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

17 October 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. The scheme is described more fully in the Department's letter of 15 November 2011 ("the November 2011 letter"), which may be found at: <http://www.dft.gov.uk/publications/twa-20111115/> or obtained from the TWA Orders Unit at the above address.

3. The November 2011 letter set out the Secretary of State's views on the report of the Inspector who had conducted a public local inquiry into these applications between 2 November 2010 and 28 January 2011. The Inspector had recommended in his report dated 15 July 2011 ("the main report"), which accompanied the November 2011 letter, that the Order not be made because the likely lack of a licence in respect of works which would affect the habitat of bats was an impediment to implementation of the scheme.

4. In response to the November 2011 letter Chiltern and Natural England informed the Secretary of State about progress since the inquiry had closed on agreeing measures to protect bats and great crested newts. In the light of this, the Department confirmed in its letter of 24 January 2012 (“the January 2012 letter”) that the Secretary of State was minded to make the Order and give the planning direction, in particular because of the compelling need to increase rail capacity between Oxford and London and the substantial transportation benefits which the scheme would bring. The January 2012 letter may be found at: <http://www.dft.gov.uk/publications/twa-20120124/> or obtained from the TWA Orders Unit at the above address.

5. Having considered the responses to the January 2012 letter, the Department informed Chiltern and other parties by letter dated 6 March 2012 that the inquiry was to be re-opened, in accordance with rule 20(5) and (7) of the Transport and Works (Inquiries Procedure) Rules 2004 (S.I. 2004/2018). That letter set out the matters which were to be considered at the re-opened inquiry, namely the proposed mitigation measures for bats, and certain of the proposed planning conditions relating to the noise, vibration and air quality impacts of the scheme. The re-opened inquiry was held between 29 May and 15 June 2012.

6. Enclosed with this letter is a copy of the Inspector’s “Second Addendum Report” dated 31 August 2012 which summarises the representations and evidence submitted to the re-opened inquiry on the matters referred to in paragraph 5 above. The Inspector’s conclusions on those matters are summarised at section 7.6 of that report.

Summary of the Inspector’s conclusions in his Second Addendum Report

7. The Inspector concluded that the mitigation measures to protect bats at Wolvercot Tunnel agreed between Chiltern and Natural England since January 2011 were sufficient to remove the likely impediment to implementation of the scheme identified in the main report. The Inspector concluded also that the amended conditions as set out in his Second Addendum Report would be effective in securing the mitigation which he anticipated in the main report in relation to operational noise and vibration, the Oxford Meadows Special Area of Conservation and the Hook Meadow and Trap Grounds Site of Special Scientific Interest (“SSSI”).

Summary of Secretary of State’s decision

8. For the reasons explained in this letter, **the Secretary of State has decided to make the Order, with modifications, and direct that planning permission be deemed to be granted, subject to the conditions set out in Annex 1 to this letter.** Please note that this letter must be read in conjunction with the November 2011 letter and the January 2012 letter as it is the three letters, taken together, which convey the full reasons for the Secretary of State’s decisions. In a separate letter being issued today, the Secretary of State for Communities and Local Government has confirmed that he is giving an exchange land certificate in relation to the open space land required for the scheme (referred to at paragraphs 8, 32 and 33 of the November 2011 letter).

Secretary of State’s consideration

9. The Secretary of State’s consideration of the Inspector’s Second Addendum Report is summarised in paragraphs 10 to 15 below. His consideration of representations made

since the January 2012 letter but not referred to the re-opened inquiry is summarised at paragraphs 16 to 32 below. References to “SR” are to sections or paragraphs of the Second Addendum Report.

***Consideration of Second Addendum Report:
Mitigation measures to protect bats at Wolvercot Tunnel***

10. The Secretary of State agrees with the Inspector, for the reasons given in SR 7.2, that the mitigation measures proposed by Chiltern in respect of bats at Wolvercot Tunnel, including the deterrent lighting system, would provide sufficient mitigation to remove the likely impediment to implementation of the scheme identified at paragraph 9.17.11 of the main report. He agrees also with the Inspector that in order to secure the long-term maintenance of the deterrent system, planning permission for the scheme should be subject to the additional planning condition set out at SR 7.2.16. This is included as condition 34 in Annex 1 to this letter.

11. As regards the matters of law referred to by the Inspector, the Secretary of State does not regard the mere possibility of a judicial review claim being brought, challenging a decision by Natural England to grant a licence in respect of works at Wolvercot Tunnel, as a likely impediment to implementation of the scheme (SR 7.2.11). This view is taken on the evidence and facts available at present. The Secretary of State considers that, on the basis of Natural England’s evidence reported by the Inspector, there is no reason to believe that Natural England would not grant a licence for those works or that such a decision would be amenable to successful challenge on judicial review grounds. The Secretary of State is also satisfied that, if bats were killed by trains using Wolvercot Tunnel, this would be incidental and would not, on a proper interpretation of the Habitats Directive (Council Directive 92/43/EEC) and the Conservation of Habitats and Species Regulations 2010, amount to the deliberate killing of bats requiring a licence from Natural England (SR 7.2.12).

Condition 19 (operational noise and vibration monitoring and mitigation)

12. The Secretary of State agrees with the Inspector that condition 19 as set out in the Annex to the January 2012 letter would be effective in securing the mitigation anticipated in the main report, for the reasons given by the Inspector at SR 7.3.4-7.3.9. With regard to the concerns of objectors about condition 19, the Secretary of State is, like the Inspector, satisfied that the condition would be properly enforced by the local planning authorities and that applications for approvals under the condition would be properly considered (SR 7.3.8). He agrees also that no definition of the phrase “reasonably practicable” as used in paragraph 12 of condition 19 is necessary, because if the situation arose where mitigation was claimed not to be reasonably practicable, this would be subject to independent review by the local planning authority (SR 7.3.9). The Secretary of State notes in this regard the Inspector’s conclusion that there are likely to be only few situations, if any, where necessary mitigation is not reasonably practicable (SR 7.3.12).

13. The Secretary of State agrees with the Inspector, for the reasons given at SR 7.3.11-7.3.39, that the requirements in condition 19 (in the amended form at SR 7.3.41) are sufficient to ensure that the scheme in operation would have acceptable effects on local residents, businesses and the environment. He is, in particular, satisfied that the Noise Impact Threshold Levels in Chiltern’s Noise and Vibration Mitigation Policy (“NVMP”), which would be applied under condition 19, are appropriate for their purpose

(SR 7.3.21). He notes that assessments of expected noise and vibration effects of the scheme would be subject to third-party scrutiny and to local planning authority approval; and that both statutory noise mitigation and non-statutory mitigation in accordance with the NVMP would be provided (SR 7.3.40). Condition 19 in the form recommended by the Inspector is, accordingly, included in Annex 1 to this letter.

Condition 31 (Oxford Meadows Special Area of Conservation)

14. The Secretary of State agrees with the Inspector that a condition to protect the lowland hay meadow habitat at the Oxford Meadows Special Area of Conservation ("SAC"), requiring further assessments of air quality, is needed in accordance with the precautionary approach advocated by Natural England (SR 7.4.1-7.4.5). He agrees further with the Inspector that condition 31 as set out at SR 7.4.12 would serve to ensure that the operation of the new railway, including the associated road traffic effects, would not be likely to harm the qualifying interests or species for which the SAC was designated by virtue of air pollution, for the reasons given by the Inspector at SR 7.4.6-7.4.11. Condition 31 in the form recommended by the Inspector is, accordingly, included in Annex 1 to this letter. On this basis, the Secretary of State remains of the view in paragraph 42 of the November 2011 letter that it is unnecessary for him to carry out an Appropriate Assessment of the effects of the scheme on the SAC.

Condition 32 (Hook Meadow and Trap Grounds SSSI)

15. The Secretary of State agrees with the Inspector that, for the reasons given in the main report, condition 32 is necessary for the protection of the SSSI (SR 7.5.1). He agrees with the Inspector that condition 32 as set out at 7.5.5 would serve to ensure that that the operation of the new railway would not be likely to have an adverse effect on the notified special interest features of the Hook Meadow and Trap Grounds SSSI, for the reasons given by the Inspector at SR 7.5.2 and 7.5.4. With regard to the matters of law referred to at SR 7.5.3, the Secretary of State agrees with the Inspector's views on the competence of local planning authorities to make decisions relating to SSSIs, but does not consider that this is an issue since condition 32 requires the local planning authority in any event to consult with Natural England which has the necessary expertise in this regard. Condition 32 in the form recommended by the Inspector is, accordingly, included in Annex 1 to this letter.

Consideration of matters not referred to the re-opened inquiry

16. The Secretary of State has also carefully considered the responses to the January 2012 letter and the representations to the re-opened inquiry which were beyond the remit of the re-opened inquiry. The Secretary of State's views on the main issues raised by interested parties which he considers relevant to his decision are set out in the following paragraphs.

Funding for the scheme

17. The Secretary of State has considered the further representations that the economic case for the scheme is flawed, and that the proposed electrification of the Great Western Main Line undermines the business case for the scheme. He considers that nothing in those representations leads him to different conclusions from those in paragraphs 16 and 17 of the November 2011 letter and paragraph 7 of the January 2012

letter. He remains satisfied that sufficient arrangements have been made for funding Phases 1 and 2A of the scheme. (With regard to the references to East West Rail in paragraph 16 of the November 2011 letter, please note the development with that project referred to in paragraph 34 below.)

Effects of the scheme on the public rights of way network

18. The Secretary of State has noted Mr Offord's further arguments in favour of the "Orange Route" diversion of Langford Lane, in particular because of an increased number of public events at Wendlebury Gate Stables and because of concerns about the safety of the "Red Route" promoted by Chiltern. He considers, nevertheless, that the Inspector's conclusions on this matter at 9.7.21-9.7.28 of the main report, which took into account the highway authority's approval of the indicative design of the junction between the "Red Route" and Langford Lane, remain robust.

Noise and vibration during construction

19. The Secretary of State is satisfied that the commitments made by Chiltern in relation to the Code of Construction Practice ("CoCP") will be enforceable by the local planning authorities through condition 18 in Annex 1 to this letter, in the same way as under condition 19 (see SR 7.3.8). Consequently, he sees no reason to doubt that acceptable noise conditions will be maintained during construction of the scheme, as concluded by the Inspector at 9.8.6 of the main report. In this context, he notes also that Chiltern is seeking to agree with Mr Offord the inclusion of appropriate mitigation measures in the CoCP in relation to the construction of a bridge close to the riding school at Wendlebury Gate Stables.

Alternative mitigation measures

20. The Secretary of State notes that some objectors continued to argue that speed limits should be imposed at various locations as a means of reducing the noise and vibration impacts of the scheme in operation and the effects of trains on bats in Wolvercot Tunnel; or that the railway should be enclosed in a "green tunnel" where it passes through Lakeside and Wolvercote. However, taking into account the conclusions above about the measures agreed between Natural England and Chiltern to protect bats, and the effectiveness of condition 19 in mitigating the noise and vibration impacts of the scheme, the Secretary of State is satisfied that imposing speed limits for those purposes would be unnecessary, as concluded by the Inspector at paragraph 9.8.38 of the main report. He similarly considers that provision of a tunnel would be unnecessary and should not be pursued, as concluded by the Inspector at paragraph 9.8.14 of the main report.

Air quality

21. The Secretary of State does not agree with the Wolvercote Commoners' Committee that further assessment of the air quality impacts of the scheme in operation should be required as a result of the designation by Oxford City Council of a city-wide Air Quality Management Area ("AQMA") in September 2010. He notes in this regard that no new evidence has been submitted to call into question the Inspector's conclusions at 9.8.42-9.8.48 of the main report about the impacts of the scheme on air quality, and that no further mitigation measures in relation to this scheme have been sought by Oxford City Council to ensure that the objectives of the AQMA can be achieved.

Access to Trap Ground Allotments via the Aristotle Lane crossing

22. The Secretary of State has noted the further representations in favour of closing the Aristotle Lane crossing. He remains satisfied that for the reasons given in the main report and in paragraphs 11 to 15 of the January 2012 letter that it is appropriate to retain this private accommodation crossing for use by allotment holders. The Secretary of State welcomes the steps being taken by Chiltern, Oxford City Council, Oxfordshire County Council and the Trap Ground Allotments Association to agree parking arrangements at this location.

Alleged breaches of European law

23. With regard to Mr Feeney's representations, the Secretary of State is satisfied that the Environmental Statement ("ES") submitted by Chiltern, taken with the two Addendums to the ES, is adequate since it describes all the likely significant effects of the scheme identified during the environmental impact assessment ("EIA") process; and that all requirements as to public consultation on the ES have been complied with. The Secretary of State considers that it is entirely reasonable and appropriate for Chiltern subsequently to have submitted further environmental information during the consideration of the scheme, for example, in response to representations by objectors; and notes that all such information has been made publicly available by Chiltern. The Secretary of State does not consider that it was necessary for the further environmental information to be published in the form of a revision to the ES. As regards the inclusion on a precautionary basis of conditions 31 and 32 (which require monitoring of air quality and, if found necessary, the provision of mitigation), he does not accept that this is evidence that the ES was inadequate, or that insufficient information is available for the purpose of making a robust assessment of the likely air quality impacts of the scheme. For these reasons the Secretary of State is satisfied that the requirements under the Aarhus Convention and UK legislation on public participation in environmental decision-making have been met.

24. As regards the impacts of the scheme on the Oxford Meadows SAC, the Secretary of State agrees with Chiltern that the potential for in-combination effects with the prospective Northern Gateway development identified in the adopted Oxford Core Strategy is a matter for Oxford City Council in considering the Area Action Plan and planning applications for that development. As noted in paragraph 42 of the November 2011 letter, the adopted Oxford Core Strategy requires the Area Action Plan to be the subject of an Appropriate Assessment in relation to the air quality effects of Northern Gateway traffic on the SAC.

25. The Secretary of State is satisfied that the evidence before him is sufficiently robust for the purpose of assessing the likely impacts of the scheme on the SAC, before deciding whether to authorise the scheme. In this regard he has taken into account the Habitats Regulations Screening Assessment contained in the ES, the views of Natural England reported at SR 4.3.1 to 4.3.7, and the Inspector's conclusions at SR 7.4.12 and paragraph 9.10.18 of the main report. These support the conclusion that the scheme is not likely to have any significant effect on the integrity of the SAC. The Secretary of State is satisfied further that condition 31 is an appropriate precautionary measure to exclude the possibility of significant effects on the SAC and, as noted by Natural England, it is entirely in accordance with European law to take into account mitigation measures when deciding at

the screening stage whether or not significant effects would be likely on a protected site (SR 4.3.7).

26. The Secretary of State does not consider that the Strategic Environmental Assessment Directive is relevant to the scheme because it is not, in the terms of that Directive, a plan or programme which sets a framework for future development consent of projects in the transport sector. He does not therefore agree that there has been any breach of the Directive.

27. The Secretary of State has accordingly concluded that there are no grounds for refusing to make the Order as a result of the breaches of European environmental law alleged by Mr Feeney. He is, in particular, satisfied that the ES taken with all the other environmental information submitted by Chiltern for the purposes of this application is sufficient to enable him to make a properly informed decision

Proposed changes to the Order and planning conditions

28. The Secretary of State does not consider that any of the changes to the Order, or to planning conditions in Annex 1 to the January 2012 letter, proposed by Wolvercote Commoners' Committee are appropriate or necessary to ensure effective mitigation of the effects of constructing and operating the scheme. He is, in particular, satisfied that acceptable standards of construction practice would be maintained as a result of the CoCP, and that the Order and planning conditions provide sufficient safeguards to protect the property interests and amenity of those affected by the scheme. The Secretary of State does not consider either that it is necessary to insert into the proposed conditions a requirement for EIA of matters submitted for approval by the local planning authority under the conditions, as suggested by Mr Feeney, since this is already provided for in the Town and Country Planning (Environmental Impact Assessment) (Amendment) (England) Regulations 2008 (SI 2008/2093).

29. The Secretary of State considers that it would be appropriate to modify the definition of "development" as proposed by Chiltern in inquiry document CRCL/RI/26. The effect would be to allow a limited class of minor preparatory works to be carried out before detailed design of the scheme had been completed and approved by the local planning authority under the conditions. Taking into account the nature of those works (namely, ecological mitigation works and works to tracks, paths and bridleways to facilitate the closure of level crossings), he is satisfied that this modification would not undermine the mitigation which the conditions are intended to secure, and would assist the timely delivery of the scheme. The modified definition of "development" is incorporated in Annex 1 to this letter.

30. The Secretary of State is satisfied that the conditions, as now set out in Annex 1 to this letter, meet the tests of DOE Circular 11/95 of being necessary, relevant, enforceable, precise and reasonable.

Water Eaton Parkway and aggregates depot

31. The Secretary of State has noted the concerns of Gosford and Water Eaton Parish Council about the implementation of the scheme in its area in relation to the risk of flooding, traffic, nesting sites for swallows and the design of footpath and bridleway diversions. He has noted also Chiltern's commitments (referred to at paragraphs 6.10-11

of Inquiry Document CRCL/P/12/R/A) to provide new nesting opportunities for swallows and to consult the Parish Council on detailed design proposals for new bridges. The Secretary of State is satisfied that, taken with the conditions set out in Annex 1 to this letter, the matters of concern to the Council can be satisfactorily dealt with in consultation with Chiltern and the local planning and highway authorities.

Other issues

32. In relation to other issues raised in representations made since the January 2012 letter, the Secretary of State is satisfied that none of them constitutes new evidence, or raises a new matter, which needs to be referred to the parties to the inquiry before he proceeds to a decision. They do not cause him to take a different view of the matters before him than he would otherwise have taken based on the evidence before the inquiry.

Developments since January 2012 letter

33. The Department for Communities and Local Government published the National Planning Policy Framework (“the Framework”) on 27 March 2012, which replaced the national planning and environmental policies considered by the Inspector at paragraph 9.15.1-9.15.10 of the main report. The Secretary of State is satisfied that the scheme is consistent with the overall direction of the policies set out in the Framework. In particular, he considers that the scheme would support the objectives of the Framework in promoting sustainable transport and contributing to the delivery of sustainable development; that, having regard to the conclusions of the Inspector on condition 19 in SR 7.3, the objectives of the Framework with respect to noise would be met; and that the scheme would be consistent with the policies in the Framework on protecting the Green Belt and conserving the natural environment.

34. The Department for Transport announced on 16 July 2012 that the East West Rail project (the western end of which would, if authorised, use the Oxford-Bicester line) had been included in the High Level Output Specification (“HLOS”) for 2014 to 2019 as a committed scheme for funding purposes. The Secretary of State considers that this does not alter the case for approving Chiltern’s scheme because the likely impacts of East West Rail operations have been taken into account in assessing the effects of Phase 2 of Chiltern’s scheme and have been sufficiently addressed in the proposed mitigation measures. He is satisfied that while the East West Rail project remains to be fully defined and authorised, the HLOS announcement does not lead him to a different conclusion on the matters before him in deciding Chiltern’s application.

The Secretary of State’s overall conclusions and decision

35. For the reasons given in the November 2011 letter, the Secretary of State considers that there is a compelling need to increase rail capacity between Oxford and London and that the scheme would bring substantial transportation benefits. He is satisfied that the likely impediment to implementation of the scheme in respect of bats has been removed; and that the conditions set out in Annex 1 to this letter would secure a comprehensive range of mitigation measures which would be effective in protecting residents, businesses and the environment. Consequently, the Secretary of State has concluded that the likely adverse impacts of constructing and operating the scheme which would remain after mitigation (referred to at paragraph 28 of the November 2011 letter) are acceptable and would be outweighed by a considerable margin by the benefits of the

scheme. On this basis, he is satisfied that there is a strong case for authorising the scheme.

36. **The Secretary of State has, accordingly, decided to make the Order in the form submitted to the re-opened inquiry in Inquiry Document CD/1.2.3 subject to the modifications set out below, and to give the planning direction subject to the conditions set out in Annex 1.** The Order will be made following publication of a notice in the London Gazette of the decision to make the Order. A letter conveying the direction as to deemed planning permission will issue at the same time as the Order is made.

37. The draft Order submitted to the re-opened inquiry excluded the areas of land referred to at paragraph 61 of the November 2011 letter; incorporated the modifications proposed by Chiltern as described at paragraphs 9.6.2 to 9.6.5 of the main report (so far as not inconsistent with the previously mentioned amendments); and incorporated the amendments referred to at paragraphs 66 and 68 of the November 2011 letter relating to the Aristotle Lane crossing and open space at Bicester. The further modifications to the Order which the Secretary of State intends to make are:

- in article 39, to delete paragraphs (1) and (2) which are redundant as a consequence of the Town and Country Planning (Tree Preservation) (Regulations) 2012; and
- to make various minor drafting changes, principally to modernise language, which would not materially alter the effect of the Order.

The Secretary of State considers that none of the modifications referred to in this paragraph would make a substantial change in the proposals such as would require notification to affected persons under section 13(4) of the TWA.

38. The Secretary of State confirms, for the purposes of section 14(3A) of the TWA, that in coming to his decision he complied with the requirements of paragraphs (a) to (c) of section 14(3A) of the TWA about the consideration of the ES. For the purposes of section 14(3AA) of the TWA, the Secretary of State considers that the main measures to avoid, reduce and, if possible, remedy any major adverse environmental effects are the Code of Construction Practice, the Noise and Vibration Mitigation Policy and the attached planning conditions.

Notice under section 14 of the TWA

39. This letter constitutes the Secretary of State's notice of his determination to make the Order, with modifications, for the purposes of section 14(1)(a) and section 14(2) of the TWA. Your clients are required to publish newspaper notices of the determination in accordance with section 14(4) of the TWA.

Challenge to decisions

40. The circumstances in which the Secretary of State's decisions may be challenged are set out in the note attached at Annex 2 to this letter.

Distribution

41. Copies of this letter and section 7 of the Inspector's Second Addendum Report 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 or January 2012 letters.

Yours faithfully,

Martin Woods

PLANNING CONDITIONS WHICH THE SECRETARY OF STATE INTENDS TO ATTACH TO THE DEEMED PLANNING PERMISSION

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, but, in any case where a condition requires the prior submission and approval of any details, scheme, assessment, method statement, code of construction practice or other matter prior to the commencement of development, the term “development” shall be taken to exclude:-

(i) works for the relocation of newts and replacement badger setts; and

(ii) works to private access tracks, public footpaths and bridleways, where these will facilitate the closure of at-grade crossings of the railway;

“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 2012;

“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:

(a) in Inquiry Document CD/1.9.1 “Deposited Plans and Sections”, sheets 1 to 38 inclusive;

(b) in Inquiry Document CD/1.13.1 “Planning Direction Drawings”, 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 that may arise from the works.

The works shall be carried out in accordance with the approved Method Statement.

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/1.29/2.1, 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 female 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. A correction factor of -5dB shall be used to convert the standard for male voices to female voices. 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 $L_{Aeq, 30 \text{ min}}$ and 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 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, 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 during the Phase 2B works. 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 that 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 Chiltern 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 and this condition.

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 Sections between Oxford North Junction and Rewley Abbey Stream (“the relevant sections”) until a Scheme of Further Assessment of Air Quality in relation to the Cassington Meadows SSSI, the Pixey and Yarnton Meads SSSI and the Wolvercote Meadows SSSI that are co-terminous with part of the Oxford Meadows SAC (“the relevant parts of the SAC”) has been submitted to and approved in writing by the local planning authority for the relevant parts of the SAC (in consultation with Natural England).

The Scheme of Further Assessment shall include the following:

- i) a methodology and programme for assessing the baseline exposure to oxides of nitrogen and inferring nitrogen deposition of the relevant parts of the SAC, including appropriate field observations of nitrogen oxide concentrations;
- ii) a methodology and programme for monitoring the rates of exposure to oxides of nitrogen (and inferring nitrogen deposition) of the relevant part of the SAC that may be emitted from such additional road traffic, which is using the A34 and A40 close to the relevant parts of the SAC, and such additional trains as are attributable to the opening of the relevant sections of the development to passenger rail traffic;
- iii) predictions, based on the air quality monitoring, for a period of 10 years after opening of the relevant sections of the development to passenger rail traffic, of the likely additional rates of exposure to oxides of nitrogen (and inferred nitrogen deposition) of the relevant parts of the SAC, that are likely to arise as a consequence of the opening of the relevant sections of the development to passenger rail traffic and the development’s associated road traffic;
- iv) a methodology for attributing the relevant proportions of the recorded exposures to oxides of nitrogen of the relevant sections of the development once opened for passenger rail traffic based on road traffic counts, railway operations data and surveys of modes of transport and routes used by users of the development;
- v) a methodology and programme for a baseline vegetation survey and evaluation of the designated Annex 1 lowland hay meadow habitat situated on the relevant parts of the SAC and for subsequent vegetation surveys, if such are demonstrated to be necessary following steps (i) to (iv);
- vi) criteria and thresholds for determining the inferred nitrogen deposition from oxides of nitrogen which can be attributed to the opening of the development to passenger rail traffic that are designed to protect the

designated Annex 1 lowland hay meadow habitat in the relevant parts of the SAC;

vii) the proposed means of mitigation (which is likely to include changes to the management regimes for the relevant parts of the SAC) in the event that the criteria or thresholds referred to in (vi) are not met or are exceeded; and,

viii) the arrangements for the reporting and mitigation to be undertaken in accordance with the Scheme of Further Assessment.

The approved Scheme of Further Assessment shall be implemented as approved.

The development shall not be opened to passenger rail traffic, nor shall the car park or station at Water Eaton Parkway be opened for public use, until the approved assessment of baseline conditions referred to in i) above has been completed as approved and reported to the local planning authority for the relevant parts of the SAC, and any other reports made in accordance with viii) above, and the local planning authority has issued written acceptance that the report complies with the approved Scheme.

***Reason:** to ensure that the development does not have a likely significant effect on the designated lowland hay meadow habitat of the SAC by virtue of deposition of nitrogen from emitted oxides of nitrogen.*

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

Development shall not commence on the Individual Section or Sections between Oxford North Junction and Rewley Abbey Stream (“the relevant sections”) until a Scheme of Further Assessment of air quality in relation to the Hook Meadow and Trap Grounds SSSI (“the SSSI”) has been submitted to and approved by the local planning authority (in consultation with Natural England).

The Scheme of Further Assessment (“the Scheme”) shall include the following:

- i) a methodology and programme for assessing the baseline rates of exposure to oxides of nitrogen and inferring nitrogen deposition on those parts of the SSSI that are identified to be assessed at the date of assessment, including appropriate field observations of nitrogen oxide concentrations;
- ii) a methodology and programme for a baseline vegetation survey;
- iii) a methodology and programme for monitoring the rates of exposure to oxides of nitrogen (and inferring nitrogen deposition) that may arise from emissions from such additional train operations as are attributable to the use of the relevant sections of the development by passenger rail traffic (“the additional train operations”);
- iv) predictions, based on the air quality monitoring, railway operations and other data, for a period of 10 years after opening of the relevant sections

of the development to passenger rail traffic, of the likely additional rates of exposure to oxides of nitrogen (and inferred nitrogen deposition) of the SSSI, that can be attributed to the opening and use of the relevant sections of the development for passenger rail traffic;

v) criteria and thresholds, designed to protect the SSSI, for determining the rates of exposure to oxides of nitrogen (and inferred nitrogen deposition) which can be attributed to the use of the development by passenger rail traffic;

vi) the proposed means of mitigation in the event that the criteria or thresholds referred to in v) are not met or are exceeded; and

vii) the arrangements for the reporting of the monitoring and mitigation to be undertaken in accordance with the Scheme.

The approved Scheme shall be implemented as approved.

The development shall not be opened to passenger rail traffic until the approved assessment of baseline conditions referred to in i) above has been completed as approved and reported to the local planning authority, and any other reports made in accordance with viii) above, and the local planning authority has issued written acceptance that the report complies with the approved Scheme.

Reason: to ensure that the development does not cause harm or prevent restoration of the designated features of the SSSI by virtue of nitrogen deposition from emitted oxides of nitrogen on 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: To ensure that there is adequate mitigation of the works insofar as they may harm the designated features of the SSSI.

34. **Wolvercot Tunnel lighting system**

Railway passenger services shall not resume through Wolvercot Tunnel following the Phase 2A lowering works in Wolvercot Tunnel until the deterrent lighting system described in the Bat Licence application, EPSM 2011 – 3068 Method Statement 2 has been installed and brought into operation. The lighting system shall continue to be operated and maintained thereafter, throughout the period of operation of train services through the tunnel, unless and until Natural

England shall notify the local planning authority and Network Rail, in writing, that it is no longer necessary to operate the lighting system.

***Reason:** to ensure that the lighting system is installed, operated and maintained to avoid harm to bats.*

35. **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

RIGHT TO CHALLENGE ORDERS MADE UNDER THE TWA

Any person who is aggrieved by the making of a TWA Order may challenge its validity, or the validity of any provision in it, on the ground that –

it is not within the powers of the TWA, or
any requirement imposed by or under the TWA or the Tribunals and Inquiries Act 1992 has not been complied with.

Any such challenge may be made, by application to the High Court, within the period of 42 days from the day on which notice of this determination is published in the London Gazette as required by section 14(1)(b) of the TWA. This notice is expected to be published within three working days of the date of this decision letter.

CHALLENGES TO DEEMED PLANNING PERMISSION GIVEN IN CONNECTION WITH A TWA ORDER

There is no statutory right to challenge the validity of the Secretary of State's direction that planning permission shall be deemed to be granted for development for which provision is included in a TWA Order. Any person who is aggrieved by the giving of the direction may, however, seek permission of the High Court to challenge the decision by judicial review.

A person who thinks they may have grounds for challenging the decision to make the Order or the decision to give the direction as to deemed planning permission is advised to seek legal advice before taking any action.