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Dear Jane,

TRANSPORT AND WORKS ACT 1992 APPLICATION FOR THE PROPOSED CHINNOR AND PRINCES RISBOROUGH RAILWAY (CHINNOR BRANCH AND RISBOROUGH SIDINGS) ORDER 2021

1. I am directed by the Secretary of State for Transport to say that consideration has been given to the application made on 24 September 2020 by your client, Chinnor and Princes Risborough Railway Association Limited (“the Applicant”) for the Chinnor and Princes Risborough Railway (Chinnor Branch and Risborough Sidings) Order (“the Order”) to be made under sections 1 and 5 of the Transport and Works Act 1992 (“TWA”).
2. The Order relates to the Watlington branch line and part of the railway track at and in the vicinity of Princes Risborough station, including an approximately half-mile length of railway track (“the railway”). The Order, if made, would authorise the transfer from Network Rail Infrastructure Limited (“NR”) to the Applicant of certain statutory provisions and other rights and obligations relating to the railway as conferred or imposed by the Watlington and Princes Risborough Act 1869. The Order would also provide for the Applicant to operate and use the railway and to transfer the railway, with the consent of NR, to Chinnor & Princes Risborough Railway Company Limited (a wholly-owned subsidiary of the Applicant which trades on its behalf and operates the railway) or, with the consent of NR and the Secretary of State, to a third party.
3. The Order does not authorise the acquisition of land or construction of works and all the land to which the Order relates is currently owned by NR and leased to the Applicant.

Summary of the Secretary of State's decision

4. For the reasons given in this letter, **the Secretary of State has decided to make the Order.**

Procedural matters

5. The Applicant applied under rule 10 of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 ("the Rules"). The application documents were available for inspection via the Applicant's website, via appointment at the Applicant's address and at Princes Risborough library. The London Gazette gave notice for the application on 24 September 2020. The local newspaper Bucks Herald gave notice for the application on 23 and 30 September 2020.
6. In response to the application, a holding objection was submitted by Buckinghamshire Council on 5 November 2020 and subsequently withdrawn on 12 November 2020, following confirmation by the Applicant that the Order does not authorise any works. No other objections, representations or letters of support have been received in respect of the application.

Background to and aims of the application

7. The Applicant set out in its Statement of Aims, which accompanied the application, that the Chinnor and Princes Risborough Railway Order 1994 provided for the transfer of part of the railway line between Chinnor and Princes Risborough ("the Chinnor line") from British Rail ("BR") to the Applicant. The first public service since 1957 then commenced on 20 August 1994. The Chinnor and Princes Risborough Railway (Extension) Order 1995 authorised the transfer from BR to the Applicant of a further 273 metres of the Chinnor line towards Princes Risborough, together with a section of the adjacent "Thame line" which had been mothballed since 1991. This enabled the Applicant to construct a "run around loop" using part of the Thame line known as the "Thame junction", and passenger services were extended to Thame junction from March 1996.
8. In June 2016, following agreement with the Office of Rail and Road ("ORR"), the Applicant entered into a track access agreement with NR which enabled heritage trains to access Princes Risborough station on the former Thame line. This track runs adjacent to the former Watlington line previously used for trains travelling to Chinnor. This arrangement was intended to be of a temporary nature whilst the Applicant negotiated the terms of a lease for the former Watlington line with NR, thereby providing the Applicant with a line independent from the use of NR's Thame line. In March 2017, the Applicant completed a 99-year lease with NR for the Watlington line and land at Princes Risborough. The rebuilding of the fourth platform at Princes Risborough station and substantial refurbishment of the track enabled passenger services to commence under the terms of the track access agreement on 15 August 2018.
9. The Applicant set out that despite the co-operation of NR, the current means by which heritage trains access Princes Risborough station is unsatisfactory, as access is only available at times appropriate to NR and relevant train operating companies. Under the present system, there have been several occasions when heritage trains have been

either denied access or had access delayed due to the requirement to use the Thames line for other railway operations. The current track access agreement expires in 2021 and its renewal is not certain.

10. The Order, if made, will provide for the transfer from NR to the Applicant of the statutory rights and obligations pertaining to the Watlington line with effect from the date upon which the Order comes into force until the expiry of the 99-year lease. It will enable the Applicant's heritage and community trains to continue operations in to Princes Risborough, over its own track and without interference from NR or any train operating company operations.

Funding

11. The Secretary of State notes the Applicant's funding Statement that accompanied the Application and the additional information regarding funding that was provided by the Applicant in a letter attached to an email of 29 January 2021. The Secretary of State is content that the Applicant has sufficient funds to fully implement the Order and that the appropriate level of assurance has been provided to allow the Secretary of State to be sufficiently confident that there is appropriate funding to ensure the effective and continued operation of the railway in terms of the Order.

The Secretary of State's consideration and decision

12. From the Applicant's Consultation Report, included with the application documents (as required by rule 10(2)(d) of the Rules), the Secretary of State notes that the Applicant received two substantive responses, both of which raised queries that were answered to the responder's satisfaction. No issues were raised by the ORR to the application. With regard to NR, the Secretary of State notes that the Applicant has corresponded with NR in relation to the Order and that the Applicant has provided the Secretary of State with an email from NR dated 29 September 2020 confirming that it is content for the Order to be made as submitted in draft with the application.
13. The Secretary of State notes that there are no outstanding objections to the application. The Secretary of State agrees with the reasons for the transfer as set out above. The Secretary of State is satisfied that it is in the public interest to transfer the statutory provisions, rights and obligations pertaining to the railway to the Applicant. The Secretary of State has therefore decided to make the Order, subject to a number of modifications which do not make a substantial change in the proposals so as to require notification to affected persons under section 13(4) of the TWA. The modifications are as follows:
 - The provisions relating to dispute resolution have been removed. The Secretary of State's view is that such provisions are not justified, and that it would be inappropriate for him to arbitrate in any difference between the Applicant and NR under the Order. The Secretary of State notes that it is open to the Applicant to contact the Institution of Civil Engineers for arbitration services.
 - In article 6 (saving for main lease), the provisions relating to the circumstances in which NR may consent to a transfer of the railway under article 4 (transfer of railway by undertaker), and in which NR's consent may be deemed, have been removed.

The Secretary of State's view is that NR is sufficiently protected by the consent requirements contained in article 4 and the saving provision contained in article 6 (as amended).

Notice of determination

14. This letter constitutes the Secretary of State's notice of his determination to make the Order, with modifications, for the purposes of section 14(1)(a) and (2) of the TWA. Your client is required to publish newspaper notices of the determination in accordance with section 14(4) of the TWA.

Challenge to decision

15. The circumstances in which the Secretary of State's decision may be challenged are set out in the Annex to this letter.

Yours sincerely,

Natasha Kopala

RIGHT TO CHALLENGE ORDERS MADE UNDER THE TWA

Any person who is aggrieved by the making of the Order may challenge its validity, or the validity of any provision in it, on the grounds that:

- it is not within the powers of the TWA, or
- any requirement imposed by or under the TWA or the Tribunals and Inquiries Act 1992 has not been complied with.

Any such challenge may be made, by application to the High Court, within the period of 42 days beginning with the day on which notice of this determination is published in the London Gazette as required by section 14(1)(b) of the TWA. This notice is expected to be published within three working days of the date of this decision letter.

A person who thinks they may have grounds for challenging the decision to make the Order is advised to seek legal advice before taking any action.