

Reply to ERM's 14 May 2015 Response

This document should be read together with the previous two submissions to Oxford City Council on 22 April and 8 May 2015.

For Oxford City Council to decide if sufficient environmental information has been provided to discharge planning Condition 19, it must be fully satisfied that the proposed mitigation is based on **meaningful** levels of train services over the next 15 years.

At the moment, predictions of future train services are based on **obsolete** assumptions as the scope of the scheme has **expanded** beyond that covered by Chiltern Railways' Environmental Statement. Network Rail **refuses** to conduct post-construction monitoring after EWR services start thereby avoiding any obligation to rectify deficiencies in mitigation measures.

Network Rail's interpretation of Condition 19 appears to protect itself from the expense of effective mitigation rather than, as intended by the Inspector at the public inquiry and endorsed by the Secretary of State for Transport, residents from unacceptable levels of noise and vibration.

Environmental Impact Assessment ("EIA")

ERM has spent over a page discussing this issue but has missed the point. Oxford City Council **must** decide if the planning conditions can be discharged **without** an EIA. When the decision to grant the Order was made, the Secretary of State for Transport was aware that the plans for EWR would be developed and an EIA might be necessary; the requirement for an EIA to be inserted into the planning conditions was found to be unnecessary because the local authority already has an obligation to consider whether or not one is required:¹

"The Secretary of State does not consider either that it is necessary to insert into the proposed conditions a requirement for EIA of matters [...] since this is already provided for in the Town and Country Planning (Environmental Impact Assessment) (Amendment) (England) Regulations 2008 (SI 2008/2093)."

Strategic Environmental Assessment ("SEA")

There is overlap in the requirements of the EIA and SEA Directives. EWR is a large project and this section, Phase 1, sets the framework for the rest of the project. The Western Section, from Oxford to Bedford, has been split into three parts, Phases 1, 2 and 3. The Central Section is from Bedford to Cambridge and the Eastern Section is from Cambridge to Norwich and Ipswich which is already "extensively used by freight".² On 19 February 2015, the Prime Minister announced the Government's intention for EWR to connect Oxford with Ipswich and Norwich.³

¹ Department for Transport's letter, 17 October 2012, paragraph 28

² www.eastwestrail.org.uk

³ <https://www.gov.uk/government/news/prime-minister-announces-long-term-economic-plan-for-the-east-of-england>

HS2 and EWR are closely linked with “EWR Powers included in the hybrid bill”.⁴ The lines will be connected and there will be an interchange station⁵ near to HS2’s infrastructure maintenance depot, between Calvert and Steeple Aston, served by trains using the Oxford to Bicester line.

Oxford City Council must ensure that the environmental information provided by Network Rail is of sufficient detail to identify all adverse effects so that appropriate action can be taken.

Condition 19

The intention of Condition 19 to protect residents from unacceptable levels of noise and vibration is stated clearly at the end of the condition:

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

Predictions are not based on a period of 15 years from start of services

ERM agrees that The Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1996 (“NIRs”) are relevant for assessing noise predictions and mitigation; however, it has not followed them. The intention of NIRs is clear;⁶ predictions **must** be based on **realistic** and **maximum** levels of traffic:⁷

“The procedures to be used for predicting noise levels from guided transport systems are those described in a technical memorandum, *Calculation of Railway Noise 1995*. They are based on conditions which represent the noisiest traffic flows expected to occur within a period of 15 years of the date on which the works in question are first used.” [Emphasis added]

The “expected” trains are meant to represent the “noisiest traffic flows”. The NIRs do not exclude services for which an operator has yet to be identified nor ones that were not included in a business case.⁸ The services that Network Rail and the EWR Consortium are promoting must be included to provide meaningful “noisiest traffic flows”; we must assume that Network Rail would not promote services for which the line has no capacity.

⁴ Winslow & District Local Area Forum (3), 12 March 2014, Bernard Hulland, Network Rail, <https://democracy.buckscc.gov.uk/documents/s47291/EastWestRailCouncillorsBriefingAylesbury030214BH.pdf>

⁵ <http://www.rail.co.uk/rail-news/2014/east-west-rail-project/>

⁶ **Ascertainment of level of noise**

9.—(1) Subject to paragraph (2), for the purpose of determining whether a duty under regulation 4 or a power under regulation 5 or 6, as the case may be, has arisen with respect to an eligible building, the prevailing day-time noise level, the prevailing night-time noise level, the relevant noise level or the effective contribution to the relevant noise level made by noise caused or expected to be caused by the movement of vehicles using, or expected to use, initial works, additional works or altered works, as the case may be, shall be ascertained by—

(a) employing the method of calculation specified in a technical memorandum entitled *Calculation of Railway Noise (1995)*, published by Her Majesty’s Stationery Office; and

(b) basing such calculations on the traffic flows expected under normal operating conditions within a period of 15 years from the relevant date.

“relevant date” means the date on which initial works, additional works or altered works, as the case may be, completed on or after the commencement date, were first used after their completion;

⁷ Explanatory note at the end

⁸ Cross Country passenger services have been removed because “there is no operator yet identified who may wish to run this service and it does not form part of the EWR Phase 2 business case”

ERM's future train predictions are too low

ERM agrees that HS2 will go ahead and could receive Royal Assent by December 2016, **the same year** in which Chiltern Railways' passenger services start using Section H and nearly three years **before** the proposed introduction of EWR services. Construction of HS2 could begin at the same time as EWR services begin in 2019 and freight/stone trains supporting construction will definitely be operating along Section H well within 15 years from the proposed start of Chiltern Railways' passenger services next year.

ERM states that Network Rail is a separate company to HS2 Ltd but this ignores the fact that Network Rail has an interest in advising both HS2 Ltd and the Department for Transport.⁹

Network Rail is aware of the extent of services that it is currently promoting will use the Bicester to Oxford line but **refuses** to consider these for the purposes of Condition 19 which means future service predictions are **too low**.

Night time stone trains

ERM has quoted Condition 24 which restricts the times that trucks and lorries (HGVs) can enter and leave the aggregates freight depot but trains are only restricted to the times when they can be loaded and unloaded. The depot opens at 06:00, one hour **earlier** than the end of the nighttime period for the purposes of Condition 19.

Network Rail has assumed, for planning purposes, that no stone trains will use the line between 23:00 and 07:00 but there is **no** such restriction on the line. If there are constraints elsewhere on the network, freight trains will operate during the night; trains supplying construction materials to Water Eaton operate at night but were not envisaged in the Environmental Statement.¹⁰

ERM, for its NSoA, has assumed that stone trains will only travel at 20 mph¹¹ yet Atkins' VSoA measured a stone train on the line travelling at 35 mph¹² even-though Oxford North Junction has a speed restriction of 20 mph, close to the measurement site, and the current line is restricted to 30 mph. Residents are supposed to believe that future stone trains will be **slower** after the line speed has **increased** to 100 mph.

At the exhibition on 12 February 2015 at St Peter's Church Hall, Network Rail claimed that "a maximum of two freight trains per day" would use the Oxford to Bicester line from March 2016 until March 2019.¹³ EWR Phase 2, mentioned by ERM, from Bicester to Bletchley has a completion date of March 2019; will the construction materials be carried on the Oxford to Bicester line? If so, how many **extra** freight/stone trains per day will operate? How many **extra** trains will construction of EWR Phase 3 require?

⁹ "We are advising HS2 Ltd and the Department for Transport on the effective integration of HS2 with the national rail network. We want to make the best use of the combined capacity on new and existing lines and to keep as many trains running as possible during construction." <http://www.networkrail.co.uk/improvements/high-speed-rail/>

¹⁰ Annex D3, construction noise; these trains are not mentioned although they are only operating because of construction of EWR Phase 1

¹¹ NSoA, D2.2.11, stone "trains are conservatively assumed to travel at 20 mph from the boundary between Route Sections I and H to their approach to signal OB1765." [Lakeside]

¹² Event reference 3B(1)

¹³ Copy of poster attached

Professor Buckley, using Atkins' prediction method, concludes that Condition 19 will **not** be met if just **one** stone train runs at night.¹⁴ Oxford City Council must **not** allow ERM and Network Rail to ignore the huge amount of railway construction work that will take place **within** the next 15 years to construct EWR Western and Central Sections and HS2.

Gradients mean that trains are on full power in both directions past Lakeside

It is agreed that the line travelling towards Bicester from Oxford to Lakeside goes uphill and trains will be on full power. However, ERM appears confused about the existence of the line travelling towards Oxford between Water Eaton and Lakeside. It is clear on the deposited plans¹⁵ that the line from Water Eaton goes **uphill** to Lakeside. Lakeside is the highest point on the line between Oxford and Water Eaton.

Proposed future monitoring is not fit for purpose

Unsurprisingly ERM agrees with its own predictions; indeed, ERM states that in its "experience of similar schemes, where post-construction monitoring has been carried out by ERM, is that the calculation procedures used in the NSoA have produced answers which closely match the noise reductions measured during post-construction monitoring."

Chiltern Railways agreed to a second round of monitoring after the start of EWR services but instead ERM proposes to make predictions based on its **own** "reasonable planning assumptions" and **not** actual service levels.

This cannot protect residents, instead:

- (a) Another company, **not** ERM, should conduct the post-construction monitoring;
- (b) Quality of mitigation measures must be assessed on **actual** noise and vibration experienced by residents; and
- (c) Another round of post-construction monitoring must take place **after** introduction of EWR services as agreed by Chiltern Railways at the public inquiry.

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21 May 2015

¹⁴ Professor Paul Buckley's Comments for Oxford City Council on the letter from ERM to OCC of 29 April, 8 May 2015

¹⁵ CD/1.9.1

BICESTER TO OXFORD COLLABORATION TRAIN FREQUENCY AND SPEED, AND ELECTRIFICATION

From March 2016, there will be two Chiltern-operated passenger trains per hour in each direction and a maximum of two freight trains per day.

From March 2019, it is expected that there will be two Chiltern Railways and two additional East West Rail (phase 2) passenger trains per hour in each direction. The freight traffic is unknown, but capacity for up to one train per hour in each direction is being built into the train timetable.

The frequency of trains on the line following electrification is not yet known.

Future electrification

Network Rail is currently undertaking electrification of the Great Western mainline and the electrification will reach Oxford in 2017. Electrification of the line between Oxford and Bletchley is in the early stages of design but could be installed by March 2019, subject to the project demonstrating affordability.

BICESTER TO OXFORD
COLLABORATION



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