

Proof of Evidence

By

Dick van Wijngaarden BSc

On behalf of:

Owner and residents of Merton Grounds Farm, Bicester, OX25 2NS

Obj/191

Objection to part of the “The Chiltern Railways (Bicester to Oxford Improvements) Order”; The line of the proposed route, as a result of the closing of the Langford Lane level crossing

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1 Introduction

- 1.1 My name is Dick van Wijngaarden. I am acting on behalf of the owner and residents of Merton Grounds Farm, whose access is affected by the Transport and Works Act application by Chiltern Railways.
- 1.2 Merton Grounds Farm is a residential property consisting of a 17th century grade 2 listed farmhouse with various outbuildings, set in approximately 20 acres of land.
- 1.3 My clients object to part of the route that has been proposed for the realignment of Langford Lane, which as a result of the proposed closing of the Langford Lane crossing, as well as to the location where it meets the highway to the west of the railway. The part of the proposed route to which my clients object, is east from the point where it crosses the railway, to the point where it joins up with the existing highway at the bridge over the Langford Brook crossing at Bramlow

2 Lack of consultation

- 2.1 I would like to point out that, at no stage did Chiltern Railways notify my clients of the Evergreen3 Scheme. The TWA applications refers in document CD1.5, point 4.17 to leaflets that have been distributed in the various postcode areas including OX25 2, however none have been received at OX25 2NS.
- 2.2 Although Core Document CD1.5 point 5.5 states that owners, lessees, tenants and occupiers of land affected, have been sent letters. My clients and a number of neighbouring landowners and/or occupiers with access rights have not been contacted in anyway, although the proposed route seriously affects access to their properties.
- 2.3 I refer to evidence in Appendix 1 confirming 2.1 and 2.2:
- 2.3.1 Extract of objection letter from Mrs Quinn of Merton Grounds Farm Cottage,
- 2.3.2 Extract of Statement of Case of Topbreed (OBJ 189),
- 2.3.3 Extract of Statement of Case of Primepark Ltd (OBJ 190)
- 2.4 In CD/2.11, point 2.8, Other Land Interest, refers to my clients having an access via the bridleway to the Merton Road going south. Although there is a restricted right of access, my client does not have full access rights. This route is rarely used by my clients and is gated at the Merton Road, which makes it completely unsuitable for emergency access.
- 2.5 I would like to point out that my clients' neighbour, freehold owner of Merton Grounds Farm Cottage, with no access rights to the Merton Road, has not been mentioned at all in the document CD/2.11, neither were Topbreed Ltd, freehold owner of land at Merton Grounds, including part of the bridleway leading up to the Langford Lane crossing, The Deeley's Trustees, freehold owners of land at Merton Grounds including part of the bridleway with access rights to the Langford Lane crossing and Primepark Ltd, tenant farmer of land at Merton

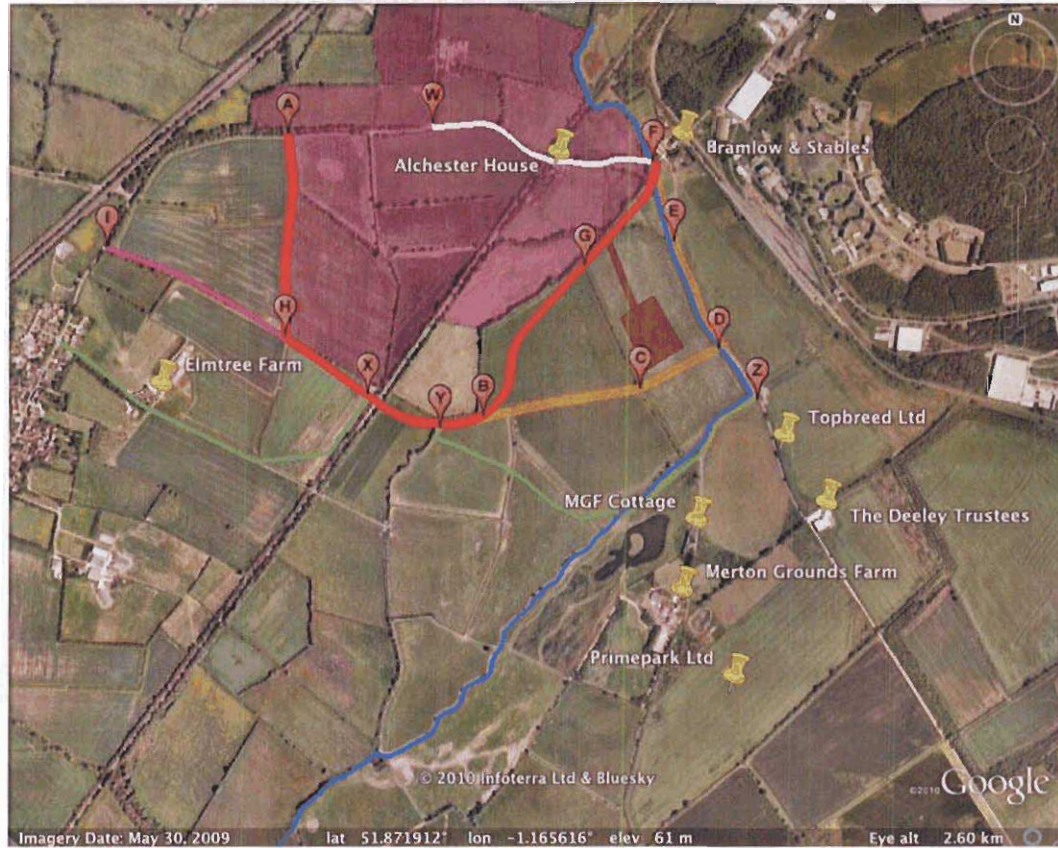
Grounds, with access rights to the Langford Lane crossing. I do believe this is a serious omission in the research of Chiltern Railways.

- 2.6 We understand now that Chiltern Railways were original planning to replace the current crossing with an overbridge, which would not have affected my clients other than disruption during construction. However it was not until after the public consultations that a decision was made to create a new road to avoid the Scheduled Monument of the Roman town of Alchester. I only found out about this out when I received CD/10 Evergreen Newsletter late October 2009 to my private address, which is close to Bicester Town Station. The new proposed route was only showing on a very small map (9.5 x 7.5 cm) on page 3, but no further mention was made about the re alignment. I mentioned this to my clients, which was the first time they ever heard about it.
- 2.7 In an email exchange with ERM starting on 28 October 2009 (Appendix 2), it was explained on 2 November that my clients would be able to make a representation after the application was submitted which was due in November. As it was November already, my clients decided to wait what exactly would be proposed. When I queried on 5 January 2010 that I still had not received notification of the application, I was told it was not to be submitted until the 6th of January.

3 Additional distance of the new road

3.1 Core Document CD1/16 mentions on page 352 that the new road adds a kilometre to the journey for people who would otherwise use the Langford Lane crossing.

3.2 I show a Map which I will refer to at various stages in this Proof of Evidence



- 3.3 When measured from the junction into Langford Lane (point W) on the above map, to where it goes over into the bridleway at point F, is currently about 0.65 km. With the proposed route in red, this will increase to about 2.5 km, adding nearly 1.9 km to users of the Langford Lane crossing coming from Bicester. With the proposed Modification (CD/1.28) in purple, the total length will increase even further to 3.1km, adding nearly 2.5 km to every journey. The additional distance with the proposed route is reduced by 0.4 km when travelling to or from the east (Wendlebury or towards M40). With the modified route this reduces by 0.9 km (so total of 1 km extra journey minimum). However, due to the road layout of the A41, coming from the M40 the journey is increased by 1.8 km on the proposed route and about 2.3 km on the modified route compared to the existing route.
- 3.4 I feel the statement in CD1/16 as mentioned in 3.1 is misleading, especially as it contradicts CD/2.11 page 18 list under disadvantages, where the increased distance to the A41 is listed as an increase of between 2 to 3 km, which is much closer to our calculations in 3.3.
- 3.5 The additional distance to the road will have a significant cost and time implications to my clients, as most of their journeys are local and mainly in the Bicester direction. I believe the proposed route adds unnecessary distance for my clients to access to their property and if my clients would have been invited to the discussions about the various options, as described in CD/2.11, as they should have been, a more logical route could have been selected.

4 Lack of consideration to horse and bicycle traffic

- 4.1 Core Document CD1/16 mentions on page 352 that the new road does not form part of the public rights of way network and that an additional kilometre is not considered to be significant for its primary users, people in cars.
- 4.2 I would disagree with the statement in 4.1 as Langford Lane is part of the public rights of way network, as it forms the only access point onto the bridleway (at point F, on the map at 3.2), which runs from this point south to Murcott. It provides a key link for horse riders and cyclist travelling between Wendlebury/Bicester, the Merton Road or Murcott.
- 4.3 As the calculations in 3.2 show, the additional distance to the route from Bicester to the bridleway is nearly 1.9 km with the proposed route and nearly 2.5 km with the modification (CD/1.28), which is significant for cyclists and horse riders. As the bridleway offers a logical north to south route, most users are likely to come or go in the Bicester direction. As the Government is encouraging people to cycle more, it is important to have good cycle routes.

5 Congestion at Bramlow

- 5.1 I believe, that where the proposed new route joins the existing road, near the stables (point F in 3.2), a very awkward road layout will be created, which may compromise access to my clients' property. Currently access is already regularly compromised by vehicles parked on the side of the road near the stables at Bramlow. (See Appendix 3 for photographic evidence). The proposed road

would in effect create a hairpin turn at a location, which is already a bottleneck. HGV's or large farm machinery would struggle in this area, which I feel will increase the Health and Safety risks for customers, staff and horses at the stables.

- 5.2 A fire at Merton Grounds Farm in January 2010, highlighted the importance of unrestricted access for emergency services to my clients' property. Particularly unrestricted access for ambulances is important to my clients with regards to their equestrian use of the property.

6 Dangerous access to current highway

- 6.1 On the west side of the railway, the proposed route joins the highway next to a narrow bridge, on a stretch with trees close to the road and close to a long blind bend where traffic often travels very fast.
- 6.2 Although Chiltern Railways will be required to build any access to highway specifications, my clients are concerned that this will always be a dangerous access point, particularly due to the width of the existing road.
- 6.3 I am aware that the proposed modification is likely to provide a much safer access to the current highway, but it will also add more distance to the majority of my clients journeys

7 Increase of footpath traffic near MGF

- 7.1 As part of the order, there is a proposal to divert the footpath (FP398/6, showing green on the map in 3.2), which runs from Wendlebury to the bridleway. The diversion means the footpath will join the new proposed route on the bridge crossing the railway at point X in 3.2 and then pick up with the old route of the footpath at point Y in 3.2.
- 7.2 With the currently proposed route, this diversion means that it is very likely for walkers coming from Bicester travelling to the Merton Road, who would previously have used the Langford Lane crossing to access the bridleway, to now pick up the footpath (FP398/6) east of the railway (point Y in 3.2) to get to the bridleway. This would be far shorter than walking north over the proposed Red Route towards Bramlow (point F in 3.2) to then follow the bridleway south. As this footpath (FP398/6) runs in close proximity of my clients' property, my clients feel this would increase their security risk unnecessarily. They are also concerned that cyclists and horse riders will find ways to (illegally) use this shortcut which my clients have experienced on the footpath in front of their property, where cyclists and horse riders have been using it as a shortcut to Merton.

8 Effect on archaeology

- 8.1 It is my understanding that the fields to the east of the railway, where the proposed route is planned, have a high potential for buried archaeological deposits. In the field to the west of Langford Brook there is a Roman Parade

Ground, marked brown on the map in 3.2. The map also shows of the area of the Scheduled Ancient Monument in purple, the proposed route in red, Langford Brook in blue.

- 8.2 The Roman Parade Ground was discovered on aerial photographs, at a time after the Roman Town of Alchester had already been given the status of a Scheduled Ancient Monument. In consultation with English Heritage and Oxfordshire County Council archaeologist it was indicated that, in their opinion, the site of the Parade Ground is of National Importance and should have been added to the monument, which has not happened. I understand that because the Parade Ground falls outside the Monument, English Heritage has no strong powers to object, unless it affects the view from the Scheduled Monument.
- 8.3 As you can see on the map in 3.2, the proposed road (in red) crosses the access road to the Roman Parade Ground. I believe this will spoil any potential opportunity to add this important piece of Heritage in its entirety to the Scheduled Monument in the future.
- 8.4 In CD/1.18 on page 619, number 210 refers to the site of a building, which is very near to the line of the proposed new road and suggests a high probability of further significant finds in that area west of the stream.
- 8.5 In CD/1.18 on page 615, number 132 refers to a watching brief where no evidence of archaeological activity. It then concludes, that should any suburbs of the Roman town of Alchester exist on the East side, they did not extend beyond the stream [Langford Brook] that is adjacent to this site.
- 8.6 In CD/1.18 on 15d page 619, number 313 refers to an extant hedgerow that meets the Schedule 1 Part II criteria of the Hedgerow Regulations to be defined as an "Important Hedgerow". With the proposed route part of this hedgerow is to be removed. According to the 1997 Hedgerow Regulations, under point 6c (extract in Appendix 4), removal is only allowed for obtaining access to land, where another means of access is not available or is available only at disproportionate cost. I believe Chiltern Railways have not complied with this rule, as there is an alternative access, which I will explain in point 11.

9 Effect on the Flood Zone 3

- 9.1 In CD/1.18, paragraph 3.1, explains that an "Application of the PPS25 Exception Test is required for Essential Infrastructure developments that lie within Flood Zones 3a and 3b." Paragraph 3.2 explains that "The Sequential Test is a risk-based approach to be applied at all stages of the planning process, and aims to steer new development to areas at the lowest possible risk of flooding." Paragraph 3.5.5 explains that as the development is in Flood Zone 3, a Sequential Test has been applied.
- 9.2 The outcome of the test according to the report is as follows:
It is proposed that the current solution is the most appropriate as it:
 - *Minimises the extent of new road and so will reduce the probability of any significant obstruction to flood flows across the site;*

- *Avoids impacting upon both a Scheduled Ancient Monument and existing residential and equestrian properties;*
- *It maintains access to the MoD Bicester sidings; and*
- *enables the infrastructure for the rail approach to Bicester Town Station.*

It is therefore proposed that the justification above enables the development site to pass the Sequential Test. It is clear that there are no reasonably alternative sites, given the requirement for a railway crossing point in the immediate area to compensate for the closure of the Langford Lane level crossing.

- 9.3 Although I agree that, from all the options for replacing the Langford Lane railway crossing that have been looked at, a bridge crossing of the railway where it is proposed, is the best alternative, however, I am adamant that realignment of the route to the east of the railway, which I will suggest in 11.1, offers a greater justification for the outcome to the Sequential Test as it steers a large proportion of the route, which lies in a Flood Zone 3 to a Flood Zone 1 area. It also further minimises the extent of new road as it partly uses an existing road.
- 9.4 The other point of the outcome of the test: "*Avoids impacting upon both a Scheduled Ancient Monument and existing residential and equestrian properties;*" proves that the other parties with an interest in the area (Merton Grounds Farm, Merton Grounds Farm Cottage, The Deeley Trustees, Topbreed Ltd and Primepark Ltd), have not been taken into account by Chiltern Railways in this whole process, as these properties/parties are not being avoided from impact by the proposed route.
- 9.5 The two remaining points of the outcome of the test will not change with the proposal in 11.1.
- 9.6 I would like to draw your attention that the land West of Langford Brook, where a clear span bridge is currently planned, is very wet and often waterlogged during the winter. I believe this will lead to over complicated engineering works within the Flood Zone 3.

10 Unnecessary use of green belt land

- 10.1 In my opinion not enough attention has been given to minimise the amount of development of the green belt in choosing the proposed route. When researching the chosen option, it seems that Chiltern Railways have not tried to maximise the use of already developed land. With a small alteration, the proposed route can join an existing road, which forms the access to a number of properties and is a bridleway at present.

11 Alternative route – The Orange Route

- 11.1 My clients appreciate that the whole scheme is for the common good and would be willing to accept a diversion to their access, but only if part of the proposed route is altered and the access to the current highway (point A in 3.2) is safe and

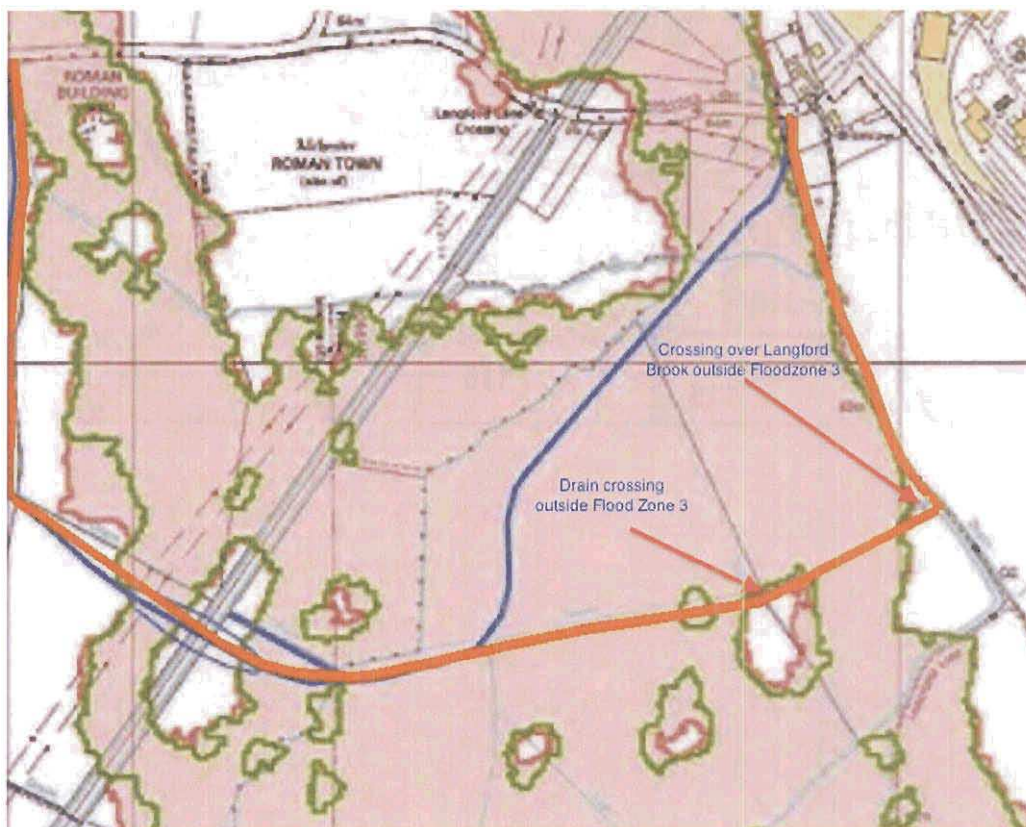
appropriate for large vehicles turning. My clients' proposal is for the route to remain as Chiltern Railways have shown (Red Route) from A to B on the map in 3.2, but instead of veering off to the North at B, for the road to continue along the field boundary heading east, via C, crossing Langford Brook at D, then turning north following the existing farm track/bridleway (Orange Route) towards point E. From here the route would follow parallel to point F, which is the same point where the proposed Red Route terminates. I believe that the Orange Route has serious advantages compared to the Red Route for all affected parties:

- 11.2 Advantages for land owners and/or parties whose access to properties is affected:
 - 11.2.1 It resolves my clients' concern described in 3.4 as Merton Grounds Farm, Merton Grounds Farm Cottage, Primepark Ltd, Topbreed Ltd, The Deeley Trustees and other bridleway traffic will have a shorter route to travel to the main road. It also resolves my clients' concern described in point 5 as it eliminates the very awkward, almost hairpin type, turn near Bramlow, where access is already regularly compromised due to parked vehicles on the side of the road.
 - 11.2.2 It eliminates traffic designated to the Merton Grounds Farm, Merton Grounds Farm Cottage, Primepark Ltd, Topbreed Ltd, The Deeley Trustees (which are the most likely designations for heavy plant, agricultural machinery and articulated HGV's) from going past Bramlow and Wendlebury Gate Stables, thus reducing the Health and Safety risk for the equestrian business.
 - 11.2.3 It will in effect create a private access to Bramlow and the equestrian business further improving the safety.
 - 11.2.4 It will cause a lot less disruption to the equestrian business at Bramlow during the construction period, as the bridge over Langford Brook will not be built in close proximity of the business. It will also not interfere at all with their paddocks across Langford Brook (areas 07a002 and 07a003 on Chiltern Railways project maps), again greatly reducing Health and Safety risks.
 - 11.2.5 Alchester house will have more distance between its land and the new highway, offering them less noise and more privacy/security
 - 11.2.6 Elm Tree Farm will lose less agriculture land area, due to less land take and because the Orange Route stays largely close to a current field boundary
 - 11.2.7 Elm Tree Farm will have easier road access to their fields
- 11.3 Advantages for the general public:
 - 11.3.1 It will resolve my client's concern as described in point 4 as horse riders and cyclist will have a shorter and more direct route from Bicester to the Merton Road (the likelihood is that more people will cycle in future and this should be encouraged and attractive routes provided where possible)
 - 11.3.2 It also resolves my clients' concern raised in point 7, as walkers from Bicester now have a direct shorter route to reach the bridleway
 - 11.3.3 It also resolves my clients' concern described in point 10 as less area of green belt land will have to be dug up as an existing road (bridleway) is used.
 - 11.3.4 Although part of the bridleway will become an adopted highway, a large amount of traffic currently using the bridleway for access (Merton Grounds Farm, Merton Grounds Farm Cottage, The Deeley Trustees, Topbreed Ltd and

- 11.4.2 The Orange Route passes south of the Roman Parade Ground (134 on the above map) instead of going through the access road of it.
- 11.4.3 It takes a public highway further away from the Scheduled Ancient Monument which has been indicated to be preferred by English Heritage and the Oxfordshire County Archaeologist
- 11.4.4 It eliminates disturbing "site of building" at point 210 as described in 8.4
- 11.4.5 The Orange Route does not affect the Extant Hedgerow (at point G on the map in 3.2) as described in 8.6 and therefore adheres to 1997 Hedgerow Regulations, point 6c
- 11.4.6 I refer to an email in Appendix 4, in which Chris Welsh from English Heritage writes:

"As the alternative route you are suggesting lies outside the scheduled monument of Alchester Roman Town I have discussed this with the Oxfordshire County Archaeologist, Paul Smith. We both take the view that your alternative route may have an impact upon buried archaeological deposits, but it is certainly worth considering and is probably better than the currently proposed route."

- 11.5 Advantages for development in Flood Zone 3 and resolving my clients concerns raised in point 9:
- 11.5.1 I show a Map, which I will refer to for Flood Zone 3 references



- 11.5.2 There will be approximately 350 meter less development in Flood Zone 3
- 11.5.3 Construction of a clear span bridge over Langford Brook will move to outside Flood Zone 3 (point D on map in 3.2)
- 11.5.4 There will be less road surface within the floodplain area, as part of the new route will be merged with an existing road (bridleway) which lies outside the Flood Zone 3
- 11.6 Advantages for Chiltern Railways:
- 11.6.1 Chiltern Railways will have to compulsory purchase a smaller area of land
- 11.6.2 Chiltern Railways construction and engineering works will be simplified; instead of a bridge diagonal over Langford Brook in Flood Zone 3 with the Red Route, it only needs to construct a straight bridge outside the Flood Zone 3
- 11.6.3 The land across Langford Brook with the Red Route (07a002, 07a003 on Chiltern Railways supplied maps) is extremely waterlogged (Flood Zone 3) and would require more engineering work than the Orange Route
- 11.6.4 The Orange Route will have one less watercourse/drain crossing (from 07a001 to 07a002)
- 11.6.5 With the Orange Route, the drain crossing at point C, between the "Roman Parade Ground field" and the field to the West, is outside the Flood Zone 3, which requires less engineering work within the floodplain
- 11.6.6 The current bridleway hardcore (currently up to 3 m wide and 500 mm thick) could be re-used as a sub-base for the new highway, which could save on costs and transport emissions
- 11.6.7 I refer to photographic evidence in Appendix 6 which shows a hedgerow that is already planted along bridleway to accommodate a turning area near the Langford Brook crossing, an upgrade to a highway for the length required and provide a screen for the land owned by the Deeley Trustees on the other side of the hedge
- 11.6.8 Topbreed Ltd, owners of the affected part of the bridleway, have agreed to provide the area of the bridleway, including the large verge and hedgerow required for the Orange Route at a nominal fee of £1
- 11.7 Satisfying to wishes of affected parties
- 11.7.1 It is my understanding that Topbreed Ltd has established an landowners agreement, which suggests that the Orange Route will be achievable as all land owners of the land over which the Orange Route passes are in favour of the Orange Route
- 11.7.2 It is also my understanding that the following parties who will require access rights over the Orange Route are in full support of the Orange Route:
- 11.7.2.1 *Merton Grounds Farm Cottage*
- 11.7.2.2 *Topbreed Ltd*
- 11.7.2.3 *Primepark Ltd*
- 11.7.2.4 *The Deeley Trustees*
- 11.7.2.5 *Bramlow including the Equestrian business*
- 11.7.3 The owner of Alchester House is the only other householder affected by the Orange Route and has not indicated opposition or support for the Orange Route

12 Modification to Draft Order Submission

- 12.1 Although my clients are affected by the Modification to the Draft Order as submitted by Chiltern Railways in way of further increase to the distance they have to travel for the majority of their journeys, they are willing to accept the Modification, if the Orange Route has been accepted.

13 Conclusion

- 13.1 I feel the lack of consultation with my clients has prevented the opportunity to reach an acceptable solution for all parties prior to the submission of the order.
- 13.2 In my opinion, Chiltern Railways have failed to justify the route of the proposed re alignment of the Langford Lane crossing
- 13.3 I feel strongly that there is substantial evidence showing the Orange Route is a better option for all parties involved and very likely a cheaper alternative to Chiltern Railways
- 13.4 Topbreed has provided evidence, in the form of a land owners agreement, that the Orange Route is achievable
- 13.5 If the Orange route has been accepted as an alternative to the Red Route, my clients will withdraw their objection to the scheme completely
- 13.6 I ask the inspector to urge Chiltern Railways to re address the realignment of the Langford Lane Crossing to come to an agreeable solution with all parties.