

THE CHILTERN RAILWAYS (BICESTER TO OXFORD IMPROVEMENTS) PUBLIC INQUIRIES

THE APPLICATION IN MR FEENEY'S CLOSING SUBMISSION

- 1 Chiltern Rail's proposals are held by some to have, or to have the possibility of having, significant harmful effects on the Oxford Meadows SAC.
- 2 Mr Feeney's closing submission sets out, among other things, six matters in respect of which he considers the evidence given at the Inquiry insufficient to enable an appropriate assessment to be reliably undertaken. It is his submission that either the Order application should fail or that the Inquiry should be adjourned so that
 - i) Further public consultation should take place, and
 - ii) Parties may return to the Inquiry (or come for the first time) to examine Chiltern on the six matters Mr Feeney has identified, and
 - iii) Evidence that Chiltern say they rely on in the six matters are placed in evidence.
- 3 Mr Feeney also draws attention to Rule 15(1) of the Transport & Works Inquiries Procedure Rules, which he says should be used to request the attendance of Natural England at the Inquiry, once it had resumed after the adjournment he describes. Mr Feeney refers too to Rules 18(9) and 18(12).
- 4 I will deal with those matters in reverse order.
- 5 Rule 18(12) authorises the Inspector to adjourn an Inquiry. Adjournments may be of any duration.
- 6 Rule 18(9) requires the Inspector to give every person specified in rule 14(1) an adequate opportunity of considering any fresh matter or document.
- 7 The six matters to which Mr Feeney refers are:
 - i) The absence of certain evidence from the promoter's transport modelling evidence;
 - ii) The absence of certain evidence from the promoter's ecological evidence;
 - iii) The absence of an assessment of the cumulative effect of the scheme and other development;
 - iv) The absence of an assessment of the deposition of NO_x in certain conditions that Mr Feeney suggests;
 - v) The absence of a map showing the location of the hay meadow habitat in the Oxford Meadows SAC, which map has recently been provided by Chiltern (INQ/74); and
 - vi) The absence of certain evidence regarding the potential impacts of vibration on the habitats and species for which Oxford Meadows is designated.
- 8 It seems to me that the material absent from the promoters case (and to which Mr Feeney refers) is not newly absent and so its absence is not a fresh matter or document that could trigger Rule 18(9)'s requirement that parties should have an opportunity to consider.
- 9 There remains the map that shows the location of the Hay Meadow habitat. Previously in evidence there was to be found the fact that lowland hay meadows are an Annex 1 habitat in the SAC (the SAC data form, in Appendix 2 of Mr Coates's evidence), the fact that the SAC is made up of Port Meadow and Pixey and Yarnton Meads (figure 1 in Mr Coates's

Appendix 2), and the SSSI description of Pixey and Yarnton Meads as meadows that have been cut annually for hay, whereas Port Meadows is described in its SSSI description as (with a few well-documented exceptions) unimproved permanent pasture with continuous grazing (that is, not a hay meadow) (Appendix 2 again). The map therefore presents nothing that has not been in evidence since proofs of evidence were issued before the start of the Inquiry.

- 10 There is therefore no fresh matter before the Inquiry in the six matters to which Mr Feeney refers. The map is a new document and has been before the Inquiry for over two days, which I consider an adequate opportunity for parties to comment on it, given that it presents no new information. Rule 18(9) is therefore satisfied and no adjournment is needed.
- 11 I turn now to Rule 15 (1). This requires that a statutory body which has provided an official case should arrange for its representative to attend the Inquiry if these conditions are satisfied:
- i) The body has received, not later than 4 weeks before the date fixed for the holding of an Inquiry, a written request for such attendance. This requirement cannot now be satisfied.
 - ii) The written request should be issued by the Secretary of State, the applicant or a statutory objector. Neither I nor Mr Feeney could satisfy that requirement.
- 12 I conclude that Rule 15(1) cannot now be applied in this case.
- 13 In reporting to the SoS on Matter 8 I will follow the evidence. Chiltern told me yesterday afternoon at the Inquiry that they would not submit more evidence on the matters raised by Mr Feeney, even if more time were available. I might find in respect of matter 8A that the scheme is likely to have an adverse effect on the SAC's integrity, or that it is not, or that there is insufficient evidence to reach a robust conclusion. Mr Feeney has given me his view of the point to which the evidence leads. I will reach my own conclusion before I submit my report.

J.P.Watson
INSPECTOR
28 January 2011