

To: City Executive Board

Date: 1 September 2010 **Item No:** 19

Report of: Interim Head of Corporate Assets

Title of Report: Land at Aristotle Lane, Trap Grounds Allotments and Port Meadow;
Chiltern Railways; Transport and Works Act application.

Summary and Recommendations

Purpose of report: To report on progress of discussions with Chiltern Railways, and to confirm arrangements for decision making (if necessary) prior to the Public Inquiry to be held in November 2010

Key decision? No

Executive Lead Member: Councillors Timbs and Turner

Report approved by: Mel Barrett, Executive Director, City Regeneration

Finance: Sarah Fogden

Legal: Lindsay Cane

Policy Framework: Stronger and Inclusive communities

Recommendation(s):

The Executive Board is asked to:

- (i) note that discussions toward a negotiated solution will continue, and
- (ii) to agree, that the Council will if required present evidence to the Inquiry, by written representation.
- (iii) to delegate to the Interim Head of Corporate Assets the authority to agree an appropriate basis for withdrawal of the City Council's objections to the proposals

BACKGROUND

1. In January 2010 Chiltern Railways published Transport and Works Act proposals for upgrading the Bicester – Oxford railway line. If approved, (see below) this scheme will enable Chiltern to run a regular Oxford – London service, via Bicester.
2. At the Oxford end, the scheme will include the relaying of track on a disused track bed parallel to the existing lines between Oxford Station and Wolvercote. The City Council has a number of land holdings adjoining this part of the proposed route. Implementation of the scheme requires acquisition either of land, of rights over land, or of temporary rights (e.g. during the construction period). It also requires closure of the existing foot crossing at Aristotle Lane, which gives access to the Trap Grounds Allotments. The City Council owned land parcels affected are shown on the plan attached as Appendix 1
3. The implications of the scheme for Oxford City Council property are detailed in the letter attached at Appendix 2, but the principal issues are summarised below:
 - a. Closure of the foot crossing means the loss of the shortest and the only level route into the Trap Grounds Allotments site. The existing access arrangements also provide some short term parking for allotment holders, which will be removed. The alternative access to the Trap Grounds Allotments is a longer route (for most allottees) via Aristotle Lane Bridge, which is graded and has a poor surface. For these reasons, previously in 2002 Executive Board agreed to oppose closure of the foot crossing.
 - b. In order to shorten the alternative route, Chiltern Railways has proposed creating a ramp off the bridge approach on the west side. This will require substantial concrete foundations to be laid in Port Meadow, which the Council understands may have implications for drainage of the Meadow at this point, and may also impact on the condition of the Special Area of Conservation (SAC)
 - c. Chiltern Railways has also suggested that alternative vehicle access could be taken via the track over the Meadow leading from Walton Well Road. The Council would wish to avoid additional vehicle movements over the Meadow, There would also be an issue over where such vehicles should park.
 - d. The current proposals include a triangle of City Council owned land on the east side of the railway which includes the access to the crossing. Additionally, the Council has for some time been discussing the transfer of part of this land to the County Council for an extension to the site of SS Phillip and James Primary School, to expand its open space. These negotiations had allowed for an allocation of land for parking for allotment users which could be lost under the scheme, as currently proposed.

PROPOSED ACTION

4. The Department for Transport required the objection to be ratified by a majority of City Council members. At its meeting on 19 April the Council confirmed its support for the detailed objections. It noted that negotiations on mitigation measures would continue, and any proposed agreement would be reported back to Executive Board. The start date of the Public Inquiry has now been set for 2 November 2010. The Council can present oral evidence to the Inquiry, or alternatively, submit written representations based on its original objection.
5. At the time of preparing the April report, some discussions had taken place between representatives of Chiltern Railways, Network Rail, and Trap Grounds Allotment Association, on possible mitigation measures, but as yet no agreement has been reached on a set of measures, that could provide a basis for a recommendation to members to withdraw the objections made by the City Council.
6. As there is now only a relatively short period before the start of the Inquiry, it may not be possible to obtain Board approval to any settlement, as foreseen in the Council minute. Therefore it is proposed that Board could delegate this decision to the Interim Head of Corporate Assets, in consultation with appropriate portfolio holders.

If the City Councils objections are not withdrawn, and it gives oral evidence at the Inquiry, external costs (eg of employing a barrister and possibly supporting experts) will be incurred, in preparing the Councils own case, and in examining the promoters case. These costs are estimated at between £5000 and £10,000

Alternatively the Council can opt to proceed by written representation, in which case it will incur a lower level of internal costs in preparing its case. Costs may only be recoverable if objections are sustained

RISKS

7. A risk assessment has been undertaken and the risk register is attached as Appendix 3.

CLIMATE CHANGE/ENVIRONMENTAL IMPACT

8. Chilterns consultant is suggesting that an alternative access ramp to the allotment could be constructed across a corner of Port Meadow. This could have possible implications for drainage and localised flood storage. There may also be temporary loss of natural grassland habitat during the construction of the new ramp. It should however be noted that Chiltern have undertaken to agree drainage mitigation measures during and post construction, to be agreed with the Environment Agency. Consultants acting for Chiltern have also suggested that all works will be supervised by an appointed ecologist. The loss of grassland will be mitigated for by re-instating the natural grassland habitat after completion of the construction works, following a Method Statement to be agreed with Natural England.

EQUALITIES IMPACT

9. As noted above any revised access route to the allotment site would not be level, and could increase the difficulty of reaching the site for some allotment holders. The proposals could also affect the proposed extension of the County Council school site, referred to in paragraph 3(d) above. If necessary, an impact assessment will be made prior to any settlement with Chiltern.

FINANCIAL IMPLICATIONS

10. There are no budgets to meet the level of external costs likely to be incurred if the Council opted to offer oral evidence at the Inquiry, as set out in paragraph 7 above. On that basis it is proposed to proceed by way written representation, utilising internal resources.

LEGAL IMPLICATIONS.

11. These are contained in the body of the report.

RECOMMENDATION

12. The Executive Board is asked to:
 - (i) Note that discussions toward a negotiated solution will continue, and
 - (ii) to agree, that the Council will if required present evidence to the Inquiry, by written representation.
 - (iii) to delegate to the Interim Head of Corporate Assets the authority to agree an appropriate basis for withdrawal of the City Council's objections to the proposals

**Name and contact details of author: Martin Lyons 01865 252138
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List of background papers:

Appendix 1 – Plan of Allotments
Appendix 2 – Letter to DfT dated 15th February 2010
Appendix 3 – Risk Register

Version number: 4

Appendix 1 -

Plan of land at Aristotle Lane/Trap Grounds Allotments/Port Meadow
(Parcels of OCC affected property shown in blue and numbered).

Transport and Works Act 1992 Chiltern Railways (Bicester to Oxford Improvements) Order










Sheet No. 29

Work Nos. 3 and 7
For Section of Work No. 7 see Sheet No. 34

CITY OF OXFORD



KEY

-  Limits of Deviation
-  Limits of Land to be Acquired or Used
-  Centre Line of Work
-  Commencement of Work
-  Termination of Work
-  Commencement of Work and Termination of Work
-  Access to be provided or improved
-  New Right of Way to be provided (Except where provided over Work)
-  Existing Right of Way

PLAN

Scale of 1:1000
Date issued: 1/10/00

APPENDIX 2

Corporate Assets

Secretary of State for Transport
c/o Transport & Works Act Orders Unit
Department for Transport
Zone 1/31 Great Minster House
76 Marsham Street
LONDON
SW1P 4DR

Date 15th February 2010
Your ref
My ref ML/DR/
Please ask for Martin Lyons
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Direct Dial 01865 252138
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Dear Sirs

**THE TRANSPORT AND WORKS ACT, 1992
THE TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS
PROCEDURE) ENGLAND AND WALTES) RULES 2006
PROPOSED CHILTERN RAILWAYS (BICESTER TO OXFORD IMPROVEMENTS)
ORDER**

I am writing on behalf of Oxford City Council to make a formal objection to proposals contained in the application for the above Order, as notified to the Council by Rule 15 letters dated 6th January 2010.

The Council's objections arise mainly from the proposed closure of the private accommodation crossing at Aristotle Lane Oxford, on the usage of the allotments; the effect of the proposed mitigation measures on the allotments and adjoining areas of Port Meadow; and on the proposed acquisition of land, or rights over land, in the Aristotle Lane and Walton Well Road areas.

... The attached table summarises the objections in the order set out in the various Schedules to the Order.

It should be stressed that the Council does not object to the project as a whole, but essentially to the proposed removal of the foot crossing; issues with the proposed mitigation measures, and the possible loss of the opportunity to extend the site of St Phillip and James School.

Preliminary discussions with the promoter have take place, and it is expected they will continue. In the meantime the Council reserves the right to raise any further objections, should this provide necessary.

Yours faithfully

Interim Head of Corporate Assets

**OXFORD CITY COUNCIL
TABLE OF OBJECTION BY SCHEDULE TO THE DRAFT ORDER**

SCHEDULE	LAND PARCELS	DETAIL OF OBJECTION
2	29003	Acquisition of this land (or rights over it) could prejudice its inclusion in the St Phillip and James School site. The City and County Councils are currently negotiating terms for a disposal of part of this parcel
	29010, 29011, 29015	These parcels form part of Port Meadow which is a Site of Special Scientific Interest. The creation of vehicular rights would prejudice this status.
	30003/30004	This land, which lies to the south of Walton Well Road is let for residential moorings (the lease details are not included in the Schedule) Acquisition of land or rights may prejudice this use of the land.
9	N/A	Closure of Aristotle Lane accommodation crossing. The Council objects to this proposal on the grounds that it has provided a safe and level crossing point for allotment holders for many years. The proposed alternative route will be more circuitous and difficult to use because of the gradients involved, and reduce the take up of plots on the site. The proposed alternative to the foot crossing cannot be evaluated, as no details have been made available.
11	29005/29012	Concerns about the proposed temporary access use of these parcels of land within the Trap Grounds Allotment and Port Meadow.
	29008, 29009, 29015 29016, 29017, 29018	The use of these areas for working sites and access raises concern in respect of cultivation of the Trap Grounds Allotments, and effects on the Port Meadow Site of Special Scientific Interests.

Risk ID	Risk						Corporate Objective	Gross Risk		Residual Risk		Current Risk		Owner	Date Risk Reviewed	Proximity of Risk (Projects/Contracts Only)
Category-000-Service Area Code	Risk Title	Opportunity/Threat	Risk Description	Risk Cause	Consequence	Date raised	1 to 6	I	P	I	P	I	P			
CEB 001CA	Objection to Transport & Works Act Proposals	T	This is a specialist work area and the Council has to take a view on relative high costs of procuring expert advice versus likely chances of a successful outcome. Matters of compensation are outside valid grounds for objection.	The Council determines to proceed only on written representations meaning that the most favourable case may not be presented.	The likelihood of a successful outcome to the Council's objections is reduced.	10/08/2010	3	2	3	2	3	2	3	Martin Lyons		