bridleway crossing provided on routes used by horse riders. Rights over these crossings are generally public although some are restricted to authorised users.

5.5 We do not consider that the disbenefit, that is the shortcomings, of an audible or visual alarm outlined in paragraph 4.16 would be applicable to the relatively remote location of either of these crossings.

5.6 Chiltern Rail's consultation team advised us by e mail on the 8th December 2009 that "Network Rail, as the operator of the Country's rail infrastructure has provided clear advice that the most effective way of reducing level crossing risk is to eliminate the crossings completely". Clearly this statement does not apply to the footpath crossings stated in their web site or those two footpath crossings to which we refer.

6. Conclusion

6.1 We consider that the pedestrian survey carried out to support the TWA failed to consider the deplorable condition of the existing rail crossings may have had on the numbers of walkers using these rights of way.

6.2 Both the Oddington Foot and the Beebont footpaths should be retained, by either providing pedestrian bridges or upgrading the crossings by installing train approaching warning signals.

6.3 The proposed footpath diversions fail to comply with, Government, County Council or District Councils published policy documents with regard to the maintenance and improvement of rights of way.

6.4 There is no evidence in the TWA documents is relevant to the safety of footpath crossings, except for the concerns that relate to gated level crossings whether user worked or controlled.

6.5 Network Rail's web site provides for the upgrading of footpath crossings where new signalling is being provided.

The Oxford Fieldpaths Society supports the improvement of rail infrastructure and that these improvements should include the above 21st century provisions that would allow the higher line speed required and the continued safe use of the footpaths. Developing such footpaths is an objective that the Oxford Fieldpaths Society and our friends in the Ramblers share with the County Council and we are sure with the local district council. The most relevant part of the Oxfordshire Rights of way Improvement Plan is their word Improvement.

Yours faithfully

P. Ewart

For Oxford Fieldpaths Society.

28 April 2010

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ERM

Your ref:
Our ref: 0110147/ OBJ 55

Dear Mr Ewart

Chiltern Railways (Bicester to Oxford Improvements) Order Application

Thank you for your letter dated 12 February 2010, submitted to the Department for Transport which objects to the Order application. This has been given the DfT reference OBJ 55.

Thank you for your continued in principle support for the Scheme.

We note your objection to the closure of the Oddington Foot [FP318/6] and Beebont [BR157/4] crossings.

Description of the Public Rights of Way Affected

With regard to your detailed comments on the description of the Oddington Foot and Beebont bridleway crossings and the photographic evidence in the Public Rights of Way Report, these represent a true reflection of the condition of the crossings at the time of the survey in February 2009 and were confirmed by a recent site visit in April 2010. Thank you for your previous correspondence in August 2009 and December 2009 where you raised similar points in respect of the condition of the footpath and stiles.

Chiltern Railways does not own or maintain the current gates and stiles adjacent to the crossing and, therefore, has no control over their condition. The responsibility currently lies with Network Rail. The responsibility for the maintenance of the wider public footpath network lies with Oxfordshire County Council, though it is up to individual landowners to maintain the stiles and gates across paths to standards agreed with the County. Where new bridges and diversions are to be provided, Chiltern Railways will provide structures such as gates and stiles designed to British Standard 5709

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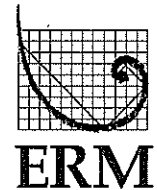
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(2001) on Stiles and Gates but will not exclude opportunities for locally distinct designs. As a principle, gates on bridleways will be easily opened from horseback and on foot.

As stated in your letter, the recorded usage on the Oddington Foot and Beebont bridleway was low on the days of the survey. The survey date in June 2009, when both crossings were surveyed, was recorded as being dry and sunny throughout the day. Therefore, we maintain our view that there was low usage on a day when it would be expected to be high. In your letter you make the point that you were unsurprised '*that these two hazardous crossings were not well used*'. The proposed new bridge crossings and diversions of the Oddington Foot and Beebont crossings provide the opportunity for Chiltern Railways to improve the safety of these two crossings and possibly increase the number of walkers using the rights of way in the Otmoor area.



I have noted your comments about the adequacy of the user survey evidence.

Extinguishment and Diversion of the Rail Crossings

We note your objection to the length of the diversions for the Oddington Foot and Beebont bridleway and the impact you consider it to have on the network of rights of way in the Otmoor area as a whole and on Otmoor's heritage. We maintain that the overall integrity of the network is maintained as routes are maintained albeit diverted. While, as the Public Rights of Way Report recognises, the length of the diversion associated with Oddington Foot is significant, in that it is over 1 km, we take the position that given that the primary use of the footpath is recreational, the proposed diversion remains reasonably convenient for that purpose.

Whilst recognising the historic link the Oddington footpath [FP318/6] once provided between villages we conclude, based on an audit of current facilities within each of the two villages, that its primary purpose is now solely for recreation. As reported in the Public Rights of Way Report, a number of options were considered to maintain access to this part of the public rights of way network. One of the main reasons for not being able to provide a bridge on the alignment of the Oddington Foot crossing is the difficulty of providing permanent vehicular access to the bridge for maintenance, as is being provided to all other bridges. We, therefore, believe that the design and location chosen for the bridge in this part of the network is the best achievable.

In respect of the proposed Beebont diversion, this area is highly constrained by the presence of the SSSI. Advice from Natural England, in particular, led us to propose the bridleway diversion to the south of Holts Farm and the SSSI prevents the construction of even a pedestrian bridge in the location of the

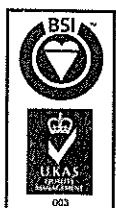
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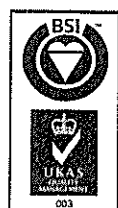
current bridleway crossing. It is our conclusion that given the bridleway's primary purpose as a recreational route, the proposed diversion can be considered to be reasonably convenient which meets the relevant tests.

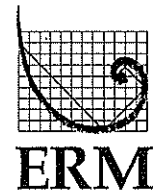
Crossing Safety

In our previous response to your email of 1st December 2009, we acknowledged that the Network Rail guidance says that it can be difficult in some cases to make a clear case for closure and/or diversion of a rail crossing based on safety risk alone and that other factors must also be considered such as operation or maintenance costs, operational performance and funding. The guidance states that *"Management judgement also forms a key part of the decision process when qualitatively the risk warrants something to be done but the case for closure and/or diversion is not necessarily clear cut"*. Chiltern Railways has exercised that judgement in the consideration of suitable alternatives to the at-grade crossings and the development of a preferred solution for each of the crossing points. This has influenced the decision to provide a new dual farm accommodation and bridleway bridge just south of Holts Farm and to divert the Oddington Foot crossing to the new bridge at Oddington Number 5 [the Oxfordshire Way]. As part of the Scheme, appropriate barriers and signs will be erected and maintained in order to provide a safe and easy crossing.

With respect to the safety case relied on in the Public Rights of Way Report you question the usefulness of statistics for unmanned level crossings in relation to footpaths. This is a definitional issue, as in legal terms foot crossings are very clearly recognised as level crossings, and are covered by level crossing safety regulations and statistics accordingly. The Rail Safety & Standards Board (RSSB) categorises crossings primarily by their means of operation, rather than the nature of the right-of-way. They do have a category of 'footpath crossings' but this only includes such crossings are limited to pedestrians and have no protection. Many other points where the railway is crossed by a footpath also have telephones, miniature warning lights, or gates worked by the user, and are thus categorised separately even though they are also 'footpath crossings'.

The statistics quoted in the Public Rights of Way Report represents useful background information on safety levels for footpath crossings. The Public Rights of Way Report deliberately uses the classification of all 'passive' crossings, ie those without barriers, warning lights, etc. Although this does include a very small number of highway crossings, the vast majority of crossings so described are only used by people and animals. Conversely, using only the figures for 'footpath crossings', would leave out a large number of crossings which are footpaths in all but name.





The RSSB's 2008 Annual Safety Performance Report clearly shows that the highest proportion of fatalities and injuries involving pedestrians (62%) is directly related to pedestrians being struck by trains. Passive crossings have a significant accident risk compared to other crossings, and footpath crossings particularly so. This includes the risk to train occupants arising from accidents at such crossings. In 2008, of the 12 fatalities reported, six were at footpath crossings and three were at other passive crossings (ie crossings that users work with the telephone). This pattern was replicated in 2009, where, of the eight fatalities, four were on footpath crossings, and two on other passive crossings. The number of 'near misses', reported by train crews in 2008 were much higher than fatalities and the figures show that footpath crossings account for the single highest category (28%) and all passive crossings together account for 66% of all pedestrian near misses.

As the RSSB notes in its Road Rail Interface Report 2010, '*most level crossings risk arises from users exposing themselves to local hazards (either wilfully or accidentally); this makes the risks much harder for the industry to control*'.

Proposed Mitigation of Public Rights of Way Impacts

With regard to your comment about the use of active warning systems it has consistently been the approach of Chiltern Railways to safety management to remove safety risks where it is possible to do so. Chiltern Railways has commissioned Network Rail to undertake a number of safety and risk assessments of the level crossings along the route, including the Oddington Foot and Beebont crossings. These assessments will take into account the introduction of a service of two passenger trains per hour in each direction, replacing the current passenger service of up to 13 trains a day (approximately every 90 minutes) in each direction. In addition, freight services are expected to operate at existing levels in the short term. Maximum speeds on the line for passenger trains will rise up to 100 mph from the present maximum speed of 40 mph. Lower speeds will apply over certain sections of the route. If the East West Rail project goes ahead, train frequencies will rise further to a possible six trains per hour in each direction (five passenger trains and one freight train).



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These assessments will allow Chiltern Railways to assess whether any other type of crossing would be potentially safe in those two locations. As the Network Rail guidance makes clear, the safety case alone may not be sufficient to make a decision about the closure or diversion of a crossing and other factors must also be considered such as operation or maintenance costs, operational performance and funding.

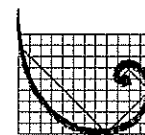
I hope this responds clearly to all of the points you have raised in your objection letter.

Yours sincerely



Sarah Goodall
Senior Planner
ERM

on behalf of the Chiltern Railway Company Ltd



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For the attention of Sarah Goodall

12th June 2010

Evergreen 3 Project: The Chiltern Railways (Oxford to Bicester) Improvements

Footpath Rail Crossings Oddington FP6 and Beebont Crossing BW 157/4

Thank you for your letter dated 28th April 2010. It was interesting to read your detailed response to the submissions I have made on behalf of the Oxford Fieldpaths Society with regard to the closure of Oddington FP6 footpath rail crossing and what is referred to as, the Beebont crossing BW157/4.

In view of the Public Enquiry that is due to take place, it is probably not appropriate at this time to add further detail evidence in respect of the points I have sought to make to date, as to why these two footpath crossing points and there attendant footpaths should remain. It may be helpful however to comment as follows;

1. We do not accept the validity of the survey made of user numbers of what by their nature are the rural footpaths concerned.
2. Neither do we agree that your photographs of the stiles and gates at these crossings represent a true picture of their condition, particularly with regard to the Beebont crossing and its bridleway.
3. We do not consider that your Environmental Assessment considered all the aspects that we feel are of particular importance to the Otmoor landscape.
4. Nor do we consider that your EIA has taken account of Oxford County Council's Rights of Way Improvement report 2006 – 2011 or indeed the current developments taking place in the preparation of the Local Transport Plan 2011 – 2030.
5. We also do not accept the reasons you have stated for not providing a footbridge at either of these locations. With regard to Oddington FP 6 there is access to the north of the railway as good or better perhaps than most similarly isolated railway bridges elsewhere in the rail network. Their certainly appears to be an existing farm track to map reference SP 547168 that I would have thought would suffice for future maintenance needs. The Bridleway leading from Mansmoor road to the Beebont crossing BW157/4 is some 6 meters wide, with

the boundary of the SSSI sites appearing to be the hedges of the track, whilst the existing Woodmeadow Nature Reserve SSSI sign to the north of the railway is situated some 20 metres from the rail boundary. The area between this gated boundary and the railway is also some 6 metres wide. Thus I would have thought leaving adequate space within which any footbridge / bridleway bridge could be constructed, without any or certainly no undue effect on either of the adjacent SSSI sites.

6. You are however quite correct in saying that it is for Chiltern Rail and Network Rail to decide on the nature of any rail crossing based upon your expert risk assessment. The point that I will continue to make is that if the published Rail Group Standards and Network Rail's web site remain unchanged then unmanned crossings remain acceptable. If the introduction of much faster and more frequent trains results in a risk assessment that may preclude such a crossing, I trust that this assessment will also take due account of the detrimental effect that this new service may have on the walkers using your proposed diversion. You admit that this will be a long diversion along the boundary of what you also say will be a busy and fast main line railway. These crossings are supposed to be parts of what are rural walks, not route marches during which walkers will be inflicted with frequent bursts of noise that I can tell you that many people will find to be approaching painful levels. It should also be considered that many walkers will be exposed to such noise levels for appreciable periods as they use the proposed diversion of the length you are proposing. The answer would thus be to provide some form of an alternative means of rail track crossing.

The Oxford Fieldpaths Society appreciates your acknowledgement of our support of the improvement of rail infrastructure. We would however stress that this improvement must not be at the expense of damaging the public's access. The aim must be the preservation of the historic Otmoor landscape that remains for future generations to learn from, together with the improvement of footpath access so this enjoyment may be continued.

Yours faithfully



Peter Ewart

For Oxford Fieldpaths Society

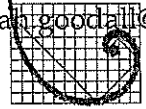
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28 June 2010

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ERM

Your ref:
Our ref: 0110147/ OBJ 55

Dear Mr Ewart

Chiltern Railways (Bicester to Oxford Improvements) Order Application

Thank you for your letter dated 12 June 2010, in which you reiterate a number of points made in your original objection letter. We take notice of your comments and these matters will be dealt with in evidence at the Public Inquiry.

Yours sincerely

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

Sarah Goodall
Senior Planner
ERM

on behalf of the Chiltern Railway Company Ltd

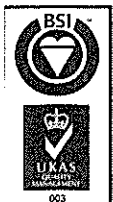
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1 October 2010

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Your ref:
Our ref: 0110147/ OBJ 55

Dear Mr Ewart

Chiltern Railways (Bicester to Oxford Improvements) Order Application

I am writing further to the letter we sent to you on 28 June 2010 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, but we have seen your Statement of Case submitted to the Inspector. In that you raised a number of points of objection that you had previously raised in your original objection letter.

We wrote to you on 28 April 2010 responding to those points, but have not heard whether they sufficiently address the concerns of the Oxford Fieldpaths Society to allow it to withdraw its objection. If you do have any further questions in relation to the Order Scheme please do not hesitate to contact me on sarah.goodall@erm.com.

Yours faithfully

Sarah Goodall
Senior Consultant
ERM

On behalf of Chiltern Railways

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