

DEPARTMENT FOR TRANSPORT 2010
Transport and Works Act 1992
Transport and Works (Applications and Objections Procedure)
(England and Wales) Rules 2006
Chiltern Railways TWA Application 2010 to the Secretary of State

CLOSING STATEMENT

Sir, in this closing statement I would like to try and see the proceedings here in a somewhat broader context than the detailed discussions you have been hearing throughout the inquiry. My hope is that this helps you formulate your recommendations.

Rather than being technical, therefore, this statement is an emotional appeal, a sort of argumentum ad misericordiam. In classical rhetoric this is considered a fallacy – but then, we are not here engaged in a dispassionate comparison of opinions! And that is the first point I wish to make.

It is particularly important to appreciate the starting positions of the two parties to the debate about noise and vibration. The residents of Lakeside and other streets running along the track are here because they want to protect their quality of life, the use of their gardens, their sleep at night, and the health of their children. The subject of noise and vibration has already deprived the residents of adjacent properties of much sleep – because of the terrible uncertainty that hangs over the future that was only deepened by listening to the pronouncements from Chiltern and ERM that did nothing to clarify, demonstrate or reassure. Our repeated requests for helpful interpretation of the measurements and projections met with rebuttals, not explanations. It is no wonder, therefore, that we, residents feel emotional and bitter about the prospects.

The position is entirely different for those people who are being paid by Chiltern (handsomely, no doubt) to do their not particularly palatable jobs for them: cross-examining witnesses who have no experience of court appearance, so that it may look as if someone is kicking a puppy; or manufacturing and presenting plausible, but, in practice, untested and unverified projections of noise and vibration based loosely on conveniently selected guidelines.

Of course, the interests of Chiltern's parent company, and those of Network Rail and the Department for Transport hover in the background like ghosts. However, by the very way this inquiry has been put forward, we were not allowed to discuss those openly and properly. We were requested to ignore the elephant present in the room, namely, Deutsche Bahn's eagerness to open another major freight route. The promoters attempted to dismiss the evidence of terrible abuse of regulations (including speed limits and noise caps) by DB Schenker freight operations in Stirling in Scotland – but the point remains: we need concrete protection (literally) against such abuses.

The ghost of Deutsche Bahn keeps entering this room again and again... Only yesterday Oxford Times published an article on the closure of Wrexham & Shropshire train service (a company jointly owned by Chiltern) due to an "unprecedented economic environment". Oh dear – for all the much feted commercial prowess of Chiltern, here they go losing money again. It is a simple fact that it is more economical to run a bus service. However, hope remains for Arriva Trains Wales utilising similar routes. Now, who would guess it? – it was recently taken over by Deutsche Bahn!

So what are we observing here? More and more of rail operations in this country, both passenger and freight, are being taken over by DB, with the support of UK government. DB are known to take particular care about noise and vibration issues in Germany – but, of course, the regulations in this country lag behind those in Europe. And so it turns out to be remarkably convenient for DB to use UK as a sort of backward third-world country where "Heimordnung"¹ for protecting residents need not apply to the same extent. Is this inquiry willing to accept this situation?

One might hope that Network Rail might come to our rescue – but no! We are requested to accept their conspicuous absence from most of this inquiry. We are asked to ignore the fact that Network Rail have a long term, direct interest in the detail of this scheme's implementation. After all, they only stand to take over the track, and with it the responsibility for its maintenance. Is this reasonable?

It is my respectful submission that those parties (Deutsche Bahn UK and Network Rail) should rightly have been answerable to our questions at the inquiry. It has got to be wrong that, apart from their proofs of evidence,

¹ Home rule.

no additional statements from supporters are to be found on the Evergreen 3 website.

Let me take another view of this situation. I came to Oxford over twenty years ago to undertake research in science and engineering. My particular area of research interest concerns structural integrity of aero-engines, and over the years I contributed my ideas and solutions to creating a safer, greener, more energy efficient world and travel. I also worked hard to educate generations of engineers and scientists. I am happy and comfortable living in this country, and I am pleased to do what I can to contribute to its prosperity. I expect, it seems to me entirely reasonably, to have my basic human rights to be protected. By what mechanism should this be? Is this inquiry not one of such?

Sir, I am not a lawyer and I do not presume to know the rules and regulations as well as Chiltern's hired advocates – I am paid for doing a different job. But I am entitled to take a natural view of the matter. Is it right for us to be asked to find the legal arguments to safeguard our well-being and guarantee that the scheme does not ruin our lives? Is it not more reasonable that, once our concerns have been heard, for conditions to be enforced on the promoters that would make sure we do not lose out?

Chiltern are promoting this scheme because they are keen to maximise their profit, and minimise the expenditure. They say they will earn money from passenger fares (that remains to be seen!), but they are terribly reluctant to commit to performance-based mitigation measures, because it might cost them more – despite the obvious fact that this is the only rational way to ensure that the living conditions of those affected by the scheme do not deteriorate. In simple words, it is Chiltern's greed against our misery.

Whose side will this inquiry take?

What recommendations will you make, Sir?

Alexander Korsunsky