

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

**SUMMARY OF INFORMATION PROVIDED FOR
HABITATS REGULATIONS ASSESSMENT
IN RELATION TO OXFORD MEADOWS SAC**

1 Introduction

1.1 Following the appearance of Mr S Feeney (**OBJ 123**) at the Inquiry on 14 January 2011, the Inspector asked Chiltern Railways to provide a note which identifies the relevant references in documents before the Inquiry, which themselves set out the conclusions Chiltern Railways has reached in relation to the potential adverse effects of the Order Scheme on the integrity of the Oxford Meadows Special Area of Conservation (SAC).

1.2 The Inspector identified four potential effects of the Order Scheme on the SAC, namely:

- (i) air quality effects on ecology.
- (ii) the effects, if any on hydrology including groundwater.
- (iii) the effects of the works to the bridleway at Aristotle Lane.
- (iv) the effects of any change in pedestrian use of land in the SAC; and
- (v) the effects of any changes to vehicle use in the SAC.

The first three of these are considered in detail in **CRCL/INQ/60** and all are covered in the documents referred to.

1.3 The Inspector requested that this note should also list the documents that Mr Feeney has submitted to the Inquiry in relation to the Habitats Regulations and the SAC. He has asked that this note be sent to any objectors who have already appeared, whose evidence included the environmental impacts of the Order Scheme on Port Meadow, so that they are aware of its content and can consult any of the documents listed in this note. All of the documents referred to are available in the Inquiry library or from the Inquiry website.

- 1.4 Chiltern Railways has circulated this note to the following objectors: **OBJ 5** Ian Salisbury, **OBJ 13** Trap Ground Allotment Association, **OBJ 109** Oxford City Council, **OBJ 123** Sean Feeney, **OBJ 211** BBOWT, **OBJ 236** Jonathan Clark, **OBJ 246** Natural England, **OBJ 314** Alison and Stephen Cobb, **OBJ 318** CPRE Oxford City branch and **OBJ 321** Wolvercote Commoners Committee.

2 Documents Submitted by Mr Feeney

- 2.1 Apart from his Statement of Case (**OBJ 123/1**) Mr Feeney has submitted the following documents to the Inquiry:

OBJ 123/2 Report by the Planning Inspectors on the Examination into the Oxford Core Strategy Development Plan Document, 21 December 2010.

OBJ 123/3 Joint Statement from Oxford City Council, Natural England and BBOWT. Undated Oxford Core Strategy Document, reference CD16/77.

OBJ 123/4 Submission by BBOWT in Relation to the Oxford Core Strategy: Matter 8 – The Strategic Locations, June 2009.

OBJ 123/5 Natura 2000 Standard Data Form for Oxford Meadows SAC, May 2002 (also available as Appendix ASC2 in **CRCL/P/10/B**).

OBJ 123/6 Extract from JNCC website re Oxford Meadows SAC, no date.

OBJ 123/7 Extract from NBN website re Oxford Meadows SAC, no date.

OBJ 123/8 EC Guidance document on Article 6(4) of the ‘Habitats Directive’ 92/43 EEC, January 2007.

- 2.2 The Planning Inspectors’ findings in relation to Policy CS6, Northern Gateway are set out in paragraphs 4.125 to 4.153 of **OBJ 123/2**. The Inspectors’ changes to this policy which they consider necessary to make this policy sound are set out in para 4.154. The Inspectors have amended the policy to require mitigation of the impact of the development on the highway network. They have also inserted the policy text in para 4.154(ii) which is that contained in Examination Changes (Core Strategy Examination CD16/78) as EC23. This text appears to be identical to that reproduced as the final four paragraphs (manuscript numbers 7 to 10) in **OBJ 123/3**.

3 Air Quality Effects

- 3.1 This section identifies the relevant conclusions in documents before the Inquiry, which set out baseline and assessment of air quality effects for the Oxford Meadows SAC.
- 3.2 It deals firstly with the effects of the Order Scheme considered alone and then, briefly, any ‘in combination’ effects.

- 3.3 The Oxford Meadows SAC is designated as it supports lowland hay meadow habitat and *Apium repens* (creeping marshwort). The reasons for its designation are set out in para 8.3.5 of the Environmental Statement (**CD/1.16**) and in Appendix ASC2 of **CRCL/P/10/A**, which contains a relevant plan. This plan is included as Appendix A to this note. The lowland hay meadow only covers part of the SAC (the areas also covered by the following three Sites of Special Scientific Interest (SSSI): Pixey and Yarnton Meads SSSI, Wolvercote Meadows SSSI, and Cassington Meadows SSSI). The rest of the site (which is the area covered by Port Meadows with Wolvercote Common and Green SSSI) is designated for supporting *Apium repens* (creeping marshwort). Therefore the only area of the SAC which is close to the Order Scheme, and therefore could be impacted by the scheme including from air emissions, is designated for supporting *Apium repens* (creeping marshwort) only, and not for lowland hay meadow.
- 3.4 The nitrogen tolerance of *Apium repens* is dealt with in paras 2.26-2.32 of **CRCL/P/10/A** and paragraph 2.1 of **CRCL/P/10/E**. *A. repens* is not known to be sensitive to high nitrogen levels. On the contrary, it has a preference for habitats that are nitrogen rich, being associated with areas that are heavily poached by livestock, specifically cattle and horses, in very eutrophic conditions with heavy ammonia (NH₃) from grazers. In the English Nature report 706 (2006), the authors state very clearly that *A. repens* is ‘tolerant of nitrogen and salt levels which are somewhat higher than usual in inland unimproved soils’. Additionally, ERM has discussed these issues with Camilla Lambrick, one of the authors of the EN Research Report, and member of the Oxford Rare Plant Group. She confirmed that the *A. repens* is nitrogen tolerant; and in her opinion, overshading from nitrophilic plants (competitive, nitrogen loving species) would not occur on the site if current grazing and flooding continued to suppress growth of other vegetation.
- 3.5 Natural England concurs with this view and stated, in **OBJ/246/5** para 2.1, that “*Following the receipt of further specialist advice, Natural England can agree that the increase in air pollution is unlikely to have a significant effect on Apium repens, the notified feature of Oxford Meadows SAC, and so are able to remove our objection in relation to the SAC*”.
- 3.6 It is also clear that there will be no adverse effects on the SAC as a result of in-combination effects including with the proposed Northern Gateway development. As agreed with Natural England, the lowland hay meadow will not be affected by the Order Scheme, and hence it will not act in-combination.
- 3.7 The only potential effects on the *Apium repens* from the Scheme are from air emissions. The only additional air emissions which could combine with those from the Scheme are from traffic associated with developments such as the Northern Gateway. Air emissions from traffic disperse to insignificant levels over a short distance (eg 200m). There are no roads which pass within 200 m of the location of the *Apium repens*, and hence there is no risk of in-combination effects from traffic.
- 3.8 The traffic modelling for the Order Scheme includes, for the 2026 scenario, development of the potential Northern Gateway and other strategic developments in Oxford (see rebuttal evidence e.g., **CRCL/R/OBJ 297** at para 3.135).

- 3.9 The resultant cumulative impact on the local highway network is reported in section 6 of Mr Tregear's Proof of Evidence **CRCL/P/8/A** and in detail in **CD/2.23**, with the impact shown on the model output plots included at Appendix M of [**CD/2.23**] and the link flow plans included at Appendix N of **CD/2.23**.
- 3.10 The traffic modelling, reported in detail in **CD/2.23** and summarised in section 6 of Mr Tregear's Proof of Evidence, concludes that the impact of traffic on the surrounding highway network, including the Wolvercote, Cutteslowe and Loop Farm Roundabouts and the Peartree Interchange, will be small (**CRCL/P/8/A**, paragraph 6.25) and traffic flows through these junctions generally reduce with the introduction of the Scheme (**CD/2.23**, paragraphs 3.32 and 3.33).
- 3.11 The HA has confirmed that, in respect of the traffic modelled detailed in **CD2.23** that it "*Accepts the further micro simulation and modelling that have been presented by PFA Consulting and has no objection to the results and conclusions drawn from them in respect of the highway impact of the proposal on the roundabout at Peartree Northern Gateway*" (email dated 24 September 2010 in **CRCL/P/8/F**).
- 3.12 The Core Strategy Policy CS6, when adopted, will require further explicit traffic modelling and assessment of the air quality effects of that traffic on the SAC lowland hay meadows (which are closer to and may be affected by traffic on the A34). The policy explicitly requires the Northern Gateway development to be scaled back if any adverse effects on the SAC are identified. This is to be secured by the policy text quoted in **OBJ 123/3** as referred to in para 2.2 above.
- 3.13 The conclusion can safely be drawn from the evidence summarised above that the Order Scheme and the other major developments which may occur, in particular, the Northern Gateway, will not give rise to adverse 'in combination' effects through air emissions, on the designated species and habitat of the SAC.

4 Effects of any Hydrological Changes

- 4.1 The Order Scheme will have no effects on the groundwater regime of the SAC. The only possible effect on surface waters is as a result of the raising of the bridleway. Chiltern Railways evidence and conclusions are set out paras 5.4(iii) and 5.5 below. The Order Scheme will not give rise to any adverse effects on the hydrology of the SAC. This conclusion has been accepted by Natural England.
- 4.2 The Core Strategy Policy CS6, when adopted, will require further explicit assessment of the hydrological effects of the Northern Gateway development on the SAC. The policy explicitly requires the Northern Gateway development to be scaled back if any adverse effects on the SAC are identified, as set out in the policy text quoted in **OBJ 123/3**.
- 4.3 The conclusion can safely be drawn from the evidence summarised above that the Order Scheme and the other major developments which may occur, in particular, the Northern Gateway, will not give rise to adverse 'in combination' effects through hydrological changes on the designated species and habitat of the SAC.

5 Works to the Bridleway at Aristotle Lane

- 5.1 Details of the only works which Chiltern Railways are now proposing within the SAC are shown on Drawing PK/002 and in **CRCL/INQ/13**. The only change to that drawing that is now proposed is, as noted in para 2.7 of **CRCL/INQ/48**, that the raised section of bridleway will not be fenced. The existing western ramp to Aristotle Lane bridge is to be resurfaced to the limits between the existing fences. This is an existing hardened stone surface and, although the ramp is notionally within the designated boundary of the SAC it is almost entirely without vegetation and no party to the Inquiry, including Natural England, has suggested that it has any natural features or species worthy of protection.
- 5.2 The works for the raising of the bridleway are shown on Drawing PK/002 and consist of the raising of the path for a distance of some 80 metres by a maximum of 600mm. This will be done with compacted fill with a crushed stone surface and as described in para 4.472 of **CRCL/P/6/A**, a tarmac or similar surface will not be used. The existing path is bare earth and stone varying in width up to 3 to 3.5 metres. It will have earth berms on either side which will be vegetated with drainage pipes through the fill to provide adequate cross drainage. The width of the raised path will be 2.5 metres and the total footprint of the works less than 500m². The total area, including land to be used temporarily for construction will not exceed 1,850m², as noted in para 5.3(i) of **CRCL/INQ/60**.
- 5.3 Natural England, in para 2.5 of **OBJ 246/3** endorsed the raised path solution, with sloping earth berms on either side. Natural England noted that '*appropriate materials and methodology (must) be used*'. Minor revisions to Condition 14 in **CD/1.12/2** have been agreed with Natural England to satisfy its concerns, as noted in **CRCL/INQ/48**, para 2.3.
- 5.4 Chiltern Railways' evidence, which is agreed by Natural England, is that the bridleway raising will have no adverse effect on the integrity of the SAC, provided that an appropriate condition is imposed. The assessment of the potential effects is summarised in para 5.3 of **CRCL/INQ/60** which notes:
- (i) the very small extent of the works, in the context of the SAC, as a whole;
 - (ii) that neither '*apium repens*' nor lowland hay meadow are to be found close to this part of the SAC; and
 - (iii) that, if compensatory flood storage is required it, can be provided outside the SAC, without any increase in flood risk.
- 5.5 Concerns have been expressed by objectors about the future maintenance of the drainage pipes under the raised path. There is no evidence that there are significant flood flows which would need to use these pipes. A considerable number of parallel pipes are proposed and maintenance of the bridleway and its drainage pipes will be the responsibility of the County Council, as highway authority, as set out in para 3 of **CRCL/INQ/65**.

- 5.6 Neither the temporary use of land for construction nor the transport of materials along the existing concrete track will have any adverse effects on the species or habitats for which the SAC is designated, as noted in para 5.3(ii) and (v) of **CRCL/INQ/60**.
- 5.7 No 'in-combination' effects could arise with other schemes, since no other emerging development, including the Northern Gateway, proposes works inside the SAC.

6 Pedestrian Use of Land in the SAC

- 6.1 The southern part of the SAC is open space used by the public and is traversed by two bridleways, one of which is relevant, being BW320/10, which crosses Aristotle Lane bridge and continues northward across Port Meadow along the eastern boundary of the SAC. Port Meadow and Wolvercote Commons are subject to commoners' rights of grazing. The bridleway and the track from Walton Well Road, where there is a public car park, are used extensively by walkers and cyclists. In recognition of the public use, the City Council employs countryside rangers, part of whose duties are to manage use of Port Meadow.
- 6.2 The Order Scheme can have no effect on the general recreational use of the paths or other land within the SAC. Chiltern Railways is seeking the closure of the Aristotle Lane foot crossing, which can only be used by some of the Trap Ground allotment holders. Following the closure, those allotment holders, who at present use the crossing, will have to use the bridleway over Aristotle Lane bridge and then along the bridleway to the gates of the allotments.
- 6.3 The Trap Ground Allotment Association has, according to their evidence, **OBJ 13/2**, around 150 members.
- 6.4 The bridleway over the bridge and ramps varies in width from 1.8 to 2.00 metres and the western ramp has post and rail fencing. From the end of the ramp to the allotment gates the bridleway is unfenced and varies in width up to 3 metres or so. It has a hard surface consisting of loose stone. The works to the bridleway and bridge proposed by Chiltern Railways are shown on the plans in Appendix C to **CRCL/INQ/13** although, as noted in para 2.6 of **CRCL/INQ/48**, the section of bridleway to be raised will not be fenced.
- 6.5 The small number of additional users of the bridleway who are going to use it to access the allotments, will use the hardened stone bridleway and are unlikely to range more widely across Port Meadow and it is therefore inconceivable that they will have any adverse effect on the plant species, which is the primary reason for the designation of the site under Annex II to the Directive, *Apium repens*, or on the lowland hay meadows, the habitat that is the primary reason for designation under Annex I of the Directive.
- 6.6 The Core Strategy Policy CS6, when adopted, will require further explicit assessment of the recreational impacts of the Northern Gateway development on the SAC. The policy explicitly requires the Northern Gateway development to be scaled back if any adverse effects on the SAC are identified as set out in the policy text quoted in **OBJ 123/3**.

6.7 The conclusion can safely be drawn from the evidence summarised above that the Order Scheme and the other major developments which may occur, in particular, the Northern Gateway, will not give rise to adverse 'in combination' effects through recreational impacts on the designated species and habitat of the SAC.

7 Changes to Vehicle Use in the SAC

7.1 **CRCL/P/12/E**, submitted to the Inquiry on 1 November 2011, noted, in para 2.3(ii), the intention of Chiltern Railways, in the draft Order, to acquire rights of access for allotment holders to use the existing concrete track across Port Meadow from Walton Well Road. Natural England, as noted in para 2.7 of **CRCL/P/12/E**, maintained its objection on grounds of potential impact to the SAC, unless Chiltern Railways could bring forward an appropriate Code of Conduct for management of this use. **CRCL/P/12/E**, in para 3.1, notes that unless the City Council were to agree to manage and enforce such management restrictions, Chiltern Railways would amend the Order application to remove the relevant powers, relating to permanent rights of access, from the Order. **CRCL/P/12/E** has now been superseded by **CRCL/INQ/50**, in respect of the powers sought for the use of the track.

7.2 **CRCL/INQ/13** identified, in para 4.1(c), where, within the draft Order, the powers to secure this permanent right of vehicular access were to be found. **CRCL/INQ/17** notes information from the Oxford City Council that there is an existing informal arrangement between the allotment holders and the City Council enabling the allotment holders to make occasional use of this track with vehicles to access the allotments.

7.3 In **CRCL/INQ/29**, Chiltern Railways clarified its position in relation to the provision of car parking for the allotments. This attached a plan showing the potential layout of 2 parking spaces within the allotments (which are outside the SAC). Paras 2.4 and 2.5 of that note made it clear that Chiltern Railways would only progress the provision of this car parking and the permanent rights of access over the track if these arrangement were agreed by the City Council and the Allotment Association.

7.4 Para 2.1 of that note contains Chiltern Railways' conclusion that '*it is unlikely that there will be any disabled allotment users who previously walked or cycled across the railway who would be physically unable to access the allotments through the alternative access over the bridge*'.

7.5 Chiltern Railways has confirmed in **CRCL/INQ/50** that (i) it intends only to take temporary rights of access for construction over the track, likely to be no more than three months (table in Section 5); and (ii) will no longer seek permanent powers of access by vehicles over the track (para 6.2). The reasons why this conclusion has been reached are set out in paras 4.1 to 4.3.

7.6 Chiltern Railways will not interfere with the existing informal use of the track by the allotment holders, which is controlled by the City Council, entirely separately from the Order powers.

7.7 As noted in para 4.4 of **CRCL/INQ/50**, Chiltern Railways offers to '*fund the reasonable cost of two parking spaces on the allotments, but not, in any form, on the*

SAC' remains open. This funding would only be provided 'if, within a given time, (Chiltern Railways) receive a request from Oxford City Council'. This offer will not give rise to additional traffic since it is improbable that there is any allotment holder who could walk over several railway lines but not walk over a disability compliant bridge.

- 7.8 No additional vehicles visiting the allotments will use the track across the SAC from Walton Well Road than are permitted at present by the informal arrangement with the City Council. Chiltern Railways will need to allow a small number of contractors' vehicles to use the track while the works to the western ramp of Aristotle Lane bridge and the raising of the bridleway take place. See para 2.7 of **CRCL/INQ/48** and para 5.3(iv) of **CRCL/INQ/60**. Natural England has no objections to these works, subject to the submission and approval of a method statement in accordance with proposed planning condition 14 in **CD/1.12/2**, the proposed wording of which is agreed by Natural England and Chiltern Railways.
- 7.9 The short term temporary use of the track by construction vehicles for the Aristotle Lane works will have no residual or permanent effects on the SAC and will have no adverse effect on its integrity or the species or habitat for which it is designated.
- 7.10 No 'in-combination' effects could arise with other schemes, since neither the Order Scheme nor any other emerging development anticipates additional use of vehicles inside the SAC.

8 Impact of the Order Scheme on the SAC alone or 'in combination' with other development proposals

- 8.1 The Environmental Statement, in para 8.6.1 in **CD/1.16**, concluded that '*the impact on the SAC and SSSI following implementation of the proposed mitigation will not be significant and the integrity of the SA and SSSI will not be affected*'. Andy Coates, in para 2.39 of **CRCL/P/10/A**, having presented further technical evidence in relation to emissions and considered the replacement of the proposed bridge ramp with the raised path, concluded that the Environmental Statement conclusion, which included the HRA Screening report in Annex F, remained valid.
- 8.2 Since the opening of the Inquiry, Chiltern Railways has decided not to seek permanent rights of vehicular access along the track across the SAC which would, if anything, further reduce impacts from those considered in the ES.
- 8.3 The potential impacts of additional pedestrians using the bridleway across a short distance in the SAC are considered explicitly in Section 6 above and the conclusion is that they will have no effect on the SAC.
- 8.4 The Environmental Statement in para 8.6.3 also considered the cumulative ecological effects of the Order Scheme with other development proposals including the emerging Northern Gateway and concluded that '*From the information on other plans and projects it has been established that there are limited potential cumulative impacts. This is a result of the nature of those schemes and the lack of likely nature conservation interaction with the scheme*'. This should be taken as a clear statement that, at that time, the in-combination effects had been properly considered, both in

terms of the five separate topics identified in Sections 3 to 7 above and if all are considered together.

- 8.5 Since that assessment, the Oxford Core Strategy Examination has been concluded and the Inspectors' Report has been published. The Northern Gateway strategic development is still at a very early stage in its statutory approval process. Even when the Core Strategy is adopted, further studies and an Area Action Plan are to be progressed, before any development permissions are sought. The nature and timing of development is very uncertain and, indeed, the changes to Policy CS6, proposed by the Inspectors in para 4.154 of **OBJ 123/2** explicitly apply the 'precautionary principle' and could limit the amount and nature of development to much less than is presently contemplated if *'the results of (the) further assessments show that part of the strategy cannot be delivered without adverse impacts on the SAC'*.
- 8.6 As the Inspectors note, in para 8 of **OBJ 123/2**, *'the traffic and other implications of the proposed Northern Gateway proposal, combined with the (Water Eaton) Parkway station will be fully considered when further details of (the Northern Gateway) project come forward'*. This is the correct approach in relation to all of the environmental effects of the Northern Gateway proposals.
- 8.7 Nothing that has come forward in relation to the Northern Gateway or other significant developments since the ES was written invalidates its conclusions in respect of the 'in-combination' effects. There is certainly no need for any further information on the 'in-combination' effects of the Order Scheme and the Northern Gateway on the Oxford Meadows SAC at this Inquiry or before the Secretary of State makes a decision in relation to the TWA Order application.
- 8.8 All of the evidence required should the Secretary of State, as competent authority, considers it necessary to undertake an 'appropriate assessment' in accordance with Regulation 61 is before the Inquiry.

Note prepared jointly by Ian Gilder and Andrew Coates

18 January 2011

Appendix A

CRCL/INQ/72

Location of Oxford
Meadows SAC

