

REVISED

House of Lords and House of Commons

EXAMINATION OF A PUBLIC BILL WHICH IS PRIMA FACIE HYBRID

High Speed Rail (West Midlands – Crewe) Bill

Tuesday 12 September 2017

Before:

The Examiners of Petitions for Private Bills:

MR JAMES COOPER, Counsel to the Chairman of Committees, House of Lords
MR DANIEL GREENBERG, Counsel for Domestic Legislation, Office of Speaker's Counsel, House of Commons
MR COLIN LEE, Clerk of Bills, House of Commons
MS CHRISTINE SALMON PERCIVAL, Clerk of Private Bills, House of Lords

MRS ALISON GORLOV of Winckworth Sherwood appeared as the Parliamentary Agent for the Bill.

There also appeared:

MR MARK AANENSEN, Parliamentary Clerk, Winckworth Sherwood
MR JAMES O'CONNOR, Partner, Eversheds
MR DARREN WHITE, Parliamentary Clerk, Eversheds
MR BRUCE MARTIN, Bill Deposit Manager, Hybrid Bill Preparation Team, HS2 Ltd
MR PETER MILLER, Head of Environment, HS2 Ltd
MS CEIRE O'REILLY, Powers and Consents Manager, HS2 Ltd
MR RAJ RANDHAWA, Land Referencing Lead, Land & Property, HS2 Ltd
MS VICTORIA SHERWIN, WSP (Land Referencing)

(10.00 am)

1. **MR LEE:** Good morning. Welcome to this public meeting of the Examiners of Petitions for Private Bills. I think it would be helpful for the record to state why we are all here. We are here to look at the High Speed Rail (West Midlands—Crewe) Bill, which is a public bill introduced in the House of Commons which has been referred to the examiners under House of Commons Standing Order 224 and Lords Standing Order 83, as being prima facie hybrid. It is our task as examiners who, for the record, are impartial officials of the two Houses to determine whether the Bill is indeed hybrid and, if so, to consider whether the private business Standing Orders, which are therefore applicable, have been complied with.

2. Before we get into the substance, I will introduce myself and my fellow examiners. I am Colin Lee, Clerk of Bills in the House of Commons. To my left is Christine Salmon Percival, who is Deputy Clerk of Legislation in the House of Lords. To my right is Daniel Greenberg, who is Counsel for Domestic Legislation in the Office of Speaker's Counsel. To my far left is James Cooper, who is Counsel to the Chairman of Committees in the House of Lords.

3. I will now ask Alison to introduce herself and then suggest that the others who will be giving proofs this morning also introduce themselves.

4. **MRS GORLOV:** Thank you very much. I am Alison Gorlov and I am appearing today as the agent for this Bill. I am accompanied by a number of people who will be proving various things to you. It is probably sensible if I ask them to introduce themselves, starting with Victoria, please.

5. **MS SHERWIN:** My name is Victoria Sherwin. I am here representing WSP, land referencers for Phase 2a.

6. **MR RANDHAWA:** I am Raj Randhawa. I work for High Speed 2 as Land Referencing Lead.

7. **MR MARTIN:** I am Bruce Martin, HS2 Bill Deposit Manager.

8. **MS O'REILLY:** Ceire O'Reilly, HS2 Powers and Consents Manager.

9. **MR MILLER:** I am Peter Miller, I am HS2's Environment and Town Planning Director.

10. **MR O'CONNOR:** I am James O'Connor, Eversheds Sutherland on behalf of HS2.

11. **MR WHITE:** I am Darren White, Eversheds Sutherland, Parliamentary Clerk.

12. **MR AANENSEN:** Mark Aanensen, Winckworth Sherwood, Parliamentary Clerk.

13. **MR LEE:** Thank you very much. I will now try to explain how the meeting will work. The first decision before us is whether the Bill is indeed hybrid. We have considered this

already as examiners and our conclusion is that it is because it directly and specially affects individuals in a way different from the way it affects the general public. If this railway had not been an undertaking of national importance, obviously it would have been proceeded with in other ways, for instance, as a private bill. We see no reason to hear further evidence on this point and so that will stand as our decision.

14. Our next and main task today is to consider how far the Standing Orders of the two Houses, which thereby apply to the Bill, have been complied with. For the purposes of this examination, they are Standing Orders 4 to 59 in the two Houses—that, as we will see as we go along, is a slightly incomplete list because of the As and the missing numbers, but it will do for now—Standing Order 83A in the Lords and Standing Order 224A in the Commons. In each case, those Standing Orders were modified for the purpose of this Bill by orders of the two Houses, allowing for electronic deposit of documents passed by the House of Commons on 11 July and by the House of Lords on 17 July. We need to read the Standing Orders in that light.

15. We will now consider each Standing Order in turn and invite the agents and promoters to prove compliance with it. Where we think it is straightforward I hope it will be for the convenience of parties if we give a provisional indication after each Standing Order has been considered whether we are minded that it is compliant or non-compliant, which will save time at the end. There may be some cases where we want to reserve our judgment. If there are such cases, we propose to confer briefly at the end of the examination and return to public session with the final view. We will of course make our usual report to the two Houses for the record.

16. Finally, I should say that a transcript of today's proceedings will be available soon on the Parliamentary website, hopefully later this week, and that the proceedings are being webcast. I will now handover to Mrs Gorlov to start the proofs, beginning with Standing Order 4.

17. **MRS GORLOV:** Thank you very much, sir. Mr Aanensen, will you hand the examiners the newspapers listed on pages 1 and 2 of the proof? I should say that they contain notice of the introduction of the Bill. Mr O'Connor, can you please prove that insofar as required by Standing Orders, each notice contains a concise summary of the purposes of the Bill?

18. **MR O'CONNOR:** Yes, I do.

19. **MRS GORLOV:** Can you prove that insofar as required by the Standing Order, each notice states when a copy of the Bill may be inspected and where, and contains the other particulars mentioned in the proof?

20. **MR O'CONNOR:** Yes, I do.

21. **MRS GORLOV:** Do you also prove that the notice states the time at which objection may be made and the other particulars stated in the proof regarding that?

22. **MR O'CONNOR:** Yes, I do.

23. **MRS GORLOV:** And that each notice is headed and subscribed as mentioned on page 5 of the proof?

24. **MR O'CONNOR:** Yes, I do.

25. **MRS GORLOV:** I consider that this Standing Order has been complied with in all respects, except as to time. Without prejudice to that, perhaps I might draw attention to newspaper number 17 on page 2. This is the first publication of notice in the *Crewe Chronicle*. The notice was duly published. It was published on the right day. Unfortunately, the print setter got the pages out of order. Now, one could hazard a guess that perhaps it did not make terribly much difference to those reading it, but in any event we say that proper publication did take place because publication took place in other newspapers on the same day.

26. **MR LEE:** Chris, do you want to ask some questions?

27. **MS SALMON PERCIVAL:** If I may. You mentioned, Mr O'Connor, that you prove that each notice states the time within which objections may be made. In fact, with a hybrid bill it is the case, is it not, that it cannot contain the petitioning period for objections?

28. **MR O'CONNOR:** Yes, that is correct. The notice refers to the procedure for the deposit of a petition that will be notified in due course.

29. **MS SALMON PERCIVAL:** In fact, the proof that each notice states the time within which objections may be made by deposit is not strictly accurate?

30. **MR O'CONNOR:** In the case of a strict time date, no, it is not accurate, in that it states that the time will be notified.

31. **MS SALMON PERCIVAL:** Right. Do you have anything to add to that?

32. **MRS GORLOV:** Within the terms of the proof, I do not think it is wrong; it is an indication of time. Statement of the time within which something may be done I think can be complied with, and we say has been complied with, if one says that this is the timeframe in which it will happen or this is the procedure when the time will become known.

33. **MS SALMON PERCIVAL:** Arguably, I suppose this is one of many instances where it is a question of impossibility, that with hybrid bill procedure it is simply impossible to strictly act in accordance with the requirements of the Standing Order.

34. **MR O'CONNOR:** I would agree with that assertion.

35. **MS SALMON PERCIVAL:** Thank you.

36. **MR LEE:** Are there any other questions on Standing Order 4? Do we agree that the Standing Order has been complied with except as regards time? Yes.

37. **MRS GORLOV:** Thank you very much. We move on to Standing Order 4A concerning availability of the copies of the Bill. Mr Martin, do you prove that copies of the Bill were made available in the manner and at the offices mentioned in the notice?

38. **MR MARTIN:** I do.

39. **MRS GORLOV:** At this point, I should mention the mystery shopping tours which we regularly undertake to make sure that the local authorities with whom copies of the Bill are deposited have them on deposit and available for the public to look at. A note on that is in Appendix A. As you will see when you look at the note, not everybody got it quite right. This, of course, is not within the control of the promoter. It is the best we can do and the best we can get them to do by going round and reminding them of what they ought to have available. Some of them get it right, some of them get it wrong, some of them are receptive to us telling them and others are less so. On that basis, I consider that the Standing Order has been complied with in all respects, except time.

40. **MR LEE:** Thank you. Yes, you mentioned the mystery shopping exercise and the three out of the 22 cases where the requirements to make documents available under section 225 of the Local Government Act 1972 was not complied with. Then you say you wrote to the three councils and you alluded earlier to their responding in different ways. Did you receive anything by way of reply to the letters?

41. **MR MARTIN:** Not to the letters, no, but I have spoken to a couple of those people and they are now compliant with it.

42. **MR LEE:** Thank you. I know in relation to the Phase I Bill the question was considered of whether further action might be taken to raise awareness of this amongst local authorities. We may wish to pursue that separately, but I do not think it has a direct bearing on the proofs and our findings today. Do any other examiners have any queries? No. We agree that this Standing Order has been complied with except as regards time.

43. **MRS GORLOV:** Thank you very much indeed. Standing Order 5. Mr O'Connor, do you prove that insofar as is required by Standing Order, each notice contains the particulars stated on page 6 of the proof?

44. **MR O'CONNOR:** I do.

45. **MRS GORLOV:** Sir, I consider that this Standing Order has been complied with. Then Standing Orders 6 to 9—

46. **MR LEE:** Sorry, I have a question on Standing Order 5. This is an issue because it draws out a contrast, and I think, perhaps, an understandable contrast, with the Phase I Bill. Paragraph F of Standing Order 15, you have struck out as not applicable. The last bill disturbed roads, presumably in connection with the underground railway, but this is not at any point an underground railway for the purposes of Standing Orders.

47. **MRS GORLOV:** No, it is not.

48. **MR LEE:** Thank you. Do we agree that this Standing Order has been complied with? Thank you.

49. **MRS GORLOV:** Sorry if I was too eager to move on. Now we come to a batch of Standing Orders that are not applicable to this Bill: Standing Orders 6 to 9. We are not a gasworks, a tramway, a tram road or a waterway. We move onto page 7 and the newspaper notices for compliance with Standing Order 10. Sir, I prove that this Bill is not promoted by a local or a joint authority. I prove that the principal officer of the Minister in charge of the Bill is within the City of Westminster. Mr White, do you prove that the newspaper notice marked 2, which has already been handed in, was duly published as stated on page 8 of the proof?

50. **MR WHITE:** I do.

51. **MRS GORLOV:** Do you also prove that insofar as required by the Standing Order, the several newspapers notices are in the same terms?

52. **MR WHITE:** I do.

53. **MRS GORLOV:** Mr Randhawa, do you prove that the Bill relates to works which are to be and lands which are situated in the county of Staffordshire, the unitary district of Shropshire and the Borough of Cheshire East?

54. **MR RANDHAWA:** I do.

55. **MRS GORLOV:** Mr White, do you prove that the newspaper notices marked 1 to 18, which are handed in—

56. **MR LEE:** Sorry, is there not a proof below the proof of the borough of the areas concerned?

57. **MRS GORLOV:** Have I missed one? I beg your pardon. I am so sorry. Mr Randhawa, do you prove that the local authority areas are the only ones in which any new works to which Standing Order 27 applies are to be constructed and any lands that are intended to be acquired?

58. **MR RANDHAWA:** I do.

59. **MRS GORLOV:** Mr White, do you prove that the newspaper notices marked I to I8 previously handed in were duly published in the areas of the local authorities once in each of two consecutive weeks, with the interval stated on page 9 of the proof?

60. **MR WHITE:** I do.

61. **MRS GORLOV:** Do you prove that the several newspaper notices are in the same terms?

62. **MR WHITE:** I do.

63. **MRS GORLOV:** Sir, I consider that this Standing Order has been complied with in all respects, except as regards time.

64. **MR LEE:** The examiners are content, so I think we agree that this Standing Order has been complied with, except as regards time.

65. **MRS GORLOV:** Thank you. Mr Aanensen, do you hand in list A? Thank you. Do you prove that list A contains at least one place of public resort in each of the local authority areas in which the lands or works will be situated?

66. **MR AANENSEN:** I do.

67. **MRS GORLOV:** Mr Martin, do you prove that reasonable endeavours were made to ensure that copies of the newspaper notice were displayed in each place of public resort mentioned in that list?

68. **MR MARTIN:** I do.

69. **MRS GORLOV:** And for two consecutive weeks.

70. **MR MARTIN:** I do.

71. **MRS GORLOV:** Sir, I consider this Standing Order has been complied with in all respects, except as regards time.

72. **MS SALMON PERCIVAL:** On the concept of reasonable endeavours, so we can show due diligence can you tell me what reasonable endeavours means?

73. **MR MARTIN:** That is the mystery shop. Our mystery shoppers went and identified locations where the newspaper notice was on display. I also followed up via email and telephone with the relevant bodies.

74. **MS SALMON PERCIVAL:** Did you come across any examples where the notices were not displayed and you therefore requested them to be re-displayed?

75. **MR MARTIN:** No, they are not on that list. They have been removed from the list.

76. **MR LEE:** Do we agree that the Standing Order has been complied with, except as regards time? Thank you.

77. **MRS GORLOV:** Standing Order 11, page 10 of the proof. Mr White, do you produce the *London Gazette* of 19 July 2017 containing a notice of the Bill?

78. **MR WHITE:** I do.

79. **MRS GORLOV:** Mr O'Connor, do you prove that the notice states the particulars mentioned on page 10 of the proof?

80. **MR O'CONNOR:** I do.

81. **MRS GORLOV:** Sir, I consider that this Standing Order has been complied with in all respects, except as regards time.

82. **MS SALMON PERCIVAL:** Perhaps I could again raise the same point. It does not need further description but the same point arises as before on Standing Order 4 that technically you cannot show the petitioning period.

83. **MR O'CONNOR:** No, as before the notice sets out the procedure for when a petition can be made.

84. **MR LEE:** Do we agree the Standing Order has been complied with, except as regards time? Thank you.

85. **MRS GORLOV:** Standing Order 12 is not applicable to this Bill. This is not a tramway or trolley vehicle. Standing Order 12A, public footpaths. Ms Sherwin, can you prove that on 18 and 19 July that the notice required by Standing Order 12A was displayed as stated on page 11 of the proof?

86. **MS SHERWIN:** I do.

87. **MRS GORLOV:** Sir, I consider that this Standing Order has been complied with in all respects, except as regards time.

88. **MS SALMON PERCIVAL:** Could I, again, test the “some other place” concept in this Standing Order? Can you give an example where the ends of the footpaths were not reasonably accessible and therefore they had to be put in some other place?

89. **MS SHERWIN:** On Sandbach 52, the notice was not able to be put in the correct place so we had to move it back to the start of a separate footpath with a bespoke notice to state that it was for Sandbach 52.

90. **MS SALMON PERCIVAL:** Okay. Thank you very much.

91. **MRS GORLOV:** I refer to the terms of the proof, but if I could draw your attention to list B. Those are the places where the notifiable end was not accessible, so you know the places that Ms Sherwin is referring to.

92. **MR LEE:** Thank you very much. Do we agree that the Standing Order has been complied with, except as regards time? Yes. Standing Order 13.

93. **MRS GORLOV:** Mr Aanensen, can you hand in list C with post office receipts? Thank you very much. Ms Sherwin, do you prove that on 17 July 2017 as regards list C, you gave notice in writing in the form of Appendix A to the Standing Orders or as closely as possible to it to the parties mentioned in the list in accordance with Standing Orders 22 and 24?

94. **MS SHERWIN:** I do.

95. **MRS GORLOV:** And do you prove in the case of the notices forwarded by post, that they were posted on 17 July and that 28 of the notices were returned as undelivered?

96. **MS SHERWIN:** I do.

97. **MRS GORLOV:** You have a note on the returned notices at Appendix B. I am sure you have read it. Would you like me to take you through it?

98. **MS SALMON PERCIVAL:** If I could raise one point, it says in the proof that notices were posted on 17 July, but Appendix B does refer to the fact that some notices were posted to incorrect or insufficient addresses. I query whether or not that can constitute posting it, if it has gone to the wrong place. I was wondering how come some of the addresses were incorrect and insufficient.

99. **MS SHERWIN:** An example would be one address we had for an international address. The address was considered insufficient so they could not post it via the post office. We had to get back in touch with the landowner who lived in the UK to try and ascertain to the correct address.

100. **MS SALMON PERCIVAL:** In what sense was the address insufficient?

101. **MS SHERWIN:** I am not sure.

102. **MS SALMON PERCIVAL:** With the incorrect addresses, how come the incorrect addresses were used?

103. **MS SHERWIN:** In some instances where the addresses have been supplied by landowners on the land interest questionnaires they have not been exactly correct for the post office to then deliver the subsequent notices.

104. **MS SALMON PERCIVAL:** Right. Were all subsequently re-sent to correct addresses?

105. **MS SHERWIN:** Yes, they were.

106. **MS SALMON PERCIVAL:** Do you know that they were correct addresses?

107. **MS SHERWIN:** After doing several bits of research and talking to the landowners to get the correct addresses, yes.

108. **MS SALMON PERCIVAL:** Okay. Thank you.

109. **MRS GORLOV:** Just as a general point, it is not guaranteed that the book of reference is 100% correct. It is as correct as we can reasonably get it to be and if, when we serve the notices, it turns out that some of it is wrong, this is when we find out. In a sense, that is one of the things that the notice-serving exercise ought to do.

110. I ought, perhaps, to draw attention to one thing in relation to the international notice. This is the way we have always done it, which is not necessarily an indication that it is right. It is also very sensible, of course, if somebody is overseas, to send them a notice or to endeavour to do so. However, Standing Order 22—mode of giving notice—unlike lots of similar provisions in other procedures, does not say, “If you do it this way, that is okay, but that does not preclude doing it some other way”. It says that notice shall be given, which, on the face of it, is mandatory. In the case of a notice outside the jurisdiction, notice is to be given to an agent, which is absolutely fine if somebody has appointed an agent. They have not, in this case. We know that the person concerned was sent a notice at an address where we do not know if he received it, but it was the address that we were given as his address. Strictly, I suppose, and I realise Ms Salmon Percival is looking at this very strictly, quite rightly, we did not serve it on an agent because we do not have an agent on whom it might be served.

111. **MR LEE:** Thank you. The point about Standing Order 22 and comparable procedures might be helpful for the next phase of the hybrid bill review in terms of possible reform. We can see Daniel is looking at that with great care. We might come back to that,

but that does not have to be proved. As far as Standing Order 13 is concerned, are we satisfied it is being complied with, except as to time? Thank you.

112. **MRS GORLOV:** Standing Orders 14 to 21 are not applicable for this Bill, which I think takes us to page 21, Standing Order 25. The reason I have stopped at 21 is because there are 22, 23 and 24, which do not need to be separately proved. 25 and 25A are also not applicable. We start again at page 22. There is no separate proof of Standing Order 26. On Standing Order 27, plan and the book of reference, Mr Martin, do you prove that between 18 and 21 July, you deposited the documents stated at the top of page 23 of the proof in accordance with Standing Order 26?

113. **MR MARTIN:** I do.

114. **MRS GORLOV:** And that you deposited them with the proper officers mentioned in that paragraph.

115. **MR MARTIN:** I do.

116. **MRS GORLOV:** Do you also prove that those proper officers are the proper officers of the county, unitary, district and borough in which it is proposed to authorise works or the acquisition of land as stated in the proof?

117. **MR MARTIN:** I do.

118. **MRS GORLOV:** Do you prove that on 17 July 2017, you deposited in accordance with SO 26, a copy of the plan, section, book of reference and ordnance map as mentioned in the proof?

119. **MR MARTIN:** I do.

120. **MRS GORLOV:** Ms O'Reilly, do you prove that the ordnance maps deposited under Standing Order 26 are on a scale and with the line shown as stated in the proof?

121. **MS O'REILLY:** I do.

122. **MRS GORLOV:** Sir, I consider that this Standing Order has been complied with in all respects, except as regards time.

123. **MR LEE:** We agree that the Standing Order has been complied with, except with regards time. Standing Order 27A.

124. **MRS GORLOV:** Environmental assessment. Mr Martin, as to deposits and Mr Miller, as regards contents, do you prove that on 21 July 2017, you deposited in accordance with Standing Order 26 copies of an environmental statement containing information referred to in Standing Orders 27A (1) (a) and 3 of the House of Lords and 27A,

(1) (a) and 4 of the House of Commons, as stated at the top of page 24 of the proof, and between 18 and 21 July at the offices of the government departments or public bodies, as specified in the Standing Order 1A list?

125. **MR MARTIN:** I do.

126. **MRS GORLOV:** Can I refer you to the note at Appendix C, which is all about a collation error and the transposition of some pages. I realise you have read the note. To what extent would you like me to explain anything in it?

127. **MR LEE:** Would it be helpful if I hand over to Daniel who I know has some questions on this and take it from there?

128. **MR GREENBERG:** We can start at the back and then look at how much we need to look at on this. In the proof, you are inviting us to conclude that the Standing Order has been complied with in all respects except as regards time.

129. **MRS GORLOV:** That is right.

130. **MR GREENBERG:** Can you start by explaining to what the extent the “except as regards time” bit refers to this issue that you have just described?

131. **MRS GORLOV:** We do not think it does.

132. **MR GREENBERG:** As far as you are concerned, it is only about what?

133. **MRS GORLOV:** That the ES was deposited at the time that it was rather than in accordance with the Standing Order if it had been a private bill.

134. **MR GREENBERG:** Okay. Are we not including the discrepancies between the hard and electronic copies in that?

135. **MRS GORLOV:** We are not including that, the reason being that the information was correctly stated in volume two and in the main text. It was wrong as originally published in the hard copy and it was wrong in the appendix, but the correct information was there. We are not saying that the time alters because we subsequently substituted the correct pages.

136. **MR GREENBERG:** Okay. I want to take this slowly for the sake of the record, but also so that I make sure I have got my head around it. On the second piece of background, can I ask you just to comment? That is why I wanted to know whether you felt this was about time or compliance itself. If there were a failure to comply or, arguably, a failure to comply in time with 27A, what would the knock-on effect of that be on, in particular, 224A(3), which, as you know, that is the requirement effectively for the consultation period, which is the

56th day running from the first publication of the notice which invites comments on the statement.

137. **MRS GORLOV:** It follows from what I have just said that we do not think it would have any effect at all.

138. **MR GREENBERG:** Imagine there had not been compliance.

139. **MRS GORLOV:** Your question, I think, is whether the discrepancy in the hard copies would mean that the time period should be extended?

140. **MR GREENBERG:** Yes. If we regarded that as non-compliant, yes.

141. **MRS GORLOV:** Should you say there is non-compliance, and therefore the hard copies were not compliant, time should not run until the date on which the pages were corrected?

142. **MR GREENBERG:** That is right.

143. **MRS GORLOV:** I think that the position has to be exactly comparable to the Crewe newspaper that did not publish the notice correctly the first time round. We are saying that that was a compliance because the notice was correctly published elsewhere. Here, we have a valid e-deposit. We have two things: a valid e-deposit that was correct, and we also have a hard copy that is correct in the main text. That must be compliance. Yes, there was a discrepancy in the annex. I am not saying that nobody reads the appendix. I am not saying that the main text is necessarily always read before the appendix, although I hazard a guess that it is. The information was definitely there.

144. **MR GREENBERG:** I cannot speak for my fellow examiners, but, so you know, on Crewe, I was less impressed by the fact that it was published correctly in other newspapers; I was more impressed by the fact that in the copy that we saw, though there was a bit of a garble, you could see what was going on. I do not think it would be an answer to compliance to say that we did not publish it properly or at all in one newspaper but it was in some newspapers. In the newspapers that you have to publish it, you have to publish it. Again, drawing it out for the sake of the record, and I think I am nearly there, can you please explain how no one could have been misled or, indeed, left without the full information? I know you have already sort of done it, but can I ask you to go through it in full as to how no one could have been misled on the basis of the original publication?

145. **MRS GORLOV:** Absolutely. I do not think they could have been. First of all, let us look at the two columns that were wrong. These are figures: average daily combined two-

way vehicle trips. There are figures there. There should be figures right the way through; it does not make sense otherwise. However, if you turn to the second page of the copy that you have, in the two cells that are wrong in the third row down in the rather poor photocopy at the bottom of the page, you will see there that there is text. It is obviously completely wrong. If they were the wrong figures, I would take your point but it is immediately obvious that this is wrong.

146. I would suggest to you that, first of all, you do not get to this unless you are a relatively informed reader. I would suggest that anybody looking at this would realise there was something a bit wrong and would also realise this is repeated in the main text or rather this repeats what is in the main text, and would go back and look at the main text to see whether there was an explanation there. There would be a problem if that had been replicated in the main text, but it was not. The main text was correct.

147. **MR GREENBERG:** Okay, fine. I have no further questions.

148. **MR LEE:** There is one related issue. I take your fundamental point that nobody could imagine “Sandon Road auto-transformer station” was the average daily combined two-way vehicle trips. There is one point, which is, in a sense, about the interpretation of the Standing Orders for future reference. It is the argument that the correct USB version—the correct digital version—provides compliance with the Standing Orders. The modification of the Standing Orders by the orders of 11 July and 17 July does say—I will read from the Lords text, but obviously it is very similar in the Commons text—that this Order “shall not affect any requirement under those Standing Orders to deposit any document at or deliver any document to the Office of the Clerk of Parliaments”. The Commons equivalent relates to the Private Bill Office and the Vote Office in the House of Commons.

149. In a sense, those modifications of Standing Orders, further to allow for electronic deposit, designedly exclude the copies in the Private Bill Office, the Vote Office and the Office of the Clerk of Parliaments, which were for that short period, in regard to that very small element, incorrect from that week in July until the correction was reflected in the hard copy.

150. **MRS GORLOV:** I was not suggesting that the e-deposit got the promoter off the technical hook in relation to the public at large.

151. **MS SALMON PERCIVAL:** Can I ask one further question? In Appendix C, you assert that compliance with Standing Orders has been achieved as the deposit was electronic.

Then you go onto say, “And as the table was replicated in volume two”. I would certainly dissent from that first limb, that because the deposit was electronic that somehow provided a reason why this was not non-compliance, if arguably it was. I think it is the point about it being replicated in volume two that is the more important issue, and the fact that it is self-evidently wrong. The one little link I would like to be satisfied about is that if someone went straight to volume five, the wrong one, and thought, “Clearly this is wrong”, were they signposted to go to volume two to see the right one? Would they know to look to volume two?

152. **MRS GORLOV:** Mr Miller will correct me if I get this wrong. They would not necessarily know that the table is repeated in the appendix and that the table itself is also to be found in volume two. However, they would know that something wrong in an appendix might well be explained in the main text, to which the document they are looking at is merely an appendix. One would turn back to the main text and find out what enlightenment there was there. It might not have had the table in it, but as it happens it did. Therefore, the reader would see that those two cells had been populated differently and correctly and so would get there. This is the point.

153. **MS SALMON PERCIVAL:** Thank you. Do you have anything to add?

154. **MR MILLER:** Yes. To reinforce that point, throughout each of the documents of the environmental statement, there is a table that sets out the hierarchy, if I just show that to you, of all of the documents. You can see how volume five works with the other volumes. It is essentially a hierarchy of assessments. The assessment of significant effects is taking place in the volume two, so the area reports. I would echo what Alison Gorlov has said: the reader would naturally go to the area report and then go into greater depth should they be concerned about a particular issue. In this particular instance, they would have seen all of the correct tabulated information and data in volume two. As you say, it is pretty obvious that it is an error because it is not data in the two cells that are at issue here.

155. **MS SALMON PERCIVAL:** You would anticipate that a reader would start with volume two in the area that they lived in.

156. **MR MILLER:** Yes. It is a natural consequence of the environmental impact assessments. There is a non-technical summary, for example. The reader is drawn into the assessment in that sort of way. You look at the assessment in a certain way. You would go in more and more depth from that non-technical summary through the different volumes,

whether they are route-wide or geographic. If you wanted to be further satisfied, you would look at more detail about particular issues.

157. **MS SALMON PERCIVAL:** Thank you.

158. **MR LEE:** For the purpose of the transcript, Mr Miller, could you give the page reference to the visual hierarchy of documents because showing it will not be helpful for those trying to read the transcript?

159. **MR MILLER:** Yes, the hierarchy I am referring to is volume two community area reports. That is CA2: Colwich to Yarlet. It precedes page 1 of that document. It does not have a number itself but it is called Figure 1: Structure of the Environmental Statement.

160. **MR LEE:** Thank you.

161. **MR GREENBERG:** Presumably, even if the reader does not behave as you expect the reader to and they come across something that is a garble, which is the case here, they presumably contact you and say that, "This bit of the assessment looks wrong to me" and in this case, you would have been able to say to them, "You are right, that bit is wrong, but the same papers you are looking at, if you look at page such and such, you will find that it is right". This is not a case where you would need to issue new papers or a new assessment because the information was there. If someone had asked you, presumably you would have told them where it was.

162. **MR MILLER:** That is correct and I think that is the essence of the correspondence that went out to the individuals that are listed in Appendix B.

163. **MRS GORLOV:** Playing devil's advocate for a moment, it must be the case that if somebody gets in touch and we answer there is inevitably a time lag between that person spotting the error and being told the correct position. I think one must come back to the point about volume two coming before its appendix. The table, as you can see, is merely a list of data. It does not make too much sense to read the data without seeing what the data supports. It is supporting material and very obviously so. Sometimes with these documents, the supporting material is text and it is actually quite detailed, interesting text about whatever it is in the main statement. Here, I am not saying it is uninteresting, but data in itself does not mean an awful lot without first reading the statement that goes with it.

164. **MR LEE:** Since you played devil's advocate, Ms Gorlov, I would also make the point on your side, as it were, that you presumably have no evidence this error caused consternation or confusion to someone seeking to analyse the environmental assessment; it

was you yourselves who detected the error and corrected it at the earliest opportunity. Even then, only as it affected the hard copy, not the electronic copy.

165. **MR MILLER:** That is absolutely correct.

166. **MR GREENBERG:** Sorry to labour this point. I will stop, but I think you agreed with me that the process would be, if somebody did find an error, that there is a unit available within the organisation to respond to questions of that kind. On this occasion, you would have been able to respond to it by referring to material that had already been issued.

167. **MR MILLER:** Yes.

168. **MR LEE:** To use Daniel's phrase, we have laboured this slightly but obviously it needs no highlighting that this has potentially significant repercussive affects and has a bearing on Standing Order 224A or, in the case of the Lords, 83A. This is one where we will reserve our judgment, deliberate in private and then come to a view after a short suspension for that purpose. Shall we move onto Standing Order 29?

169. **MRS GORLOV:** Right. I think I ought formally to prove that those Standing Orders are not applicable. Standing Order 32.

170. **MR LEE:** The ones not applicable are 29, 30, 30A and 31.

171. **MRS GORLOV:** We move to Standing Order 32.

172. **MR LEE:** Sorry, and 32.

173. **MRS GORLOV:** 32 is also not applicable. 33. Mr Martin, do you prove that between 18 and 21 July 2017 you deposited in accordance with SO 26 a copy of the deposited plans and sections so far as relating to the portion of works affecting the banks, foreshore and bed of a river with the Environment Agency?

174. **MR MARTIN:** I do.

175. **MRS GORLOV:** And that that is the relevant body specified in the Standing Order 1A list?

176. **MR MARTIN:** I do.

177. **MRS GORLOV:** Ms O'Reilly, do you prove that the depth of proposed tunnels, the span, the headway and other particulars mentioned on page 28 of the proof are included in the plan and marked on the plans delivered or sent?

178. **MS O'REILLY:** I do.

179. **MRS GORLOV:** Do you prove that the plan is based on an Ordnance Survey map so there is no requirement to deposit an OS map?

180. **MS O'REILLY:** I do.

181. **MRS GORLOV:** Sir, I consider that this Standing Order has been complied with in all respects, except as regards time.

182. **MR LEE:** No questions. We are content. Thank you.

183. **MRS GORLOV:** Standing Order 34. Mr Martin, do you prove that between 18 and 21 July you deposited a copy of the deposited plans, sections and book of reference, together with a copy of the ordnance map at the departments and offices mentioned on page 28 of the proof?

184. **MR MARTIN:** I do.

185. **MRS GORLOV:** I consider that this Standing Order has also been complied with in all respects, except as regards time.

186. **MR LEE:** Thank you.

187. **MRS GORLOV:** Standing Order 35, I prove that it is not applicable to this Bill. Standing Order 36. Mr Aanensen, can you please hand in list D? Thank you very much. Mr Martin, do you prove that between 18 and 21 July, you deposited a copy of so much of the deposited plans, sections and book of reference as relates to their respective local government areas with the officers mentioned in list D?

188. **MR MARTIN:** I do.

189. **MRS GORLOV:** Do you also prove that list D contains all the areas, proper officers and chairmen mentioned in Standing Order 36(1)(a) to (d) and that those are the only areas to which the plans, sections and book of reference relate?

190. **MR MARTIN:** I do.

191. **MRS GORLOV:** Sir, I consider that this Standing Order has been complied with in all respects, except as regards time.

192. **MR LEE:** Thank you, yes.

193. **MRS GORLOV:** Standing Order 37 is not applicable to this Bill and I prove the same as regards Standing Order 38. Standing Order 39. Mr Martin, do you prove that between 18 and 21 July 2017, you deposited, as specified in the Standing Order 1A list and in accordance with Standing Order 26, printed copies of the Bill?

194. **MR MARTIN:** I do.

195. **MRS GORLOV:** Sir, I prove that those deposits are the only deposits required to be made under Standing Order 39 and I consider that this Standing Order has been complied with except as regards time.

196. **MR LEE:** Thank you.

197. **MRS GORLOV:** Standing Order 41. Mr Martin, do you prove that between 18 and 21 July 2017 you delivered, in accordance with SO 26, a printed copy of the Bill to the officers mentioned at the foot of page 31 of the proof?

198. **MR MARTIN:** I do.

199. **MRS GORLOV:** Do you also prove that those highway authorities are the only highway authorities liable for the maintenance of streets or roads in whose area it is proposed to authorise persons other than the highway authority to break up or interfere with the highway?

200. **MR MARTIN:** I do.

201. **MRS GORLOV:** Sir, I consider that this Standing Order has also been complied with in all respects, except as regards time.

202. **MR LEE:** Yes. Thank you.

203. **MRS GORLOV:** Standing Order 42. Mr Martin, do you prove that between 18 and 21 July, you delivered, in accordance with SO 26, a printed copy of the Bill to the public body specified in the Standing Order IA list?

204. **MR MARTIN:** I do.

205. **MRS GORLOV:** I consider that this Standing Order has also been complied with in all respects, except as regards time.

206. **MR LEE:** Yes. Thank you.

207. **MRS GORLOV:** Standing Order 43. Mr Martin, do you prove that between 18 and 21 July 2017, you delivered a printed copy of the Bill to the public body specified in the list kept under Standing Order IA and this is in relation to rivers or estuaries at the Environment Agency?

208. **MR MARTIN:** I do.

209. **MRS GORLOV:** Sir, I consider that this Standing Order has also been complied with in all respects, except as regards time.

210. **MR LEE:** Yes. Thank you.

211. **MRS GORLOV:** Standing Order 44 is not applicable to this Bill. Standing Order 45. Mr White, Mr Aanensen as regard deposit at the House, and Mr Martin, do you prove that on 18 July 2017, as regards deposits at the House and between 18 and 21 July as regards the SO 1A deposits, you deposited copies of the Bill as stated at page 35 of the proof?

212. **MR AANENSEN:** I do.

213. **MR WHITE:** I do.

214. **MR MARTIN:** I do.

215. **MRS GORLOV:** Mr White, do you prove that the estimate of expense is prepared in the form set out in Appendix B to the Standing Orders?

216. **MR WHITE:** I do.

217. **MRS GORLOV:** Ms O'Reilly, do you prove that the estimate was made by Mark Thurston, the HS2 Chief Executive, and that he has signed it?

218. **MS O'REILLY:** I do.

219. **MRS GORLOV:** Sir, I consider that this Standing Order has also been complied with in all respects, except as regards time.

220. **MR LEE:** Okay.

221. **MRS GORLOV:** Thank you very much. Standing Order 47, the housing statement. Mr Randhawa, do you prove that you prepared a statement in accordance with Standing Order 47 in respect of any area to which that order applies and in which it is proposed to authorise compulsory acquisition of specified land on which there are houses? Do you also prove that the statement shows the name and other particulars stated on page 35 of the proof?

222. **MR RANDHAWA:** I do.

223. **MRS GORLOV:** Sir, I prove that the Bill does not confer, revive or extend the time limit for the exercise of any power to acquire compulsorily or by agreement any area to which Standing Order 47 applies and any specific land on which houses are standing. I consider that this Standing Order has been complied with. Ms Bolton kindly pointed out to us yesterday that there is an error in the form of proof. I should say that it has been complied with in all respects, except as regards time.

224. **MR LEE:** Yes, as you said this is one of the Standing Orders that does have a December date in it in accordance with the standard private business and private bill arrangements.

225. **MRS GORLOV:** It does have a date in it.

226. **MR LEE:** Do we agree it has been complied with except as regards time?

227. **MRS GORLOV:** Perhaps you can say the same thing with regards all of the other bills where we have given the same proof.

228. **MR LEE:** Yes. We are only drawing particular attention to it because of the variation of the form of proof.

229. **MRS GORLOV:** Standing Order 48. Ms O'Reilly, do you prove that every deposited plan is drawn to the scale stated in the proof and has the descriptions also stated on page 36 of the proof?

230. **MS O'REILLY:** I do.

231. **MRS GORLOV:** Do you prove there is no alternative line or work laid down on the plan?

232. **MS O'REILLY:** I do.

233. **MRS GORLOV:** Do you prove that the limits of lateral deviation from the line of the proposed work are defined on the plan and that all lands within those limits are marked on it?

234. **MS O'REILLY:** I do.

235. **MRS GORLOV:** Do you prove that where a viaduct or tunnelling is intended the tunnel or viaduct is marked on the plan, and in the case of a viaduct by a dotted line?

236. **MS O'REILLY:** I do.

237. **MRS GORLOV:** Do you prove that where under the Standing Order a length is required to be stated on the deposited plan it is stated in kilometres and metres?

238. **MS O'REILLY:** I do.

239. **MRS GORLOV:** Sir, I consider that this Standing Order has also been complied with.

240. **MR LEE:** Okay thank you.

241. **MRS GORLOV:** Standing Order 49 is not applicable to the Bill. Standing Order 50: Ms O'Reilly, do you prove that the plan has marked on it the distances in kilometres from one of the termini?

242. **MS O'REILLY:** I do.

243. **MRS GORLOV:** I consider that this Standing Order has also been complied with.

244. **MR LEE:** Thank you.

245. **MRS GORLOV:** Standing Order 51, road diversions. Ms O'Reilly, do you prove that where it is proposed to divert, widen or narrow a public carriage road, public footpath or bridleway or to apply for powers to make any deviation from the course of the proposed diversion, the limits of the deviation are defined on the plan?

246. **MS O'REILLY:** I do.

247. **MRS GORLOV:** Thank you very much. I consider that this Standing Order has also been complied with.

248. **MR LEE:** Yes. Thank you.

249. **MRS GORLOV:** I prove that Standing Order 52 is not applicable to the Bill and the same as regards Standing Order 53. Standing Order 55—

250. **MR LEE:** 54?

251. **MRS GORLOV:** 54. I beg your pardon—slip of the tongue. Contents of the book of reference. Mr Randhawa and Ms Sherwin, do you prove that the deposited books of reference are in the same terms and contain the particulars stated at the top of page 39 of the proof?

252. **MR RANDHAWA:** I do.

253. **MS SHERWIN:** I do.

254. **MRS GORLOV:** Thank you. I consider that this Standing Order has been complied with. I should refer you to the note at Appendix D, which explains what we did to find out the particulars in the book of reference. I have not enquired how this happened in what must be an area of compulsory registration, why the land register was wrong, but there it is. There was an unknown entry. The Co-op came forward and said this was their land so we served notice on their land agent. I think you were asking earlier what enquiries were made in order to make sure we got the book of reference right. You were not asking it, but I think it was implied in what Ms Salmon Percival said. This is a list of what the referencers do in order to try to find out. I think it shows that even in these days of compulsory registration and people's addresses being absolutely everywhere, it is not always possible to find out the details.

255. **MS SALMON PERCIVAL:** Could I ask one small question? It mentions in Appendix D that 35 site notices had to be erected on or near the land in question. What does "on or near" mean? I know what on means but how near is near?

256. **MS SHERWIN:** For instance, if the piece of unknown land was in a field it would be put on the entrance. If there was a gate, it would have been attached to the gate. Otherwise, it would be erected onto a stake.

257. **MR LEE:** Do we agree Standing Order 54? Yes. Thank you.

258. **MRS GORLOV:** Thank you very much. Standing Order 55 and the sections. Ms O'Reilly, do you prove that every deposited section is drawn to the scale and shows the surface of the ground as mentioned on page 39 of the proof?

259. **MS O'REILLY:** I do.

260. **MRS GORLOV:** Do you prove that where tunnelling or a viaduct is intended it is marked on the section?

261. **MS O'REILLY:** I do.

262. **MRS GORLOV:** Do you prove that the height of any bridge and the line of a bridge or viaduct are as stated in paragraphs (a) or (b) on page 39 of the proof?

263. **MS O'REILLY:** I do.

264. **MRS GORLOV:** Sir, I consider that this Standing Order has been complied with.

265. **MR LEE:** Thank you.

266. **MRS GORLOV:** Thank you very much. I prove that Standing Order 56, improvement of navigation, is not applicable to this Bill. Standing Order 57. Ms O'Reilly, do you prove that the line of the railway marked on the section corresponds with the upper surface of the rails?

267. **MS O'REILLY:** I do.

268. **MRS GORLOV:** Do you prove that distances on the datum line, the vertical measure and each end of the railway with a constant gradient are as stated on page 40 of the proof?

269. **MS O'REILLY:** I do.

270. **MRS GORLOV:** Do you prove that where the line of the railway is intended to cross a waterway, public carriageroad, railway or tramway, the particulars given on page 40 of the proof are also shown?

271. **MS O'REILLY:** I do.

272. **MRS GORLOV:** I consider that this Standing Order has been complied with.

273. **MR GREENBERG:** Sorry, I am catching up with everybody. In the proof, where the line of the railway is intended to cross any waterway, you are proving that the height of the intended railway or the depth under is what?

274. **MRS GORLOV:** It is as described in the section.

275. **MR GREENBERG:** Are you saying the last words of B are meant to qualify (a) and (b)?

276. **MRS GORLOV:** Yes. It would be helpful if it was a full out, would it not? It would be helpful if “the crossing” was a full out.

277. **MR GREENBERG:** Given that the alternative does not make sense, yes.

278. **MRS GORLOV:** No, quite. I think there is one other place in the form of proof where it does the same thing.

279. **MR GREENBERG:** Okay. I was obviously asleep at that point, but I woke up in time to ask you about that.

280. **MS SALMON PERCIVAL:** Alison, if you do not know what the other place is—

281. **MRS GORLOV:** I will have to look back and see it but I am sure I can find it, certainly. I will mark this one so that we remember it.

282. **MR LEE:** Obviously, in revising some of these Standing Orders, the proof has been trying to keep up with it.

283. **MRS GORLOV:** It is a bit of a magnum opus and it is all too easy for this to happen.

284. **MR LEE:** I think we are satisfied it has been complied with.

285. **MRS GORLOV:** Okay. Standing Order 58, section of tramway, I prove is not applicable for the Bill. The same as regards Standing Order 59. Standing Order Lords 83A, Commons 224A, comments on the environmental statement. Mr O’Connor, do you prove that each notice published under Standing Order 10 states that any person who wishes to make comments on the environmental statement should send them to the Secretary of State for Transport on or before 30 September 2017?

286. **MR O’CONNOR:** I do.

287. **MRS GORLOV:** Do you also prove that the notice also states the manner in which that should be done?

288. **MR O’CONNOR:** I do.

289. **MRS GORLOV:** Do you prove that 30 September falls no earlier the 56th day after the first publication of the notice?

290. **MR O'CONNOR:** I do.

291. **MRS GORLOV:** Sir, I consider that this Standing Order has also been complied with.

292. **MR LEE:** I think with regard to the second proof from Mr O'Connor relating to the 56th day there is a potential contingent linkage to the interpretation of the first publication, which is the matter that we have, as it were, remitted. Because of that contingent link, when we, after what we hope will be a short period of deliberation, give our view on 27A, we will also cover the compliance with 224A and 83A.

293. **MRS GORLOV:** Understood.

294. **MR LEE:** Other than those three Standing Orders, or the two Standing Orders with different numbers, I think that concludes the presentation of the proofs.

295. **MRS GORLOV:** I think it does.

296. **MR LEE:** Thank you very much. I think we want to deliberate in private so I am afraid we will ask everyone to leave the room. We will not give an estimate but we really hope it will not be too long. We would encourage you to stay and then we can reach a satisfactory conclusion.

297. *The Examination was suspended from 11.00 am until 11.16 am.*

298. **MR LEE:** The meeting is resumed in public and we have deliberated on the outstanding Standing Orders. I can announce we have concluded that Standing Order 27A has been complied with in all respects, save as regards time. For the avoidance of doubt, by the reference to time we mean the reference to 21 July as in the proof, as opposed to 4 December, the date given in the Standing Order. We have also concluded that Standing Order 83A for Lords and 224A in the Commons have been complied with.

299. Therefore, for the record we have concluded that the following Standing Orders that are applicable have not been complied with. They are as follows: Standing Order 4, 4A, 10, 10A, 11, 12A, 13, 27, 27A, 33, 34, 36, 39, 41, 42, 43, 45 and 47. In each case, the non-compliance relates only to the time referenced in the Standing Orders, the introduction and various processes in relation to private bills. Mrs Gorlov, in these circumstances, it would be helpful if you could clarify whether you think you will wish to make any further submissions to the Standing Orders committees to which this non-compliance will be referred.

300. **MRS GORLOV:** I do not think so, sir. Not as regards Standing Orders.

301. **MR LEE:** Thank you very much. That concludes the meeting. Thank you all very much for attending.

302. **MRS GORLOV:** Thank you very much indeed.

The Examination was adjourned at 11.18 am.