

**1 EAST WEST RAIL PHASE 1: RESPONSE TO CAROLINE ROBERTSON'S  
THIRD OBJECTION STATEMENT, RECEIVED BY OXFORD CITY  
COUNCIL 21<sup>ST</sup> MAY 2015**

**1.1 ENVIRONMENTAL IMPACT ASSESSMENT**

You state that '*Oxford City Council must decide if the planning conditions can be discharged without an EIA*'.

This is, of course, correct. It is a matter for the City Council to determine whether the requirements of Regulation 8(2) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 are met or, if they are not, the City Council has, under Regulation 8(3), to serve notice on the applicant under Regulation 22(1) seeking further environmental information.

There has been previous correspondence between ERM and the City Council as to what should be considered to be 'the environmental information already before them' as set out in Regulation 8(2). ERM and Network Rail have provided additional information, when asked to do so by the City Council, on its own behalf or as requested by the Independent Experts. This has included substantive responses to your and other residents' letters.

The City Council has not served notice under Regulation 22(1) in order to secure this information and is, we believe, satisfied that the environmental information now before them is 'adequate to assess the environmental effects of the development'.

**1.2 STRATEGIC ENVIRONMENTAL ASSESSMENT**

You have repeated your view that a Strategic Environmental Assessment (SEA) is required to be undertaken in relation to East West Rail Phase 1.

EWR Phase 1 has been granted a 'development consent' and has been and remains subject to the requirements of the EIA Regulations. SEA may be relevant to a 'plan or programme' that precedes an application for development consent, but does not apply, retrospectively, once an application for development consent, accompanied by an Environmental Statement has been made. In this instance, this was the TWA Order application submitted in January 2010.

*THE RELEVANCE OF THE NOISE INSULATION (RAILWAYS AND OTHER GUIDED TRANSPORT SYSTEMS) REGULATIONS 1996 TO THE DISCHARGE APPLICATION FOR THE NSOA*

You state that the Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1996 (NIR) have not been followed in that the noise predictions have not been based on the 'traffic flows expected under normal operating conditions within a period of 15 years from the relevant date', which you have quoted from Regulation 9(1) (b) of the NIR.

A number of local residents have focussed on this provision, without understanding that there are two legal requirements that need to be met separately by Network Rail, in relation to noise mitigation:

(i) those which are set out in Condition 19 of the planning direction (based on the Noise and Vibration Mitigation Policy (NVMP)). It is these which gives rise to the application to discharge Conditions 19(2) and 19(4) in relation to the Noise Scheme of Assessment in Section H; and

(ii) the statutory provisions of the NIR, specifically in relation to the provision of noise insulation.

Network Rail is proposing noise mitigation, which includes both noise barriers and noise insulation, in accordance with a set of criteria, including noise thresholds and train service frequencies, which were proposed by Chiltern Railways, accepted by the Inspector and confirmed by the Secretary of State's decision to grant the TWA Order. In the case of the train frequencies, these were the '*reasonable assumptions of likely future service frequencies following the opening of East West Rail Phase 2 between Bicester and Bletchley*'.

A key point that has to be made is that the requirements of the NVMP, in relation to the noise thresholds above which mitigation has to be provided, are much more stringent than those which apply under the statutory NIR. When implementing Condition 19, there is no legal requirement on Network Rail to follow the particular requirements of the NIR, such as that in Regulation 9(1)(b).

In summary, the NIR only requires the provision of noise insulation, not noise barriers or any other measures, and only if the predicted façade noise levels at eligible properties exceed the specified levels, which are 63dB(A) Leq at night and 68dB(A) Leq during the day, and certain other criteria are met. There is no requirement, as in the NVMP, for noise insulation to be offered if noise levels at night exceed 82 dB(A) Lmax, unless the 63dB(A)Leq specified level is also being exceeded. As a matter of good practice, many noise mitigation schemes, such as the NVMP, propose the installation of noise barriers, which reduces the number of properties that need noise insulation, but also reduces noise levels in gardens and other external areas.

In these circumstances, the Noise Scheme of Assessment (NSoA) has taken an entirely proper approach which is to present an assessment and appropriate noise mitigation measures that will meet the requirements of the planning condition and the NVMP. The result will be the installation of noise barriers through much of Section H, with some properties receiving noise insulation, where this is the only reasonably practicable way to achieve the standards in the NVMP. Table 5.2 identifies those receptors that will qualify for noise insulation under the NVMP in Section H and the individual properties that will qualify have also been identified.

The NSoA acknowledges that the insulation requirements of the NIR will also have to be met, but this is a statutory requirement, which Network Rail has to meet, in any event. Enforcement of the NIR is not a matter for the City Council to become involved in and has no bearing on the City Council's consideration of the NSoA.

The NSoA, in Table D4.3, does present an assessment based on the NIR noise thresholds, taking account of the barriers proposed in the NSoA, which indicates which of the receptors are also likely to be eligible for statutory noise insulation. Only two receptors, both at Quadrangle House, are likely to qualify. This can be compared with the 12 receptors identified in Table 5.2 as qualifying under the NVMP. The 10 additional receptors in Table 5.2 qualify because of the exceedance of the night time 82dB LAmax threshold in the NVMP.

Network Rail intends to undertake a further assessment to check whether any additional eligible buildings will qualify for non-statutory noise insulation under the NVMP. This is discussed in *Section D3.3.2 of Annex D* of the NSoA. This will be undertaken after the railway re-opens and will be based on the results of noise monitoring, so that actual noise from the railway, including switches and crossings, can be taken into account.

#### **1.4 *POTENTIAL USE OF EWR PHASE 2 TO SERVE THE PROPOSED INFRASTRUCTURE MAINTENANCE DEPOT FOR HS2***

In line with our previous response, it is reiterated that HS2 is not yet an approved scheme and no assessment has been undertaken of the likely train operations that may take place on any part of EWR (Oxford to Bletchley or Princes Risborough to Milton Keynes) to serve HS2 construction or operations. Again, the future service levels accepted by the Inspector at the TWA Inquiry (and confirmed by the Secretary of State's decision to grant the Order) are seen as 'reasonable assumptions of likely future service frequencies' and so should form the basis of the consideration of the NSoA by the City Council. This does not include any potential train movements related to HS2 construction or operation.

## 1.5 *STONE TRAIN MOVEMENTS*

We have nothing to add to our previous response, except to point out that the very detailed assumptions about stone train speeds set out in para D2.2.11 of the NSoA are conservative i.e. they represent a 'worst case' in terms of potential impacts on adjacent receptors.

## 1.6 *GRADIENTS MEAN THAT TRAINS ARE ON FULL POWER IN BOTH DIRECTIONS PAST LAKESIDE.*

You again assert that '*Trains will run at full power on both the Up and Down lines past Lakeside*'. You are correct in noting that there is a local summit at Lakeside as shown on the long sections in the TWA Order Plans and Sections (CD/1.9.1 Sheet Nos. 23 to 26). However there is a different gradient on either side of that summit. The gradient between Water Eaton Parkway and Lakeside, taken from those sections, is 1:414, while that between south of Wolvercot tunnel to Lakeside is 1:166. On advice from Network Rail, the noise assessment has assumed that at Lakeside, all freight locomotives are likely to be on full power on the Down line (travelling towards Bicester), but only the empty stone train locomotives leaving the Water Eaton sidings on the Up line (towards Oxford) will be on full power. Other freight trains on the Up line will normally be travelling at speed through Water Eaton and will not need to be on full power on this shallow gradient.

These assumptions may not be true for every train, but averaged, they are robust and conservative.

## 1.7 *PROPOSED FUTURE MONITORING IS NOT FIT FOR PURPOSE*

We have nothing to add to our previous answer, other than to re-iterate that the future noise monitoring will measure actual train noise and then those results will be adjusted upwards to take account of the higher frequency and different mix of trains in the '*reasonable assumptions of likely future service frequencies following the opening of East West Rail Phase 2 between Bicester and Bletchley*'. This is an entirely logical and robust approach.

In terms of future vibration monitoring the removal of the switches and crossings, as set out in ERM's letter to Oxford City Council (OCC) dated 29 April 2015, shows that there is now no risk of exceedance of the vibration limits and therefore no necessity for post construction vibration monitoring. However, if OCC considers that such future vibration monitoring is justified, Network Rail would be prepared to undertake monitoring using a methodology and at an appropriate location(s) to be agreed with the Council.

**ERM on behalf of Network Rail  
26 May 2015.**