

Written Submission of Natural England



The Chiltern Railways (Bicester to Oxford Improvements) Order
Transport and Works Act 1992

22nd October 2010

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1. Introduction

1.1 Natural England would like to thank the Inspector for the opportunity to make written comments on this order. Whilst the advice provided below is based on the evidence that we have available to date, discussions between Natural England and Chiltern Railways are ongoing, so if our position changes as a result we will provide further comments. If there are updated and amended proposals created during the inquiry we are happy to provide our comments, although as we are not attending, we will have to rely on the Inspector to ask us for these comments. This submission has been laid out in the same order as that presented in Andy Coates Proof of Evidence (CRCL/P/10/A) for ease of reference.

2. Designated Sites

Oxford Meadows SAC and Port Meadows with Wolvercote Common and Green SSSI

Description

2.1 Paragraph 2.11 of CRCL/P/10/A describes the reasons for the designation of Oxford Meadows Special Area of Conservation (SAC). However there is some confusion here due to the complex nature of this site. The designation for supporting lowland hay meadow habitat 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 the species *Apium repens* (creeping marshwort). However Port Meadow and Wolvercote Common and Green SSSI is designated for the lowland hay meadow. Therefore the area of the SAC which is closest to the railway line and therefore may be impacted by the scheme is designated for supporting *Apium repens* (creeping marshwort) only, but the underlying SSSI is designated for lowland hay meadow. Therefore the impacts on the lowland hay meadow described in paragraphs 2.22 to 2.25 of CRCL/P/10/A, relate to the SSSI rather than the SAC.

Air Pollution

2.2 Natural England remains concerned with the conclusion that the additional nitrogen deposition from the scheme will not adversely affect the integrity of Oxford Meadows SAC, or the qualifying interests of Port Meadows and Wolvercote Common and Green SSSI (paragraph 2.32 of CRCL/P/10/A). As acknowledged earlier in Andy Coates' Proof (paragraph 2.19), the impacts on habitats and plant species from pollutants such as NO_x and deposited nitrogen are difficult to predict. So, whilst we accept the indication that increases are not certain to have a negative effect on the designated site, the Conservation of Habitats and Species Regulations 2010 (Regulation 61(5)) makes it clear that the competent authority must be certain that there will not be an adverse impact before giving permission (subject to the exception tests in Regulation 62). It is clear that the deposition of NO_x will increase as a result of the scheme and it is important to recognise the potential impacts of increasing the nitrogen load which is akin to applying fertiliser. This is listed as an Operation Likely to Damage the special interest of the site for the SSSI. A copy of this is included in Appendix A.

2.3 Natural England were surprised and also disappointed that Chiltern Railways have withdrawn the monitoring and mitigation plan which we had previously agreed with them was both necessary and appropriate as part of a precautionary approach.

Direct Damage/Disturbance

2.4 Natural England met Chiltern Railways in early June 2010 on site at Oxford Meadows SAC to discuss the proposed bridge link to the allotment (CD/1.9 sheet no. 29). At this meeting, we requested that the bridge be designed with clearance for cattle to pass underneath. This is required to ensure that the area between the bridge and railway line continues to be grazed, which is an essential part of the site management.

2.5 Chiltern Railways subsequently indicated that they were unable to design a bridge with sufficient clearance for the cattle. As a result, an alternative option was discussed which involved raising the height of the existing footpath. This was to allow all year access to the allotments, as the existing footpath is liable to flood in winter. Our preferred option is for the footpath height to be increased with sloping slopes on either side, including the provision of drainage pipes underneath the path to ensure the hydrology of the site is not affected (Appendix 2 of CRCL/P/6/B2).

2.6 In order to have certainty that the proposed footpath alterations will not have a significant effect on the Oxford Meadows SAC, Natural England (as Statutory Advisor) and the Competent Authority must be satisfied that the appropriate materials and methodology will be used. Currently, Chilterns Railways have not provided any detail to indicate how they could conduct the works, whilst being certain to avoid effect. It has been suggested that a condition is written to cover this. If this condition were suitably detailed, or required the works to be implemented in accordance with a Method Statement, Natural England could consider withdrawing our current objection to this part of the proposal.

2.7 Natural England also maintain an objection on the provision of access for allotment holders. It is proposed to accommodate vehicular access across the SAC using the existing single track from Walton Well Road Car Park to the allotments (CD/1.9 sheet no. 29 and 30). We are very concerned about cars encroaching onto the SAC from the track, both while driving and parking, which could cause considerable damage to the grass sward, particularly when wet. Natural England raised this concern with Chilterns Railways in March 2010 and suggested that the potential for damage could be limited by reaching agreement with Oxford City Council (who manage the SAC and hence access) for an appropriate Code of Conduct for vehicular users with an accompanying enforcement regime for anyone caught in breach of it. This legally binding document must include a passing protocol to ensure that vehicles do not leave the track at anytime, a limit on parking (both numbers and area) and a clear set of procedures for enforcement. Chiltern Railways have assured us that an agreement can be set up with Oxford City Council, but they have yet to progress this action. Given that the potential for an adverse impact on the SAC remains so clearly unresolved, Natural England currently maintains this objection.

Wendlebury Meads and Mansmoor Closes SSSI

Air Pollution

2.8 As with the conclusions of the impact of increased NO_x deposition at Oxford Meadows, Natural England is concerned by the reported lack of impact on Wendlebury Meads and Mansmoor Closes SSSI (paragraph 2.43 of CRCL/P/10/A) . The interest features of the SSSI again can be damaged by the application of fertilisers. Nitrogen deposition, particularly in close proximity to the railway track and over a number of years, can have a similar impact as applying nitrogen-based fertilisers (which is on the list of Operations Likely to Damage the special interests of this site). A copy of this is included in Appendix B.

2.9 As above, Natural England is disappointed by the withdrawal of the monitoring and mitigation plan, which we had previously agreed was necessary due to the unpredictability of the effects of increasing NO_x deposition.

Direct Damage/Disturbance

2.10 The provision of a track across the SSSI south of the railway line (details of this proposal are set out in Appendix ASC4 of document CRCL/P/10/B) has not, in Natural England's opinion, been justified. The construction of a track would result in the loss of 675sq.metres of SSSI. National Planning Policy (PPS9, paragraph 8) clearly states that "*Where a proposed development on land within or outside a SSSI is likely to have an adverse effect on an SSSI (either individually or in combination with other developments), planning permission should not normally be granted*". Natural England objects to the direct land take of SSSI proposed as there are less damaging alternatives available. These can be seen in the 'Level Crossing Replacement Options Report – Manor Farm, Home Farm, BBONT, Holts Farm' (CD/2.16).

2.11 Natural England highlighted the presence of a complex hydrological system which supports the designated site to Chiltern Railways during pre-application meetings as long ago as the 1st July 2009. In order for Natural England to be in a position to advise the Inspector on the impacts on the SSSI for any works proposed, detailed on-site hydrological and hydrogeological investigations would need to be carried out. Despite raising this repeatedly with the applicants, the information has not been forthcoming and Natural England have been unable to fully assess the impacts on the protected site for any of the options proposed to date as a result. Natural England suggests that, in line with the first key principle of PPS9 (i.e. planning decisions should be based on up-to-date information), this information is necessary in order to identify the least damaging option and to weigh up whether the harm to the SSSI can be justified. 2.12 The relocation of Paul Miller's barn, hard standing and all access tracks around and through the SSSI would all need to be assessed for the potential hydrological impact they may have on the site.

2.13 Should the order be granted, Natural England would like to agree any Method Statement for the works, in order to ensure that there is no damage caused to the SSSI during construction.

Hook Meadows and Trap Grounds SSSI

2.14 As with the above two sites Natural England are concerned with the conclusions on the impact of increased NO_x on the site, and the lack of a monitoring and mitigation plan being implemented.

3. Protected Species

Bats

3.1 Natural England has been consulted on the Summer Bat Survey Report for Wolvercot Tunnel (Appendix ASC5 in document CRCL/P/10/B), and our main concerns remain around hibernating bats within the tunnel and potential collisions with the trains. Natural England have a meeting scheduled with Chiltern Railways to discuss the bat mitigation plan on the 27th October, and we will provide an update if this meeting results in a change in our advice.

Great Crested Newts

3.2 Natural England has been consulted on the latest draft of the Great Crested Newt Survey Report and Mitigation Plan (Appendix ASC6 in document CRCL/P/10/B) and we remain concerned that populations of newts along the line will become fragmented by the increase in train numbers, and have also provided further advice on elements of the plan that may need to be amended for the purposes of obtaining a licence. Chiltern Railways are currently updating their Great Crested Newt Mitigation Plan as a result of our comments and if our position on this changes we will provide the Inspector with a written update.

4. Appendices

Appendix A

Operations likely to damage the special interest

Site name: Port Meadow with Wolvercote Common and Green, Oxfordshire

OLD1000153

Ref. No. Type of Operation

- 1 Cultivation, including ploughing, rotovating, harrowing, and re-seeding.
- 2 The introduction of or changes in the grazing regime (including type of stock or intensity or seasonal pattern of grazing and cessation of grazing).
- 3 The introduction of or changes in stock feeding practice.
- 4 The introduction of or changes in the mowing or cutting regime (including hay making to silage and cessation).
- 5 Application of manure, fertilisers and lime.
- 6 Application of pesticides, including herbicides (weedkillers).
- 7 Dumping, spreading or discharge of any materials.
- 8 Burning.
- 9 The release into the site of any wild, feral or domestic animal*, plant or seed.
- 10 The killing or removal of any wild animal*, including pest control.
- 11 The destruction, displacement, removal or cutting of any plant or plant remains, including shrub, herb, hedge, moss, lichen, fungus and turf.
- 12 The introduction of tree or woodland management+.
- 13a Drainage (including the use of mole, tile, tunnel or other artificial drains).
- 13b Modification of the structure of watercourses (eg rivers, streams, ditches, drains), including their banks and beds, as by re-alignment, re-grading and dredging.
- 13c Management of aquatic and bank vegetation for drainage purposes.
- 14 The changing of water levels and tables and water utilisation (including irrigation, storage and abstraction from existing water bodies and through boreholes).
- 15 Infilling of ditches, drains, ponds, pools, marshes or pits.
- 20 Extraction of minerals, including gravel, topsoil and subsoil.
- 21 Construction, removal or destruction of roads, tracks, walls, fences, hardstands, banks, ditches or other earthworks, or the laying, maintenance or removal of pipelines and cables, above or below ground.
- 22 Storage of materials.
- 23 Erection of permanent or temporary structures, or the undertaking of engineering works, including drilling.
- 26 Use of vehicles or craft likely to damage or disturb features of interest.
- 27 Recreational or other activities likely to damage features of interest.
- 28 The introduction of or changes in game and waterfowl management and hunting practice.

* 'animal' includes any mammal, reptile, amphibian, bird or invertebrate.

+ including afforestation, planting, clear and selective felling, thinning, coppicing, modification of the stand or underwood, changes in species composition, cessation of management.

Appendix B

Operations likely to damage the special interest

Site name: Wendlebury Meads & Mansmoor Closes

OLD1001141

Ref. No. Type of Operation

- 1 Cultivation, including ploughing, rotovating, harrowing, and re-seeding.
- 2 The introduction of or changes in the grazing regime (including type of stock or intensity or seasonal pattern of grazing and cessation of grazing).
- 3 The introduction of or changes in stock feeding practice.
- 4 The introduction of or changes in the mowing or cutting regime (including hay making to silage and cessation).
- 5 Application of manure, fertilisers and lime.
- 6 Application of pesticides, including herbicides (weedkillers).
- 7 Dumping, spreading or discharge of any materials.
- 8 Burning.
- 9 The release into the site of any wild, feral or domestic mammal, reptile, amphibian, bird, fish or invertebrate, or any plant or seed.
- 10 The killing or removal of any wild mammal, reptile, amphibian, bird, fish or invertebrate, including pest control.
- 11 The destruction, displacement, removal or cutting of any plant or plant remains, including tree, shrub, herb, hedge, dead or decaying wood, moss, lichen, fungus, leaf-mould and turf.
- 12 The introduction of or changes in tree and/or woodland management including afforestation and planting.
- 13a Drainage (including the use of mole, tile, tunnel or other artificial drains).
- 13b Modification of the structure of watercourses (eg ditches, dykes, drains), including their banks and beds, as by re-alignment, re-grading and dredging.
- 13c Management of aquatic and bank vegetation for drainage purposes.
- 14 The changing of water levels and tables and water utilisation (including irrigation, storage and abstraction from existing water bodies and through boreholes).
- 15 Infilling of ditches, drains, ponds, pools or marshes.
- 20 Extraction of minerals, including topsoil and sub-soil.
- 21 Construction, removal or destruction of roads, tracks, walls, fences, hardstands, banks, ditches or other earthworks, or the laying, maintenance or removal of pipelines and cables, above or below ground.
- 22 Storage of materials.
- 23 Erection of permanent or temporary structures, or the undertaking of engineering works, including drilling.
- 26 Use of vehicles likely to damage or disturb features of interest.
- 27 Recreational or other activities likely to damage features of interest.
- 28 The introduction of or changes in game and waterfowl management and hunting practice.