

Fiona Bartholomew,  
City Development,  
Oxford City Council,  
St Aldate's Chambers,  
109-113, St Aldate's,  
Oxford,  
OX1 1DS

Your ref: 13/03202/CND

12 February 2015

Dear Fiona,

**BICESTER TO OXFORD TRANSPORT AND WORKS ACT ORDER  
(TWA/10/APP/01)) - DISCHARGE OF CONDITIONS IN SECTIONS H  
TO J**

I write to you in response to your letter dated 5 February 2015, which refers, in particular, to Network Rail's intentions in relation to Section I and to the programme for reaching decision on the Noise Scheme of Assessment (for Section H) and on the Vibration Scheme of Assessment (for the Sections within Oxford City).

Andy Milne from Network Rail provided you, on 26 January, with the most up to date final track layouts for the mainline works and the junction with the Bletchley Line, in parts of Sections H and I, as shown on drawings B90505B-DRG-PWY-3003 and 3004, Revision P01, which are the Network Rail approved GRIP 2 drawings.

As agreed, during your call with Ian Gilder on 12 February, we will provide drawings which overlay this latest track layout on the TWA Order plans. These should be with you next week. I am, however, keen to progress these matters, so, in the remainder of this letter, refer to the drawings you already have.

**The Position Regarding Planning Permission and Conditions in Sections I  
and J**



*Registered office*  
2<sup>nd</sup> Floor, Exchequer Court  
33 St Mary Axe  
London EC3A 8AA

*Registered number*  
1014622 England

*VAT Registration*  
404 6180 80

A member of  
Environmental Resources  
Management Group

The first point in your letter relates to these drawings, where you suggest that the works now proposed in Section I, that is from the 'land divide' between the Bicester/Bletchley Line at chainage 23450, southwards in the mainline corridor as far as the Sheepwash Channel/Rewley Abbey Stream, just north of Oxford station, are 'not the same as those included in the deemed planning permission in the TWA Order'.

It may be helpful to explain these drawings. These include track that will be relaid as part of the Oxford Area Improvements, in particular, the 'Up Relief' as well as other works, including the Oxford North Junction turnouts and the twin track Bicester/Bletchley line.

When the Bicester to Oxford line is brought back into use for passenger services in March 2016, there will be a period of about a year, for signalling reasons, when the Bicester/London trains will use the northern Oxford North Junction turnout at ch 22680, run in both directions on the (western) Down Bletchley track to the crossover at ch 23140 before transferring to the (eastern) Up Bletchley track as far as the Woodstock Road crossover. In this section, the line will effectively be single track, with train speeds limited by the limits at the crossovers. Most of the parallel twin track infrastructure for the Bicester/Bletchley line on these drawings will be in place at this stage and will be in full use after March 2017.

Drawing 3003 shows the new turnouts for the Oxford North Junction at ch 22360 and 22680, which is in the same general location as the existing junction (and of Work No 7, the new junction connection in the TWA Order). From chainage 23000 (the northern end of the Stone Meadow development), northwards, there will be the new, parallel twin track Bicester/Bletchley line. This would effectively be on or close to the alignment of Work No 2 (the railway from Bicester to Oxford North Junction in the TWA Order) and replace the existing single track plain line. Taking these together, there will be new track, close to the same centre lines shown in the TWA Order, from the southern end of the Stone Meadow housing, opposite 94-110, northwards.

The new 'Up Relief' on the mainline is to be relaid track on the alignment of the existing, to allow 90/75 mph working into Oxford station. The EWR services will use these mainline tracks, south of Oxford North Junction. I can confirm that, from the new Oxford North Junction, southwards to Oxford Station, the new track alignment will stay within the footprint of the existing mainline, and will not use the proposed alignment of Work No 3 in the TWA Order, which was on the former LNWR track bed to the east of the existing mainline tracks.

The ERM letter to the City Council, 25 November 2014, made reference to three scheduled works, 3/3A and 7, not to be undertaken under the TWA Order. It made no reference to Work No 2, which is the entire double track Bletchley line from ch 22400 or thereabouts in Section I to Bicester.

Within the mainline corridor, it can be argued strongly that NR retain their Part 11 and 17 PD rights, even on land within the TWA Order Limits of Deviation, and that these powers could be used for the construction of the new turnouts at Oxford North Junction and for the double track Bletchley line as far as the boundary of Sections H and I.

However, the Oxford North turnouts and the double track Bletchley line lie entirely within the TWA Order Limits of Deviation and in the same location as Works Nos 2 and 7. There is an explicit power in Clause 6 (a) of the TWA Order, which allows the Company, as they are referred to in the Order, to deviate scheduled works laterally from the centre lines shown on the Order plans anywhere within the Limits of Deviation. The deemed planning permission in the conditions leaves approval of certain details to the City Council, but it is clear from this permission that the City Council has no powers to consider the horizontal or vertical track alignment, provided that these remain within the limits set out in the Order.

Having given careful consideration to these matters, although these could have been works carried out under PD rights, Network Rail is prepared to concede that **these works will, in practice, be undertaken under the TWA Order powers, as Works Nos 2 and 7, and will be built in accordance with the deemed planning permission.**

Network Rail's concession on this point is conditional, and the City Council is being asked to agree certain consequential matters in relation to these works and the discharge of planning conditions, which I explore further below.

I take the view that these works in Section I are within the scope of those approved in the deemed planning permission and no amendment to the planning permission is required. The environmental information in the Environmental Statement also remains valid, although as discussed in previous correspondence, we do use any more up to date environmental information, where that is appropriate, as part of any submissions to discharge planning conditions.

The City Council can be re-assured that the station works in Section J and the whole of the relaid 'Up Relief' are not works to be carried out under the TWA Order, in line with the ERM letter of 25 November. In practice, no

works under the TWA Order will be undertaken south of a point opposite 94 – 110, Stone Meadow, within Section I.

### **Discharge of Planning Conditions in Section I**

Network Rail's concession in relation to the works in the northern part of Section I now falling under the TWA Order alters the position regarding the planning condition discharges required in Section I and J, previously set out in the ERM letter of 25 November. In summary, the following is, I believe, a sensible interpretation of the condition discharges required:

#### *Conditions 5, 7, 10, 11, 12 and 13*

These only relate to works located in Section J, some of which are no longer relevant. There is, therefore, no intention or need to discharge any of these conditions.

#### *Condition 6*

This relates to a fencing strategy and requirements, already approved for works up to just south of 94 – 110, Stone Meadow (OCC Ref: 13/01965/CND). This will be implemented as approved as far as this point in Section I. Since it requires secure fencing of the railway boundary, this would be normal NR practice, in any event, and will be implemented.

#### *Condition 18*

This applies the approved Code of Construction Practice. This will be applied to the junction works and the double track Bletchley line works (and any other works under the TWA Order eg noise mitigation) in Section I, but not to other works carried out by Network Rail in Sections I or J.

#### *Condition 19*

The provisions of Condition 19 will apply to the northern part of Section I and a Noise Scheme of Assessment (SoA) therefore needs to be prepared, and should, to be entirely in accord with the condition, be approved before TWA works start in this section. Section J will not need a Noise SoA.

Network Rail's position is that noise mitigation needs only to be considered for noise impacts arising from use of the Bletchley line services running on the tracks from ch 22400 northwards in Section I. This would take into account any noise impacts as far south as about ch 22200, Aristotle Lane bridge, although the exact point will be confirmed by modelling.

In the Noise SoA for the northern part of Section I, we would follow the same approach used in Section H in relation to the temporary single track running. We would assess trains running on the final double track layout, but with a sensitivity test that considers the temporary layout. Mitigation would meet the worst case arising from either of those two layouts.

The Network Rail concession in relation to the TWA Order is dependent on the City Council accepting the point that no noise mitigation will be considered or provided south of Aristotle Lane.

Work will commence on preparing a Noise SoA for Section I immediately, but, as we discussed, Network Rail will need to conduct local residents' consultation, before formal submission of the SoA. This means that the formal submission will not take place until April/May 2015. There is a tight programme for these railway works and Network Rail would request that the normal pre-commencement requirement in the condition is relaxed by the City Council. The key trigger in the planning condition is the requirement to complete noise mitigation before trains on the Bicester line resume operation and this will be achieved.

The Vibration SoA and reports, which are already with the City Council for approval, did not explicitly consider the potential for vibration impacts arising from the track layouts now shown on Drawings B90505B-DRG-PWY3003 and 3004, where these run alongside the mainline and are to be built under the TWA Order. However, having checked these drawings, we can confirm that, nowhere in Section I, or J, are there any existing residential properties closer to the proposed track than the 15m threshold used to define 'properties at risk of vibration' in the VSoA. In consequence, the City Council can be re-assured that there are no additional properties that would need specific consideration for vibration mitigation in the northern part of Section I.

#### *Conditions 31 and 32*

The situation in relation to these conditions was explained in detail in the ERM letter of 25 November.

Legally, because the pre-development wording of the conditions refers to the Section(s) from Oxford North Junction, southwards, it could be argued that the position taken in that letter can still apply and that no further work needs to be undertaken to discharge the rest of these conditions.

However, NR recognises that this could be construed as beyond the purpose and spirit of the planning conditions, given the location of the SAC and SSSI concerned, and is prepared to accept that the remaining aspects of Conditions 31 and 32 will need to be discharged. However, as with Condition 19, there are both pre-commencement of development and pre-operation requirements in these conditions. While NR will use its best endeavours to secure approvals of the remaining elements of the Further Schemes of Assessment (FSOAs), before these dates, this may not be achievable. As you know, the FSOAs need to be approved by Oxford City Council and the other two LPAs, Cherwell and West Oxfordshire, which will itself depend on securing timely technical agreement with Natural England. There is no practical significance in the pre-commencement requirement and the City Council can be assured that the next phase of air quality monitoring will take place as soon as is sensible after use of the Bicester line resumes for passenger services. This would be starting in April 2016, if the services resume into Oxford, as planned in March 2016.

#### **Programme for Decision on the Noise and Vibration SoAs**

As you know, Network Rail needs to commence works, particularly in Section H, as soon as possible, not least because the Natural England European Protected Species Licence for the bats in Wolvercot Tunnel, now issued, restricts work to the period between April and August 2015.

There are a small number of amendments being made to the Technical Addendum to the Vibration SoA, which have already been discussed with Arup, and this should be with you by 20 February.

As far as the Noise SoA for Section H is concerned, I would remind you that the planning conditions were deliberately structured to allow work to commence on a section by section basis. While I hope that the City Council is satisfied with our response in this letter in relation to Section I, any disagreement can be resolved and this should not be taken as a reason for not progressing the Section H Noise SoA to approval.

Copies of the consultation responses and our replies for Section H have been passed to the Independent Expert and we plan to submit the Noise SoA, in final form on 20 February.

It is essential, in Network Rail's view, that both SoAs are presented to West Area Planning Committee on 14 April 2015, at the latest. We and Network Rail will, of course, work closely with you to deal with any further responses received from residents or the IE, before that Committee.

### **Matters for the City Council to Confirm**

Can you please confirm, as soon as possible, that the City Council is content with the approach proposed in this letter? In particular, your confirmation of the following would be helpful:

- (i) that the City Council accepts the proposed intention only to assess the need for and provide, under the TWA Order, mitigation, for example for noise, as far south in Section I as Aristotle Lane bridge; and
- (ii) that it would be reasonable, and acceptable to the City Council, to relax the pre-development requirements in Condition 19 in relation to the Noise SoA for Section I, and for Conditions 31 and 32.

If there are any aspects of this letter that you wish to discuss, please talk to me or to Ian Gilder, the ERM Project Director. If there is further information you need to complete consideration of either the VSoA or the Section H Noise SoA, not noted above, please let me know and we will do our best to provide it to allow a decision on 14 April.

Yours sincerely,

Andrew Deacon  
*Consultant*  
ERM

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