

THE CHILTERN RAILWAYS (BICESTER TO OXFORD IMPROVEMENTS) PUBLIC
INQUIRIES
**CONDITIONS SESSION: DISCUSSION NOTE ON A CANDIDATE PLANNING
CONDITION REGARDING NOISE AND VIBRATION.**

1 Mrs Harris (Objector 213) has suggested a planning condition as follows:

Where noise or vibration levels exceed agreed limits or thresholds for either construction or maintenance works or in operating the line, the body responsible for those works or operations can by the local authority be suspended until a plan of action is agreed with the local authority and implemented to comply with the noise and vibration limits without the local authority needing to consider the wider public interest and that their costs will be reimbursed by the body responsible for the breach. Additionally, the Promoter sets aside a sum of money for the purpose of allowing those affected by breaches of noise and vibration limits to easily make small claims for compensation.

2 This is a different approach from that proposed by Chiltern Rail (Condition 17 in CD/1.12/2), and from those suggested by other objectors who have suggested conditions related to noise and vibration.

3 This note considers some of the matters raised by Mrs Harris's suggestion.

Development Plan

4 The Oxford Local Plan (CD 4.3) deals with Nuisance through saved policy CP.19 (page 26):

Planning permission will be refused for development proposals that cause unacceptable nuisance. Where such nuisance is controllable, appropriate planning conditions will be imposed.

Planning permission will not be granted for residential development where the future occupiers would be likely to suffer from substantial nuisance from noise, dust, fumes, vibration, light or proximity to hazardous materials, unless adequate protective measures can be implemented before the development is occupied.

5 The Oxford Core Strategy 2026 Proposed Submission September 2008 (CD 4.9) would not replace that policy (Page 76 of CD 4.9).

6 The Cherwell Local Plan November 1996 Saved Policy ENV1:

Development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted.

7 To comply with the development plan, the levels of noise and vibration resulting from the use of the railway should not be "unacceptable" or "materially detrimental".

Circular 11/95

8 Circular 11/95 is Inquiry document X/7. Its Appendix A sets out some suggested models of acceptable planning conditions. Conditions 6 to 11 relate to Noise.

Application to the Scheme

- 9 The Noise and Vibration Policy (CD/1.29) sets out things that Chiltern Rail would do to mitigate the noise and vibration effects arising from operation of the railway. If the franchise is taken over by some other organisation then the Noise & Vibration Policy would no longer apply. If the amount or type of traffic on the railway became more noisy than allowed for by Chiltern, or caused more vibration, such that Chiltern's mitigation measures became insufficient, then the requirements of the Local Plans might not be met.
- 10 Insofar as it intends to require the avoidance of unacceptable levels of noise or vibration caused by the Scheme, Mrs Harris's proposed condition intends to secure compliance with the development plan for the life of the development.
- 11 For such an approach to succeed, perhaps at least the following would be necessary:
- i) The acceptable noise and vibration levels, or changes in those levels, would have to be quantified. Representations have been made about that.
 - ii) Define the properties to which the condition applies: perhaps dwellings, workplaces and community facilities existing or with planning permission at the time of making the Order.
 - iii) Would a mechanism be needed to allow for the effects of sources of noise and vibration other than the railway (for, for example, property near the railway and near a busy road)?
 - iv) The Noise Insulation (Railways and Other Guided Systems) Regulations would continue to apply, as described in 2.6 of CD/1.29).
 - v) Where there is a "high" noise impact (i.e. more than 10 dB with-train increase), even with mitigation measures on the railway, further measures to be offered to property owners and applied if accepted by the property owner and (if necessary) granted planning permission.
 - vi) If the maximum pass-by free-field noise regularly (define "regularly") exceeds 82 dB at night, additional noise insulation to be offered so as to bring noise levels in the affected bedrooms to [a stated level]. (Para 2.8 of CD/1.29).
 - vii) (Variant of model condition 11) Construction work shall not begin until an initial scheme to provide the described degree of protection at [the properties to which the condition applies] from noise from the proposed railway has been approved by the local planning authority, and all works which form part of the approved initial protection scheme shall be completed before the new railway is brought into use. The initial protection scheme shall be permanently retained unless modified with the LPA's approval to once more achieve the noise and vibrations level described in this condition.
 - viii) The condition would require monitoring during an initial period to follow the approach set out in 2.12 and 2.13 of CD/1.29, in order to validate the initial mitigation. In accordance with Appendix A of Circular 11/95, no arrangement would be specified for the subsequent monitoring.
 - ix) For vibration, secure threshold VDV levels. Representations have been made.