

Eversheds LLP
Solicitors and Parliamentary Agents
One Wood Street
London
EC2V 7WS

Martin Woods
Head of TWA Orders Unit
General Counsel's Office
Department for Transport
Zone 1/18
Great Minster House
33 Horseferry Road
LONDON
SW1P 4DR

Enquiries: 020-7944 3293
Fax: 020-7944 9637
Email: transportandworksact@dft.gov.uk

Web Site: www.dft.gov.uk/topics/legislation/twa

Our Ref: TWA/10/APP/01
Your Ref: PETOM/119788-010009

24 January 2012

Dear Sirs,

**TRANSPORT AND WORKS ACT 1992
TOWN AND COUNTRY PLANNING ACT 1990**

**APPLICATIONS FOR THE PROPOSED CHILTERN RAILWAYS (BICESTER TO
OXFORD IMPROVEMENTS) ORDER AND DEEMED PLANNING PERMISSION**

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to refer to the applications made by your client, The Chiltern Railway Company Limited ("Chiltern"), for:-

- a. The Chiltern Railways (Bicester to Oxford Improvements) Order ("the Order") to be made under sections 1 and 5 of the Transport and Works Act 1992 ("the TWA"); and
- b. a direction as to deemed planning permission for the development provided for in the Order, to be issued under section 90(2A) of the Town and Country Planning Act 1990 ("the planning direction").

2. The Order, if made, would authorise Chiltern to carry out works to the railway between Oxford and Bicester and to construct a new length of railway to connect the Oxford-Bicester line to the Bicester-London line, so as to enable through trains to run from Oxford station to London Marylebone station. Chiltern's proposals (referred to in this letter as "the scheme") are described more fully in the Secretary of State's letter of 15 November 2011 ("the November 2011 letter") relating to these applications.

3. The November 2011 letter set out the Secretary of State's views on the report of the Inspector who had conducted a public inquiry into Chiltern's applications. (A copy of the November 2011 letter may be found at: <http://www.dft.gov.uk/publications/twa-20111115/> or may be obtained from the TWA Orders Unit at the above address.) In his report, the Inspector recommended that the Order should not be made and the planning direction should not be given. This was because the likely lack of a licence under the Conservation of Species and Habitats Regulations 2010 ("the Habitats Regulations") in

respect of works which would affect the habitat of bats was an impediment to implementation of the scheme.

4. In the November 2011 letter, the Secretary of State said that she was not yet in a position to decide whether to accept the Inspector's recommendations. However, if Chiltern were able to overcome the impediment to implementation of the scheme identified by the Inspector, she would be minded to make the Order and give the planning direction, because of the compelling need for and substantial benefits of the scheme. The November 2011 letter invited Chiltern to inform the Secretary of State of progress since the close of the inquiry in agreeing with Natural England mitigation measures for species protected under the Habitats Regulations.

Summary of the Secretary of State's minded views

5. In the light of new evidence submitted by Chiltern and Natural England (described below) in response to the November 2011 letter, **the Secretary of State confirms that she is now minded to make the Order and to give the planning direction.** However, before coming to a decision not to accept the Inspector's recommendations the Secretary of State is required by rule 20(5) of the Transport and Works (Inquiries Procedure) Rules 2004 (S.I. 2004/2018) to allow those who presented evidence at the inquiry the opportunity to make written representations or to ask for the inquiry to be re-opened. The arrangements for this are explained at the end of this letter.

Developments since the November 2011 letter

6. In response to the November 2011 letter, the Secretary of State has received representations from: Chiltern; Natural England; the Waterside and Waterways Residents Associations and Saints Phillip and James Church of England Primary School; Quadrangle Management Limited; Transport Watch; Dr Caroline Robertson and Mr Ian Salisbury. Copies of those representations (from which personal information has been deleted) are enclosed with this letter. The Secretary of State's consideration of the representations and of a development relating to the revocation of Regional Strategies is set out in paragraphs 7 to 31 below. These paragraphs follow the sequence in which issues were addressed in the November 2011 letter.

Funding for the scheme

7. In paragraph 17 of the November 2011 letter, the Secretary of State agreed with the Inspector that the modelling approach provided by Chiltern provided a sufficient basis for decision-making, providing the uncertainties were allowed for; and that sufficient arrangements had been made for funding Phases 1 and 2A. In response, the Director of Transport Watch made further representations (enclosure "A") disputing Chiltern's assertion in its business case that the scheme was self-funding, and arguing that Chiltern's economic analysis of the scheme incorrectly produced a positive Benefit:Cost Ratio. The Secretary of State, however, remains satisfied that the methodology used by Chiltern in its economic appraisal was sound. She is, further, satisfied that the Inspector carefully considered all the evidence in this respect and that there is nothing substantively new in these further representations that would lead her to take a different view on the Inspector's conclusion in favour of the scheme's business case.

Noise and vibration

8. In paragraph 24 of the November 2011 letter the Secretary of State agreed with the Inspector that it would not be appropriate to limit the speed of trains using the scheme in places in order to reduce noise and/or vibration, as some objectors had proposed. In response to that letter, the Chairman of Quadrangle Management Limited made a representation (enclosure "B") re-stating his opinion that imposing a speed limit on trains in the vicinity of Quadrangle House would reduce the effects of noise and vibration. However, the Secretary of State remains of the view that the planning conditions recommended by the Inspector (at condition 19 in the Annex to this letter) will provide sufficient assurance that the scheme would have an acceptable effect on local residents in respect of noise and vibration, without recourse to speed limits. In particular, conditions 19.9 and 19.10 will require Chiltern to submit to the local planning authority for approval detailed schemes of assessment showing how the performance standards set out in the Noise and Vibration Mitigation Policy ("NVMP") will be achieved.

Impacts on protected species: Bats

9. In paragraph 36 of the November 2011 letter the Secretary of State agreed with the Inspector that effective measures to mitigate the impacts of the scheme on bats in Wolvercot Tunnel were necessary, but remained to be identified. In the responses from Chiltern and Natural England (enclosures "C" and "D"), they confirmed that, as a result of their discussions, a way forward has been agreed in respect of all matters on which Natural England had outstanding concerns. On this basis, Natural England has confirmed that, in principle, there was a good prospect that the licence would be granted in due course. The Secretary of State is consequently satisfied that, subject to Chiltern submitting a revised licence application on the basis agreed with Natural England, there is now unlikely to be an impediment to implementation of the scheme in this regard.

Great crested newts

10. In paragraph 37 of the November 2011 letter, the Secretary of State noted that Chiltern had yet to agree with Natural England measures to mitigate the harm which the scheme would cause to the habitat of great crested newts. In its response (enclosure "D"), Natural England has confirmed that no outstanding issues remain which would prevent licences under the Habitats Regulations from being granted for great crested newt mitigation measures, once the TWA Order had been made and the planning direction given. The Secretary of State is as a result satisfied that implementation of the scheme is unlikely to be prevented by the lack of licences in respect of great crested newts.

Access to Trap Ground Allotments via the Aristotle Lane crossing

11. In paragraph 52 of the November 2011 letter the Secretary of State agreed with the Inspector that access to the Trap Ground Allotments should be maintained by way of the existing Aristotle Lane crossing and a new crossing over the proposed fourth track at this location. In response to that letter, the Secretary of State has received a representation (enclosure "E") from Mr White on behalf of the Waterside and Waterways Residents Associations and Saints Philip and James Church of England Primary School. In his representation, Mr White expressed concern about the retention of this level

crossing. Mr White said that the crossing should be closed on grounds of safety, the noise impact of horns being sounded by trains approaching this crossing, and because the nearby footbridge was a perfectly acceptable alternative to the level crossing for most users.

12. In relation to safety, the Secretary of State is satisfied that the Inspector considered carefully Network Rail's policy on safety at level crossings and the conditions at the Aristotle Lane crossing in reaching his conclusion that there were exceptional circumstances to justify its retention. She also endorses the Inspector's recommendation that Chiltern or Network Rail should introduce reasonably practicable measures to enhance safety at this location by the time the new crossing opens. As regards the information reported by Mr White about the incorrect sounding of train horns at this crossing, the Secretary of State considers that this is an operational matter to be resolved between Network Rail and train operating companies, and in any event does not lead her to take a different view on the overall benefits of the scheme.

13. The Secretary of State does not consider that the additional noise from train horns attributable to the scheme, compared with current conditions, is likely to have a significant adverse impact on local residents in the vicinity of the Aristotle Lane crossing. She is, furthermore, satisfied that compliance with condition 19 in the Annex to this letter (including implementation of the NVMP as required by the condition) would ensure that the noise effects of the scheme in operation would be acceptable.

14. The Secretary of State has noted Mr White's comments about the possibility of further mitigation measures to the nearby footbridge being identified to meet the requirements of allotment holders. However, she does not consider that further adaptations to the bridge would be likely to overcome the serious disadvantage to allotment holders from closure of the level crossing referred to by the Inspector at paragraph 9.13.27 of his report.

15. With regard to the East West Rail scheme, the Secretary of State notes from the Chancellor's Autumn Statement (Cm 8231, November 2011) that the further development of this scheme is subject to confirmation of local funding contributions and the business case. She considers that the likely effects of the East West Rail scheme on the Aristotle Lane crossing should be considered in the context of any application for authorisation which may be made for that scheme in due course.

16. For these reasons, the Secretary of State remains of the view that the balance of argument is in favour of retaining the Aristotle Lane crossing.

17. In paragraph 52 of the November 2011 letter, the Secretary of State agreed also with the Inspector that the scheme should not be modified to provide different car parking arrangements at Aristotle Lane for the Trap Ground Allotments Association ("the Association"), as proposed at the inquiry by an objector (Mr Salisbury). In response to that letter, Mr Salisbury has made a representation (enclosure "F") asking that the Order (if made) should include powers for Chiltern to provide a car park for the Association in the position which he had proposed at the inquiry, and should oblige Chiltern to do so.

18. The Secretary of State notes that the alternative car parking arrangements proposed by Mr Salisbury were not endorsed by the Inspector because they would

change the land acquisition requirements at this location and had not been agreed by Chiltern or Oxford City Council. She understands from Mr Salisbury's representation that his proposals remain to be agreed by all relevant parties. The Secretary of State confirms, nevertheless, that the Order modifications recommended by the Inspector and agreed in the November 2011 letter would not remove from the Order powers for Chiltern to acquire and use land to the east of the Aristotle Lane crossing (specifically plot 29003) for the purposes of providing accommodation access. Since the land currently used by the Association for parking would be taken for the scheme, she encourages Chiltern, the Association, Oxford City Council and Oxfordshire County Council (as appropriate) to discuss and agree what alternative parking arrangements should be provided as a result of the proposed retention of the Aristotle Lane crossing.

Regional strategies

19. In paragraph 57 of the November 2011 letter, the Secretary of State referred to the Government's intention to revoke Regional Strategies. She considers that this has come a step closer following the enactment of the Localism Act 2011. However, until such time as the South East Plan is revoked by Order under that Act, she continues to attribute limited weight to the proposed revocation in considering Chiltern's applications.

Planning conditions

20. At paragraph 60 of the November 2011 letter, the Secretary of State agreed that, in most respects, the Inspector's proposed planning conditions were necessary and appropriate and, subject to certain modifications, should be attached to the planning direction, if given. In response to that letter Chiltern has proposed (enclosure "G") a number of further modifications in the interests of clarity and as a result of the agreements between Chiltern and Natural England referred to in paragraphs 9 and 10 above. The Secretary of State's consideration of Chiltern's proposed modifications is set out in the following paragraphs.

21. **Definitions** The Secretary of State does not consider that it would be appropriate to provide a definition of "commencement" which is inconsistent with the provisions of section 56 of the Town and Country Planning Act 1990 about the time when development is begun. She also does not consider it necessary to define 'Phase 2B' separately, given the intention to reinstate the definition of "Phase" as originally proposed by Chiltern.

22. **Condition 17 (Restoration of land used temporarily for construction)** The Secretary of State confirms that the second sentence of this condition as proposed by the Inspector is to be deleted as a consequence of the change detailed in paragraph 60 in the November 2011 letter.

23. **Condition 18 (Code of Construction Practice)** The Secretary of State does not consider that Chiltern's proposed modifications to paragraph (a) are consistent with the Inspector's conclusions at paragraphs 9.8.3 and 9.8.4 of his report. The Inspector was, in particular, concerned that the night-time thresholds for construction noise should recognise the context where ambient noise levels are low, as illustrated in Table E.1 of the British Standard 5228. The Secretary of State, however, agrees with the minor drafting changes to paragraph (b) of this condition proposed by Chiltern.

24. Condition 19 (Operational noise and vibration monitoring and mitigation)

With regard to the measures required to mitigate the effects of the scheme at Wendlebury Gate Stables (under condition 19.3) and the Studio at 45 Lakeside (under condition 19.4), the Secretary of State agrees with Chiltern that the conditions should include performance standards which those measures are to achieve. She agrees further that the standards referred to by Chiltern (namely “BS EN ISO 9921:2003” in relation to speech communication at the stables and “DfES Building Bulletin 93, Acoustic Design of Schools” in relation to 45 Lakeside) are appropriate. However, the Secretary of State considers that it is unnecessary to specify a different distance over which voice communication is not to be impeded in the “lower riding school” since the physical layout of that building will itself be a limiting factor in assessing the mitigation required under this condition. Subject to that qualification, she is minded to accept the modifications to conditions 19.3 and 19.4 proposed by Chiltern to ensure that they are precise, enforceable and reasonable.

25. Conditions 31 and 32 (Measures for the conservation of bats and great crested newts)

The Secretary of State agrees with Chiltern that these conditions are no longer necessary in the light of the evidence referred to in paragraphs 9 and 10 above about the prospects of Natural England granting licences under the Habitats Regulations if the TWA Order is made.

26. Condition 33 (Measures for conservation of lowland hay meadow habitat at Oxford Meadows SAC)

The Secretary of State agrees with Chiltern that it would be appropriate for this condition (now 31 in the Annex to this letter) to require assessment and monitoring to be carried out in order to determine whether mitigation measures in respect of road traffic emissions are necessary. She also agrees that Cassington Meadows SSSI can reasonably be removed from the condition because its location means that it would not be materially affected by road or rail related traffic emissions attributable to the scheme.

27. Condition 34 (Measures for the protection of the Hook Meadow and Trap Ground SSSI)

The Secretary of State has noted Chiltern’s comments on the Inspector’s conclusions about the impacts of Nitrogen Oxides from the scheme on this SSSI and that Chiltern does not seek to challenge the objective of this condition. She is satisfied that it is reasonable to include in this condition (now 32 in the Annex to this letter), as proposed by Chiltern, a requirement to carry out a further assessment of the air quality impacts of the scheme to inform the selection of an appropriate form of monitoring, for the purposes of determining whether measures are necessary to mitigate any harm to the qualifying interests of this SSSI.

28. The Secretary of State has also received representations from Dr Caroline Robertson (enclosure “H”) expressing concern about the noise, vibration and air quality impacts of the scheme. In order to mitigate these impacts she has proposed that a number of further conditions be imposed as follows: to require Chiltern to use floating slab track; to require the use of effective noise barriers of appropriate height and density; to require the installation of noise reducing glazing where noise barriers will be less effective; to require regular noise, vibration and air quality monitoring; and to require the imposition of a 30 mph speed limit if noise and vibration levels are higher than predicted by Chiltern at the inquiry.

29. The Secretary of State has considered whether any conditions beyond those detailed in the Annex to this letter are required to ensure that the effects of the scheme on local residents close to the railway are acceptable. She is, however, satisfied that in relation to operational noise and vibration, the provisions in condition 19, including the requirement to obtain local planning authority approval to monitoring and mitigation measures, and specifically the design of noise barriers, before development commences, will provide sufficient assurance that the principles in Chiltern's NVMP will be applied in practice. As noted in paragraph 8 above, the Secretary of State agrees with the Inspector that limiting the speed of trains would not be an appropriate mitigation measure in relation to noise and vibration, for the reasons given by the Inspector.

30. In relation to the impacts of the scheme in operation on air quality, at paragraph 25 of the November 2011 letter the Secretary of State agreed with the Inspector that the effects of the scheme on local residents and businesses would be within the Air Quality Assessment Criteria set out in the UK Air Quality Strategy, and therefore acceptable. She does not, therefore, consider that it would be appropriate to require Chiltern to carry out air quality monitoring as proposed by Dr Robertson.

31. The conditions which the Secretary of State proposes to attach to the planning direction, if given, are set out in the Annex to this letter. These include the modifications referred to in paragraph 60 of the November 2011 letter, those proposed by Chiltern and accepted by the Secretary of State as detailed above, and some further minor drafting amendments in the interests of clarity.

The Secretary of State's minded views

32. In paragraph 67 of the November 2011 letter, the Secretary of State said that there was a compelling need to increase the rail capacity between Oxford and London and that the scheme would bring substantial transportation benefits. However, while mitigation measures for bats and great crested newts remained to be agreed with Natural England, she was not in a position to reach a properly informed view on whether, overall, the likely adverse impacts of the scheme were acceptable.

33. None of the developments since the November 2011 letter described above have led the Secretary of State to a different conclusion on the need for and benefits of the scheme. As a result of the agreements reached between Chiltern and Natural England on measures to protect those species, referred to in paragraphs 9 and 10 above, she is satisfied that the benefits of the scheme would outweigh by a considerable margin its residual adverse effects (after mitigation) as identified in the November 2011 letter.

34. The Secretary of State accordingly confirms that, subject to Chiltern submitting a revised licence application in respect of bats on the basis agreed with Natural England, **she is now minded to make the Order with the modifications referred to in paragraph 68 of the November 2011 letter, and to give the planning direction subject to the planning conditions set out in the Annex to this letter.** The Secretary of State does not consider that any of the Order modifications would amount to a substantial change in the proposals for the purposes of section 13(4) of the TWA such as would require any further notification to persons in addition to this letter.

35. This letter constitutes the Secretary of State's notification for the purposes of rule 20(5) of the Transport and Works (Inquiries Procedure) Rules 2004 that, having taken into account new evidence, she is disposed to disagree with the Inspector's recommendations that the Order should not be made and that the planning direction should not be given.

Next steps

36. Anyone who wishes to make further written representations to the Secretary of State or to ask for the inquiry to be re-opened must do so by **Tuesday 14 February 2012**. Anyone who asks for the inquiry to be re-opened should indicate the matters on which they intend to give further evidence and, if the Secretary of State re-opens the inquiry, will be asked to prepare a statement of case within a specified period. The Secretary of State is required to re-open the inquiry if asked to do so by Chiltern or by a statutory objector (essentially a person whose land or rights in land would be compulsorily acquired under the Order, or a local authority for the area in which any works would be carried out).

37. Responses to this letter should be sent to Robert Fox, TWA Orders Unit, at the address at the top of this letter.

Distribution

38. Copies of this letter and the enclosures are being sent to those who appeared at the inquiry, all statutory objectors whose objections were referred to the inquiry under section 11(3) of the TWA but who did not appear, and to those who made representations in response to the November 2011 letter.

Yours faithfully,

Martin Woods

PLANNING CONDITIONS THE SECRETARY OF STATE PROPOSES TO ATTACH TO THE DEEMED PLANNING PERMISSION, IF GIVEN

Definitions

In these conditions, unless the context otherwise requires:-

“building” means any structure or erection, above the surface of the ground, but does not include any level crossing barrier, traffic light or sign, or any plant or machinery;

“the development” means the works authorised by the Order;

“the Environmental Statement” means the Statement submitted with the application for the Order, the Addendum to the Environmental Statement submitted on 9 April 2010 and the Second Addendum to the Environmental Statement, submitted on 8 September 2010;

“Individual Section” means a section of the development identified in the scheme approved under condition 3;

“the local planning authority” means the Cherwell District Council or the Oxford City Council or each of them, as the context requires;

“the Order” means the Chiltern Railways (Bicester to Oxford Improvements) Order 201[];

“the Order limits” has the same meaning as in article 2 of the Order;

“Phase” means a set of works or elements of the development intended to be constructed, as described in the Environmental Statement as Phase 1, 2A or 2B; and

“the railway” means the railway comprised in the development.

References to numbered works are references to the works set out in Schedule 1 to the Order

1. Time for commencement

The development hereby permitted shall commence before the expiration of 5 years from the date on which the Order comes into force.

***Reason:** To ensure that the development is commenced within a reasonable period of time.*

2. Approved drawings

The development shall be carried out in accordance with the following approved drawings:

In Inquiry Document CD/1.9 “Deposited Plans and Sections and Open Space Plan” as modified (Inspector’s report reference 9.18.3, paragraphs 3a and 3b), sheets 1 to 38 inclusive.

In Inquiry Document CD/1.13 “Planning Direction Drawings” as modified (Inspector’s report reference 9.18.3, paragraphs 4a and 4b), sheets 1 to 31 inclusive.

Reason: *To ensure that the development complies with the approved drawings.*

3. **Development sections**

No development shall commence until a scheme (which may be amended or varied in whole or part from time to time with the approval of the local planning authority) setting out the division of the development into Individual Sections has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all land to be occupied permanently or temporarily during the construction of each section.

Reason: *To identify Individual Sections for the purpose of these conditions.*

4. **Notification**

Written notification shall be given to each local planning authority immediately on commencement of the development, immediately a passenger rail service is resumed on each Individual Section and immediately Phase 2B of the development is brought into use.

Reason: *To enable the local planning authority to verify and monitor compliance with conditions.*

5. **Design, external appearance and materials**

The design, layout and appearance and external materials of the stations and the bridges shall conform generally to those set out in the Revised Design and Access Statement, January 2011 (Inquiry Document CD/1.19/1).

No works in respect of the items listed below shall be commenced until details of the layout, scale, appearance and external materials of that item have been submitted to and approved in writing by the local planning authority. Development shall accord with the approved details.

Item (a): The station buildings, platforms, footbridge and canopies at Bicester Town Station.

Item (b): The at-grade car parks, vehicular and pedestrian access arrangements at Bicester Town Station.

Item (c): The car park deck at Bicester Town Station.

Item (d): The Phase 1 extended platform and waiting facilities at Islip Station.

Item (e): The Phase 2B platforms, waiting facilities, footbridge, pedestrian ramp and any new car parking provision at Islip Station.

Item (f): The station buildings, platforms, footbridge, and waiting facilities at Water Eaton Parkway Station.

Item (g): The at-grade car parks, vehicular and pedestrian access arrangements at Water Eaton Parkway Station.

Item (h): The car park deck at Water Eaton Parkway Station.

Item (i): The layout of the vehicular access road to the rail aggregates depot and car park at Water Eaton Parkway Station.

Item (j): The station buildings, platforms and waiting facilities at Oxford station.

Item (k): Any alterations to vehicular and pedestrian access arrangements at Oxford station.

Item (l): Each individual foot, bridleway or vehicular bridge which is new or is to be substantially reconstructed (where described as a numbered Work in Schedule 1 to the Order).

Item (m): The layout of the vehicular road from Wendlebury Road to Langford Lane, intended to replace the Langford Lane level crossing.

Item (n): Any other building that is to be greater than 25 square metres footprint.

Item (o) any buildings, fixed structures, hardstandings, weighbridges and other fixed plant, and railway sidings to be provided on the aggregates depot at Water Eaton Parkway.

Reason: *To enable proper control to be exercised over the design of the development.*

6. Implementation and maintenance of railway fencing

The railway, including any construction sites, shall remain securely fenced at all times during construction and any temporary fencing shall be removed on completion.

No Individual Section of the development shall commence until details of the appearance, size and location of any proposed new permanent boundary fencing, including noise barriers or other means of enclosure, which abuts a highway, residential or commercial land or premises within that Section of the development, and including the level crossing of the railway to serve the Trap Ground allotments, have been submitted to and approved in writing by the local planning authority. Any approved new permanent boundary fencing shall be erected before the adjacent Section of the railway is brought back into use for passenger services. All permanent boundary fencing shall be maintained so as to retain its approved appearance unless otherwise approved in writing by the local planning authority.

Reason: *To protect the safety of residents, occupiers and highway users and to maintain the appearance of the railway.*

7. Landscaping

1. No later than 6 months after the commencement of the Individual Section of the development to which it relates, a landscaping scheme, covering the locations where landscaping will be undertaken mentioned in paragraph 2 of this condition shall be submitted to the local planning authority for approval. That scheme shall include the details of:

(a) any structures, such as street furniture, fencing and lighting, save those which are to be approved under condition 6;

- (b) all existing trees with a diameter of 100 millimetres or more, and all hedges, to be retained and to be removed.
- (c) any trees or shrubs to be planted, including the location, number, species, size and planting density;
- (d) any earth screen bunds to be provided on the south and east boundaries of the replacement rail aggregates depot; and
- (e) any other soft landscaping.

2. The locations at which landscaping will be undertaken are:

- (a) the vicinity of the Bicester Town Station on both sides of the railway;
- (b) Tubbs Lane;
- (c) in the vicinity of Work Nos. 11, 12, 13, 14 and 15;
- (d) at Islip Station;
- (e) in the vicinity of Work Nos. 6, 16, 17 and 18;
- (f) at the Water Eaton Parkway Station and the aggregates depot;
- (g) in the vicinity of Rewley Abbey Stream (also known as Sheepwash Channel) Bridge; and
- (h) at Oxford station.

Species of trees and shrubs to be planted close to the railway shall accord with the schedules of acceptable species set out in Appendix 8 to the Network Rail Biodiversity Action Plan 2004 (Annex A of Inquiry Document CD/1.12/4).

Reason: To ensure appropriate landscaping of the development.

8. Implementation and maintenance of landscaping

All landscaping works shall be undertaken in accordance with the appropriate landscaping scheme, approved in writing by the local planning authority under Condition 7. Unless otherwise agreed by the local planning authority, planting shall take place no later than the first available planting season after the completion of the adjacent buildings and hard surfaced areas. Written notice shall be served on the local planning authority, within 3 months of the event, of the date of planting at each location identified in Condition 7. Any tree or shrub planted as part of an approved landscaping scheme that, within 3 years of the date of planting, is removed, dies or becomes, in the opinion of the local planning authority, seriously damaged or seriously diseased, shall be replaced in the first available planting season with a specimen of the same species and size as the original planted, unless otherwise agreed by the local planning authority.

Reason: To ensure satisfactory implementation of the landscaping.

9. Archaeology

The development shall not commence in respect of any Individual Section until a Written Scheme for the Investigation ("WSI") of archaeological potential within that Section has been submitted to and approved in writing by the local planning authority and such elements of that WSI as the local planning

authority considers necessary before commencement of development have been implemented. The WSI shall provide for a programme of further detailed walk-over surveys and document studies of the route within the relevant Order limits; non-intrusive and intrusive investigation before construction is commenced in any location where this is necessary; protection of remains, where these are to remain in-situ; watching briefs during construction, where these are necessary; the photographic recording of structures, in particular the Mill Stream and Cherwell viaducts and the Grain Silo; preservation of finds and publication of the results of the investigation. Development shall take place in accordance with the approved WSI.

Construction of the replacement road from Wendlebury Road to Langford Lane and the bridge over the railway (being Work No 11) shall not commence until details of the measures to avoid (including minor realignment of the road within the Order limits), protect (including raising the road where necessary to protect remains) and record archaeological remains have been submitted to and approved in writing by the local planning authority, in consultation with English Heritage, the Oxfordshire County Council Archaeologist and the Environment Agency, and the approved field evaluation has been completed.

***Reason:** To ensure adequate protection and recording of historic features and archaeological remains.*

10. Protection and enhancement of the setting of the Swing Bridge at Rewley Abbey Stream.

No development shall commence on the railway bridge across the Rewley Abbey Stream (otherwise the Sheepwash Channel) until a scheme for the protection of the Swing Bridge, which is a Scheduled Monument, and the improvement of fencing and footpaths around the Scheduled Monument has been submitted to and approved in writing by the local planning authority, in consultation with English Heritage and the Oxford Preservation Trust.

Development shall be in accordance with the approved scheme.

***Reason:** To ensure the protection of the Swing Bridge during construction and to assist in the enhancement of the setting of the bridge.*

11. Contaminated land

No development shall commence in relation to the Bicester Town, Islip, Water Eaton Parkway or Oxford station works or at the sites of the proposed bridges, culverts or other below ground structures, until a scheme to establish the presence or otherwise of, assess and, if necessary, remediate contamination at that location, which is likely to cause significant harm to persons, pollution of controlled waters or the environment within that section, has been submitted to and approved in writing by the local planning authority, in consultation with the Environment Agency. The scope of that scheme shall include a review of all of the potentially contaminated sites shown in Figures 15.1A to 15.1Q in the

Environmental Statement Volume 3 (Inquiry document CD/1.17), where below ground works are to take place.

All remedial measures shall be undertaken before development at that location is commenced, unless otherwise agreed in writing by the local planning authority.

If, during development, contamination not previously identified is found to be present on the site, no further construction shall be undertaken at that location, unless otherwise agreed in writing by the local planning authority, until a scheme to assess and remediate that contamination, to the extent necessary, has been submitted to and approved in writing by the local planning authority, in consultation with the Environment Agency.

Upon completion of the approved remedial measures at each location, a verification report that demonstrates that the agreed remediation has been completed and whether the necessary degree of decontamination has been achieved, and setting out any necessary further works, longer term monitoring and maintenance required, shall be submitted to the local planning authority and the Environment Agency. Any necessary further works, once approved in writing by the local planning authority, shall be carried out and the remediation and confirmation process repeated until the local planning authority has issued written confirmation that it is satisfied that the necessary degree of decontamination has been achieved.

Reason: *To ensure that any necessary remediation is undertaken.*

12. Flood Risk Assessment

The development shall be undertaken in accordance with the Level 2 Flood Risk Assessment Revised, July 2010 (Inquiry document CD/2.22). No construction of any one of the following elements of development (as identified in the Level 2 Flood Risk Assessment Revised, July 2010, unless stated otherwise here) shall commence until a Level 3 Flood Risk Assessment of that element, suitable to the scale and nature of that element, has been submitted to and approved in writing by the local planning authority, in consultation with the Environment Agency:

AP1 Bicester Chord.

AP3 Bicester Town station.

AP4 A41 overbridge.

AP6 Elm Tree Farm/Langford Lane Overbridge (modified to accord with the revised proposal shown on Revised Sheets 8b, 35 and 37 of the Deposited Plans and Sections (Inquiry Document CD/1.28)).

AP7 Merton footbridge.

AP13 Water Eaton No 5 overbridge.

AP18 the Rewley Abbey Stream bridge.

The Level 3 Flood Risk Assessments shall follow the methodology set out in the Flood Storage and Compensation Technical Note, dated July 2010, agreed

by the Environment Agency. Each Flood Risk Assessment shall demonstrate that this particular element of the development, or as taken together with other works in the same catchment, will not increase flood risk through alterations to fluvial flood flows or reduction in fluvial flood water storage.

Development shall be in accordance with the approved Flood Risk Assessment.

***Reason:** To prevent the increased risk of flooding through an appropriate hierarchy of flood risk management.*

13. **Surface water drainage assessment**

No construction of any one of the following elements of development shall commence until a surface water drainage assessment and scheme for that element (as identified in the Level 2 Flood Risk Assessment Revised, July 2010 (Inquiry document CD/2.22), unless stated otherwise here) has been submitted to and approved in writing by the local planning authority, in consultation with the Environment Agency:

AP1 Bicester Chord.

AP2 Tubbs Lane footbridge.

AP3 Bicester Town station.

AP4 A41 overbridge.

AP6 Elm Tree Farm/Langford Lane Overbridge (modified to accord with the revised proposal shown on Revised Sheets 8b, 35 and 37 of the Deposited Plans and Sections (Inquiry Document CD/1.28).

AP7 Merton footbridge.

AP8 Holts Farm overbridge.

AP9 Oddington Footbridge No 5.

AP10 Oddington overbridge.

AP11 Islip station in Phase 1.

AP11 Islip station in Phase 2.

AP13 Water Eaton No5 overbridge.

AP14 Water Eaton Parkway.

AP15 Gosford and Water Eaton Footbridge No 10.

AP18 Sheepwash Bridge.

AP19 Oxford station.

The surface water drainage assessments shall follow the methodology set out in the Scope of Surface Water Drainage Assessment, July 2010, agreed by the Environment Agency. Each surface water drainage assessment shall demonstrate that surface water discharge rates and volumes from that element of the development will not increase flood risk, or taken together with other relevant works in the same catchment, can be maintained at or below the agreed limits, using sustainable drainage techniques.

Development shall be in accordance with the approved surface water drainage assessment and scheme.

Reason: To improve and protect water quality and ensure the provision and maintenance of adequate surface water drainage systems.

14. Safe access and egress under flood conditions

The level crossings at Mill Lane, Islip and Langford Lane and the Northfield Farm accommodation bridge shall not be closed permanently until a detailed assessment of any increase in flood hazard, in particular, the safe access and egress of residents of properties in Mill Lane and Mill Street, Islip; Alchester House and Bramlow, Langford Lane and Northfield Farm or any other residential properties in the vicinity of each of these crossings, and details of such mitigation measures as are practicable, have been submitted to and approved in writing by the local planning authority in consultation with the Environment Agency.

Development shall be in accordance with the approved assessment and details.

Reason: To ensure that appropriate measures are taken to maintain safe access to residential properties under severe flood conditions.

15. Water pollution control

In carrying out the development, all reasonable steps shall be taken to prevent the pollution of watercourses and groundwater, including the following:

(a) no contaminated material, or polluting construction or demolition material or refuse, shall be deposited within the Order limits;

(b) no water from the construction areas shall be permitted to discharge to any watercourse, well, spring or soakaway, if it is contaminated with foul sewage, suspended soil or other pollutant;

(c) the details of the design and construction of any storage facilities for oils, fuels or chemicals shall be submitted to and approved in writing by the local planning authority before that facility is installed; and,

(d) no water shall be permitted to discharge into or onto contaminated land.

Reason: To ensure that pollution of watercourses and groundwater is prevented.

16. Protection of national and European designated sites during construction

No development shall commence within any Individual Section that passes within 500 metres of the European designated site, the Oxford Meadows Special Area of Conservation (SAC), or any of the following Sites of Special Scientific Interest, namely:

- (i) The Port Meadow with Wolvercote Common and Green SSSI;
- (ii) The Wendlebury Meads and Mansmoor Closes SSSI; and,
- (iii) The Hook Meadows and Trap Grounds SSSI,

until a Method Statement detailing the methods and materials to be used in the construction and mitigation works to be employed on that Section of the development so that the works comprised in that Section shall not adversely affect the nature conservation interest of any designated site and its reasons for designation, has been submitted to and approved in writing by the local planning authority, in consultation with Natural England.

Insofar as it would affect the Oxford Meadows SAC, the Method Statement shall incorporate, among any other necessary details, details of controls in respect of dust management, water pollution control and changes to groundwater levels.

The works shall be carried out as approved.

Reason: *To ensure that the Special Area of Conservation and the Sites of Special Scientific Interest are properly protected during construction.*

17. Restoration of land used temporarily for construction

Any land which is used temporarily for construction shall be restored to the reasonable satisfaction of the owner of the land, in accordance with article 29(4) of the Order.

Reason: *To protect amenity and restore landscape and habitats.*

18. Code of Construction Practice

No development shall commence until a Code of Construction Practice, which shall cover all matters specified in the Code of Construction Practice Revision 2 Draft (Inquiry Document CD/1.24), has been submitted to and approved in writing by the local planning authority, in consultation with the Environment Agency.

Additionally, in the Code of Construction Practice:

- (a) Noise limits shall be set in a way that recognises the noise context and is consistent with Annex E of British Standard BS 5228-1:2009 *Code of Practice for Noise and Vibration Control on Construction and Open Sites, Part 1: Noise*.
- (b) Arrangements shall be established whereby the approval in writing of the local planning authority shall be secured to the schedule of properties (referred to in paragraph 4.10.3 of Inquiry Document CD/1.24) which may be at risk of damage from ground movement caused by the works, and that no works shall take place in any Individual Section until such a schedule has been so approved in respect of that Individual Section.

Development shall be in accordance with the approved Code of Construction Practice.

Reason: To protect residents and amenity during construction.

19. Operational noise and vibration monitoring and mitigation

1. Operational noise and vibration monitoring and mitigation shall be carried out in accordance with the Noise and Vibration Mitigation Policy, January 2011 (Inquiry document CD/1.29/2, referred to in this condition as “the Policy”) and this condition. In the event of any conflict between the two, this condition shall prevail.

2. Development shall not commence within each Individual Section, until a detailed scheme of assessment of predicted noise impacts during operation of Phase 1 and 2A of the railway works, predicted vibration effects of the railway with Phases 1, 2A and 2B and details of proposed monitoring and mitigation measures, has been submitted to and approved in writing by the local planning authority.

3. The schemes of assessment of the predicted noise impacts of Phase 1 and 2A and of Phase 2B on the Individual Section or Sections that abut Wendlebury Gate Stables shall also identify measures that should be taken to ensure, insofar as reasonably practicable, that the noise caused by individual passing trains, using the railway, does not significantly impede voice communication over a distance of 30 metres within either the “large riding school” or the “small riding school” at those Stables, or within the paddock opposite Bramlow. For direct voice communications (i.e. without electro-acoustic assistance), the term “not significantly impede” shall be taken to mean that the speech intelligibility shall be at least “fair” at an increased (i.e. “loud”) vocal effort as defined in BS EN ISO 9921:2003 Ergonomics Assessment of Speech Communications. The assessment method used shall be the Speech Interference Level as described in Annex E to that Standard. The assessment shall be based on a native speaker facing the rider under instruction and the standard to be achieved will be for alert situations where short known words are used and the wind speed is less than 5 metres per second. If personal communications or sound reinforcement systems are proposed, the assessment methodology shall be subject to the approval of the independent expert appointed in accordance with Condition 19.9. This part of the condition shall not apply if, at the time of assessment, the Stables are no longer a licensed riding establishment under the Riding Establishments Act 1964.

4. The schemes of assessment of the predicted noise impacts of Phase 1 and 2A and of Phase 2B on the Individual Section or Sections that abut 45 Lakeside shall also identify measures that shall be taken to ensure that the noise caused by passing trains in the Studio at 45, Lakeside does not exceed 35dB $L_{Aeq, 30 \text{ min}}$ or 55dB $L_{A1, 30 \text{ min}}$, the standards to be met by music teaching rooms as defined in Building Bulletin 93, Acoustic Design of Schools (Table 1.1).

5. Where vibration mitigation measures required for Phase 2B can be installed most cost-effectively during the Phase 1 and 2A works, this shall be done. All mitigation measures, including those prescribed in the Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1996, required for Phase 1 and 2A shall be installed as soon as possible after commencement of the works and no later than the date on which a passenger rail service is resumed on that section of railway.

6. Any monitoring of noise and vibration shall be undertaken in accordance with the approved scheme of assessment and the Policy.

7. Before the commencement of the laying of the second track between the MoD Depot at Bicester and Islip a detailed scheme of assessment of the predicted noise impacts arising from the works and from the additional services assessed as likely to operate under Phase 2B in the Environmental Statement and details of proposed mitigation measures (modified as necessary in the light of subsequent forecasts which led to the approval of East West Rail for construction), which achieve the standards for noise and vibration attenuation set out in the Policy shall be submitted to and approved in writing by the local planning authority.

8. Any vibration mitigation measures not already installed during the Phase 1 and 2A works necessary for Phase 2B shall be installed. All mitigation measures, including those prescribed in the Noise Insulation Regulations (Railways and Other Guided Transport Systems) 1996, required for Phase 2B shall be undertaken as soon as possible after commencement of the works and completed no later than the date on which the second track is brought into use.

9. The submitted schemes of assessment shall show how the standards of noise mitigation set out in the Policy will be achieved. Supporting calculations, or printouts of inputs and outputs from recognised computer software, shall be provided. Each scheme shall be accompanied by a report, prepared by an independent expert previously approved in writing by the local planning authority, on the robustness of the noise-related elements of the scheme of assessment. Noise mitigation measures shall be permanently installed as approved.

10. The submitted schemes of assessment shall show how the standards of vibration mitigation set out in the Policy will be achieved. Supporting calculations or empirical data, or a combination of the two, shall be provided. Each scheme shall be accompanied by a report, prepared by an independent expert previously approved in writing by the local planning authority, on the robustness of the vibration-related elements of the scheme of assessment. Vibration mitigation measures shall be permanently installed as approved.

11. The submitted schemes of assessment shall include a list of properties assessed and the results of the assessment at each. By the times the mitigation measures are due to be brought into use, notice shall be served

on the local planning authority of the mitigation measures that have been installed for each property assessed.

12. The situation may arise in which the developer finds “not reasonably practicable” the provision of mitigation measures that otherwise would be required by the Policy. In such circumstances, the mitigation measure or an equally effective substitute previously approved in writing by the local planning authority shall be installed in the timescale set out in item 1.10 of the Policy, unless the local planning authority has confirmed, in writing, its agreement that the mitigation in question is not reasonably practicable and that there is no suitable substitute.

13. Where noise barriers are promoted in an approved scheme of assessment, they shall be installed only once the local planning authority has given written approval of their size, appearance and location. Noise barriers shall be maintained in their approved form and may be removed only with the written approval of the local planning authority.

14. Development shall be in accordance with the approved schemes.

Reason: *To ensure that operational noise and vibration are adequately mitigated at residential and other noise sensitive premises.*

20. **Aggregates depot rail use**

Following the completion of construction, aggregates shall only be brought onto the aggregates depot site at Water Eaton by rail.

Reason: *To promote the sustainable transport of minerals by rail.*

21. **Existing aggregates depot**

Use of the existing aggregates depot shall cease once the new aggregates depot comes into use, and its site shall be promptly cleared to ground level in preparation for the Water Eaton Parkway station.

Reason: *To limit inappropriate development in the Green Belt, and to avoid harm to the landscape.*

22. **Height of stored aggregates**

The height of any stockpiles of stored aggregates at the aggregates depot shall not exceed 8 metres above rail level.

Reason: *To protect the visual amenity of the area and maintain the openness of the Green Belt.*

23. Aggregates depot floodlighting

No floodlighting shall be erected or used on the new aggregates depot site, except in accordance with a scheme submitted to and approved in writing by the local planning authority.

Reason: To limit light spill and protect the visual amenity of the area.

24. Aggregates depot hours of operation

No HGVs shall enter or leave the aggregates depot, nor shall unloading of trains or loading of lorries take place, except during the following hours: 06.00 to 19.00 Monday to Friday and 06.00 to 13.00 on Saturday. No such operations shall take place on Sundays or Bank Holidays.

Reason: To protect the amenities of local residents.

25. Aggregates depot sheeting of lorries

No aggregates vehicle carrying material shall leave the aggregates depot unless the load is sheeted.

Reason: In the interests of highway safety and the local environment.

26. Aggregates depot control of dust and debris

The use of the rail aggregates depot shall not commence until a scheme to minimise the emissions of dust has been submitted to and approved in writing by the local planning authority. No vehicle leaving the depot site shall emit dust or deposit mud, slurry or other debris on the highway.

Use of the depot shall be in accordance with the approved scheme.

Reason: To protect the amenities of the area and in the interests of highway safety.

27. Car park provision and management at Water Eaton Parkway

The layouts of the Water Eaton Parkway Station car parks, to be submitted to the local planning authority for approval under condition 5 (reference (g), (h) and (i)) shall include a signage scheme and be designed, in accordance with drawing E094/67 Rev C (attached to Inquiry Document CRCL/INQ/66), to ensure that:

- (i) there shall be no vehicular access between car parks A or C and the station pick up and drop off area, except for emergency vehicles;
- (ii) vehicular access to and from car parks A, C and the rail aggregates depot shall be via the perimeter road;
- (iii) car park B shall only be used for short stay parking (defined as less than 30 minutes) and for car park season ticket holders; and

(iv) appropriate signage is provided from the highway and within the site to ensure that the restrictions in (i), (ii) and (iii) above are clearly marked.

The car parks shall be constructed and operated in accordance with these requirements and no subsequent alterations shall be made to the car park layouts or signage that contravene these requirements, unless approved, in writing, by the local planning authority, in consultation with Oxfordshire County Council.

Reason: *To ensure that the sustainable and integrated operation of the station, the rail car parks and the bus based Oxford Park and Ride facility, on the Water Eaton site is continued, if or when Chiltern Railways is replaced as Station Facility Owner by another Train Operating Company.*

28. Footbridge and approach ramps at Mill Lane, Islip

The footbridge and approach ramps at Mill Lane, Islip, being Work No 16, shall not have artificial lighting, unless approved in writing by the local planning authority. If lighting is approved it shall be low level lighting, designed to avoid light spill or other adverse impacts on the amenity of nearby residential properties.

The detailed proposals for Work No. 16 shall include a scheme of planting, fencing and parapet heights and detailing to avoid overlooking from the bridge and ramps to The Grange, and a scheme for the continuing maintenance of the planting so far as is necessary to ensure that there is an effective barrier to overlooking, from the bridge and ramps, to The Grange.

Development shall be in accordance with the approved scheme.

Reason: *To protect rural and residential amenity.*

29. Conservation of tassel stonewort

Construction of the replacement farm accommodation track and farm building on plots 11008, 11009, 12002 and 12003, adjacent to the Beebont Crossing, shall not commence until a scheme to conserve the population of tassel stonewort, present in this location, has been submitted to and approved in writing by the local planning authority, in consultation with the Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT).

The conservation scheme shall be implemented as approved.

Reason: *To assist in the conservation of this priority species and to assist in delivering the requirements of the Natural Environment and Rural Communities Act 2006.*

30. Management of habitat to assist in the conservation of brown hairstreak butterfly

Before development commences for the Individual Section which includes the chord line at Bicester, a scheme for the management and planting of

blackthorn scrub within the Order limits shall be submitted to and approved in writing by the local planning authority, in consultation with BBOWT and Butterfly Conservation.

The scheme of mitigation shall be implemented as approved.

***Reason:** To assist in the conservation of this priority species and to assist in delivering the requirements of the Natural Environment and Rural Communities Act 2006.*

31. Measures for the protection of the lowland hay meadow habitat at the Oxford Meadows Special Area of Conservation (“SAC”)

Development shall not commence on the Individual Section or Individual Sections that abut the Oxford Meadows SAC until a further assessment of the air quality impacts of the development, including traffic on the A34, on the Wolvercote Meadows and Pixey and Yarnton Meads SSSIs has been submitted to and approved in writing by the local planning authority, in consultation with Natural England. This assessment shall propose an appropriate form of monitoring and, if found necessary by the monitoring, mitigation of the effects of the development by virtue of air pollution on lowland meadow habitat in the Oxford Meadows SAC, which is partly co-terminous with the Wolvercote Meadows SSSI and the Pixey and Yarnton Meads SSSI. The scheme of monitoring and mitigation shall be implemented as approved.

***Reason:** To ensure that the development causes no significant harm to the European site, by virtue of air pollution.*

32. Measures for the protection of the Hook Meadow and Trap Ground SSSI

Development shall not commence on the Individual Section or Individual Sections that abut the Hook Meadow and Trap Ground SSSI until a further assessment of the air quality impacts of the development has been submitted to and approved in writing by the local planning authority. This assessment shall propose an appropriate form of monitoring and, if found necessary by the monitoring, the mitigation of harm to the qualifying interests of the SSSI that would be caused by emissions of nitrogen or compounds of nitrogen as a result of the development.

The scheme of monitoring and mitigation shall be implemented as approved.

***Reason:** For the protection of the SSSI.*

33. Measures for the protection of the Wendlebury Meads and Mansmoor Closes SSSI

Development shall not commence within the Individual Section or Individual Sections that include Manor Farm Crossing until a scheme has been approved in writing by the local planning authority for the mitigation of harm to the SSSI that would be caused by the proposed hardened access track between Beebont Crossing and Home Farm Crossing.

The scheme of mitigation shall be implemented as approved.

Reason: *For the protection of the SSSI.*

34. **Implementation**

All works or matters which require approval under these conditions shall be carried out in accordance with that approval, or any subsequent revisions that have been submitted to and approved in writing by the local planning authority.

Reason: *to ensure that these works or matters are implemented as approved.*

END