



House of Commons
Select Committee on the
Crossrail Bill

Crossrail Bill

**First Special Report of Session
2006–07**

Volume V

Oral evidence

11 October 2006 to 9 October 2007

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The Select Committee on the Crossrail Bill

The Select Committee on the Crossrail Bill is appointed by the House of Commons to consider:

(a) any Petition against the Bill presented by being deposited in the Private Bill Office at any time not later than 16th September 2005, and

(b) any Petition which has been presented by being deposited in the Private Bill Office and in which the Petitioners complain of any amendment as proposed in the filled-up Bill or of any matter which has arisen during the progress of the Bill before the Select Committee, being a Petition in which the Petitioners pray to be heard by themselves, their Counsel or Agents.

That, notwithstanding the practice of the House that appearances on Petitions against an opposed Private Bill be required to be entered at the first meeting of the Select Committee on the Bill, in the case of any such Petitions as are mentioned in sub-paragraph (a) above on which appearances are not entered at that meeting, the Select Committee shall appoint a later day on which it will require appearances on those Petitions to be entered.

That any Petitioner whose Petition stands referred to the Select Committee shall, subject to the Rules and Orders of the House and to the Prayer of his Petition, be entitled to be heard by himself, his Counsel or Agents upon his Petition provided that it is prepared and signed in conformity with the Rules and Orders of the House, and the Member in charge of the Bill shall be entitled to be heard by his Counsel or Agents in favour of the Bill against that Petition.

That the Select Committee have power to sit notwithstanding any adjournment of the House, to adjourn from place to place and to report from day to day the Minutes of Evidence taken before it.

That three be the Quorum of the Select Committee.

Current membership

Mr Alan Meale (*Labour, Mansfield*) (Chairman)
Mr Brian Binley (*Conservative, Northampton South*)
Ms Katy Clark (*Labour, North Ayrshire and Arran*)
Mr Philip Hollobone (*Conservative, Kettering*)
Kelvin Hopkins (*Labour, Luton North*)
Mrs Siân C. James (*Labour, Swansea East*)
Mr Ian Liddell-Grainger (*Conservative, Bridgwater*)
John Pugh (*Liberal Democrats, Southport*)
Mrs Linda Riordan (*Labour, Halifax*)
Sir Peter Soulsby (*Labour, Leicester South*)

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee are on the Internet at www.parliament.uk/parliamentary_committees/crossrail.cfm

Committee staff

The staff of the Committee are Sian Jones (Clerk) and Darren Hackett (Committee Assistant).

Contacts

All correspondence should be addressed to Private Bill Office, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 3250; the Committee's email address is prbohoc@parliament.uk

Footnotes

During the proceedings, the Committee received 405 memoranda, in the form of Petitioners' exhibits and Promoters' response documents, which have been reported to the House. Many of these exhibits were shown to the Committee on screen, via the PaSS System (Parliamentary Support System), during the evidence sessions. These have, where possible, been cross-referenced and footnoted in the Oral Evidence.

In the footnotes of this Oral Evidence, references to evidence generally submitted by Petitioners are indicated by, for example 'Committee Ref: A18, ...'

References to evidence submitted by the Promoter are indicated by, for example 'Crossrail Ref: P2, ...'

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Wednesday 11 October 2006

Before:

Mr Alan Meale, in the Chair

Mr Brian Binley
Mr Philip Hollobone
Kelvin Hopkins

Mrs Siân C James
Mrs Linda Riordan
Sir Peter Soulsby

Ordered: that Counsel and Parties be called in.

16789. **Chairman:** First of all, I would welcome everybody back and a pleasant experience it is going to be yet again. A couple of announcements: coffee will be available in the end area from 11.30 onwards; and we will be recessing around 11.45 so that Members can get to Prime Minister's Question Time. Today the Committee will hear the Promoter's written response to the Select Committee's interim decision which will be read into the transcript of today's proceeding. Mr Lieven, do you want to make a statement

16790. **Ms Lieven:** Sir, before I do, can I say that as far as today's business is concerned, the only Petitioner who is now intending to appear is Ms Ann-Marie Cousins. All the other Petitioners have either formally withdrawn or have reached agreements and are going to withdraw. That is the only other business. Sir, so far as the Government's response is concerned, I have a script which I am about to read. I hope it is acceptable that what we have done is broken it down into the Committee decisions which we have put in italics and then the response. Subject to your views, I was not intending to read the Committee decisions, merely the heading and the Committee can see in italics what the decision was. I hope that is acceptable. I am quite happy to read the italics if you want me to.

16791. **Chairman:** No, but just indicate to the stenographer that we do want it as it is in today's proceedings.

16792. **Ms Lieven:** Can I apologise in advance, I am afraid it will be a little bit tedious because I am just going to read the script.

16793. **Chairman:** Same as usual then!

16794. **Ms Lieven:** Probably for me, sir, but not for Mr Mould. This is the Promoter's response to the Select Committee's interim decisions.

16795. This document constitutes the response of the Promoter of the Crossrail Bill to the interim decisions made on 25 July by the House of Commons Select Committee on the Crossrail Bill. Where the Promoter has agreed to bring forward additional provisions, it is intended that these will be introduced in November, once an instruction to the Select Committee as to their consideration has been given by the House of Commons.

16796. Provision of information—the Committee decision: At the outset, let me state on behalf of the Committee that we would like to ensure that each Petitioner against the Bill clearly understands what commitments have been offered to them through the general undertakings which have been described in Committee as information papers. The Committee has heard a great deal of assurances from the Promoters in the last seven months. Many of these have been helpful to the Committee and to the Petitioners. However, we are concerned that many Petitioners may not be clear which undertakings apply to their particular case. With this in mind, we ask the Promoter to write to every Petitioner whose property is affected on the route to state specifically which undertakings apply to their problem and what those undertakings mean. Understandably, many Petitioners have requested personal letters of comfort to explain their position. We feel that the Government should be as transparent in this process as possible and provide such letters where possible as a matter of course.

16797. Promoter's response: The Promoter will write to Petitioners as requested. A number of general undertakings or assurances have been given in information papers or during proceedings in Committee that may be relevant to Petitioners whose property is affected by Crossrail, on matters such as land acquisition and disposal, maintenance of pedestrian and vehicular access, groundborne noise, airborne noise (including trigger levels for the provision of noise insulation and/or temporary re-housing) ground settlement and so on. The intention is that all undertakings and assurances, including these more general ones, will be put on a formal register. Whoever is given the role of implementing the project will be required to comply with the undertakings and assurances on the register. A draft of the register will be published later this year. Further versions will be published at appropriate stages as the Bill progresses through Parliament, with the register being finalised after the Bill receives Royal Assent, ie when the parliamentary process is completed. In order to meet the specific concerns of the Committee, the Promoter will also write to Petitioners whose property is affected by Crossrail, setting out the assurances that we expect to be relevant to them and explaining what they mean in practice. We will do that once the House of Commons Select Committee hearings have finished, which we expect to be early next year. While the Select Committee hearings are still underway, it is possible that there will be further assurances given or changes made to the information papers in the light

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of the remaining Select Committee hearings. We consider that to write in detail at this stage could be confusing to Petitioners. An example where this might be the case is noise, which the Select Committee did not deal with in its interim decision.

16798. In addition, we propose to write to Petitioners again after the Bill receives Royal Assent to cover any assurances given or changes made to the information papers in the light of the Select Committee hearings in the House of Lords. Cross London Rail Links (CLRL) wrote to all Petitioners on 1 August with the information contained in this response.

16799. Smithfield Market Tenants Association—Committee decision: The Committee agreed that the tenants of Smithfield Market are not covered by the Compensation Code in an appropriate manner due to the exceptional and historic nature of their business. The Committee invites the Promoter to draw up an alternative provision which would provide the tenants with the right to claim compensation in circumstances where a specific level of loss is experienced.

16800. The Promoter's response: The Secretary of State accepts the judgment of the Committee that the exceptional and historical nature of the business of the tenants of Smithfield Market justifies additional rights to compensation with respect to impacts caused by the Crossrail work for this special case. The Promoter's proposal to deal with this is as follows. It applies to the market traders who are tenants of the city corporation at Smithfield Market. Where an event occurs during the construction of Crossrail which triggers a right for the market traders to claim compensation under section 10 of the compulsory Purchase Act 1965 (as modified by clause 50 of the Crossrail Bill) or Section 6 of the Railways Clauses Consolidation 1845 (as incorporated with modifications by paragraph 3 of Schedule 10 to the Bill) against the nominated undertaker, the Secretary of State will require the nominated undertaker to include in the compensation an amount representing any consequential loss, whether or not reflected in the value of land, (1) which was caused by the construction of the works under statutory authority, (2) for which the nominated undertaker would have been liable to pay damages if the construction had not been authorised by statute. The Promoter has written to the Smithfield Market Tenants Association to offer an undertaking on the basis and to explain how the proposal will work in practice. A copy of that letter is at Annex A. Sir, I should have said, there are a number of annexes to this document, I do not intend to read them out but they are all there for the Committee to see.

16801. Charterhouse Street—the Committee Decision: Following the Petition of Save Britain's Heritage, we would also ask the Promoter to explore and assess alternatives to the compulsory purchase of 33-37 Charterhouse Street.

16802. Promoter's response: In response to the Committee's request, the Promoter commissioned an engineering study to investigate whether there is an alternative way of forming a passenger link between the Crossrail station at Farringdon and the eastbound Metropolitan/Circle Line platform at the Barbican London Underground station, providing PRM access to the platforms and street level without the acquisition and demolition of 33-37 Charterhouse Square. The study showed that there were no suitable alternatives which would not have more significant effects on the area than the current Bill scheme. For this reason, the Promoter proposes to continue with the original proposal. The Promoter will work with the relevant planning authority to find the most appropriate solution for developing the site once works have been completed. Further detail of the engineering study carried out is provided at Annex B.

16803. EMI Limited—Committee Decision: The Committee has listened carefully to the case of EMI. We recognise that the increased value of the building would have to be built into any compulsory purchase order negotiations. Therefore, in order to keep the cost to the public purse as low as possible, we believe that the Petitioners should be subject to a CPO as soon as practicable after Royal Assent.

16804. Promoter's response: The Promoter will offer to EMI an undertaking to purchase their building at a time of EMI's choosing from the point at which funding for Crossrail has been secured. The form of that undertaking is at Annex C.

16805. Grand Central Sound Studios—Committee Decision: Similarly, in the case of Grand Central Sound studios, the Committee agreed that the exceptional technical nature of the Petitioner's business required protection against potential disruption from the works. We ask that sound mitigation work is carried out before construction commences, where possible.

16806. Promoter's response: In its response the Petition of Grand Central Sound Studios, the Promoter proposed mitigation work to the railway itself in order to mitigate the noise produced by the operation of Crossrail and the running of the construction railway. The Promoter is in the process of discussing with Grand Central Sound Studios precisely what form that mitigation should take. The Promoter understands that the Petitioner has written to the Committee to clarify that point. This Petition has yet to be heard by the Select Committee. If the Promoter and Grand Central Sound Studios are not able to agree, therefore, the issue will come before the Committee in due course.

16807. Shenfield—Committee Decision: We will discuss the cases presented to us about Shenfield in detail in our report. At this stage, we wish the Promoters to demonstrate that they have worked closely with the local community to ensure that

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appropriate noise insulation has been provided to those who will be affected by the additional noise of the Crossrail works.

16808. Promoter's response: Following the Select Committee's decision, the Promoter commissioned revised noise impact predictions for the Shenfield area. The results are still being finalised and will be included in the Supplementary Environmental Statement expected to be published in November. On 13 September, Cross London Rail Links met with the relevant local authority, Brentwood Borough Council, to explain what was being done and to discuss how the revised noise predictions, once finalised, might best be disseminated to the affected local community. As a result, CLRL intend to write to the residents concerned, providing copies of both the original and the revised predictions in readily comparable and understandable map form. The letter will explain what the predictions mean in terms of likely qualification for either the provision of noise insulation and/or temporary rehousing, and the trigger levels used for their provision. It will also explain in layperson's terms the process for further predictions to be made, nearer the start of the construction, once the detailed design work has been done and a detailed construction methodology devised, and for the actual provision of noise insulation and/or temporary re-housing. The letter will make it clear that whilst the trigger levels for the provision of noise insulation and temporary rehousing will remain the same, it is these later predictions, as opposed to the predictions done now, that will determine who will qualify for noise insulation and/or temporary rehousing.

16809. CLRL then propose to organise, in liaison with the local authority, and advertise widely, including by leafleting all properties within 100m of the proposed work, a drop-in centre or meetings at which concerned residents can be taken through the revised predictions and the process outlined in the letter.

16810. Committee Decision: The Committee would also like the Promoter to look again at the possibility of using the existing sidings at Shenfield as highlighted by Mr Jardine on 29 March, paragraph 6145.

16811. Promoter's response: CLRL have considered Mr Jardine's proposal again and reached the same conclusion as before that it is not possible to make use of the existing sidings safely for Crossrail services. More detailed information is provided at Annex D and this has also been provided to Mr Jardine.

16812. London Borough of Havering—Committee's Decision: In the case of the London Borough of Havering, the Committee has found certain merit with the Petitioner's case. At this stage, we invite the Promoter to find a way to provide appropriate access for mobility impaired people to the developed station in the location of the current

ramp. In the same way, we expect access to all Crossrail stations to be developed with awareness of the access needs of people with impaired mobility.

16813. Promoter's response: The Promoter will provide a new access ramp complying with modern standards for access for people with reduced mobility at the south side of Romford Station. The new ramp will be built to the west of the existing door, providing access to the south end of the mezzanine level subway of Romford Station.

16814. Southend Arterial Road Action Group—Committee Decision: We are aware that these Petitioners did not have the opportunity to fully finish their case. However, the Committee agreed with the Petitioners that the cul-de-sac was not appropriate for the level of access proposed. We believe that the Promoter must find either an alternative access to this worksite or an adequate solution to this particular problem.

16815. Promoter's response: The Promoter will bring forward an additional provision to provide for an alternative access to the Crossrail worksite. The access will make use of a vacant residential plot immediately adjacent to the worksite. This proposal would remove the need to access the site from the cul-de-sac off the Southend Arterial Road.

16816. Freight—Committee Decision: The Committee is persuaded that the freight industry faces an increasing challenge with current capacity insufficient for the needs of growth in the industry, and we believe that the Government should take steps to address this. However, the Committee believes that these issues are largely the responsibility of Network Rail and others and not wholly that of the Crossrail project. We will return to this issue in our full report. The Committee is concerned about the uncertainty regarding the Access Option and asks that Promoter to ensure that the Committee is updated on these issues later in the year.

16817. Promoter's response: The Promoter agrees with the Committee's analysis that there are issues in relation to freight capacity which are broader than the impact of the Crossrail project and which need to be analysed and solutions considered by the rail industry's planning mechanisms (including developing further two short-listed applications for Transport Innovation Fund support). This work will progress at the pace of the industry mechanisms rather than necessarily before the Select Committee completes its work. The focus of the work in relation to Crossrail is developing the Access Option with Network Rail, and consulting the ORR, which is currently at the stage of heads of terms. To support this, a considerable volume of technical analysis and modelling have been commissioned to demonstrate operational viability, as explained in the paper put to the Committee shortly before the summer recess. This includes, but is not confined to, further train timetabling work. As this work develops, input will

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be sought from the rail industry via the Reference Group that has been established to replace the Timetable Working Group. Formal consultation will be undertaken by the ORR once it receives the application for the Access Option. Further updates on progress will be given to the Committee.

16818. Ealing Broadway—Committee Decision: The Committee asks the Promoter to demonstrate that a good cross platform interchange could be made available at Ealing Broadway between the Reading and Crossrail lines.

16819. Promoter's response: Although Crossrail will not directly serve Reading and Twyford, passengers from these stations will find significant improvement in the journey times into central London. This is because they will be able to interchange onto Crossrail trains either at Paddington or at Ealing Broadway. Interchange will be particularly attractive at Ealing Broadway where same platform interchange will be possible. To do this, a passenger will simply get off their semi-fast service from Reading or Twyford and get onto the next train, which will always be a Crossrail train. As an example, passengers travelling from Twyford to Liverpool Street by relief line trains will experience at least a 15-minute reduction in journey time by making a same platform interchange at Ealing Broadway when Crossrail opens.

16820. Paddington—Committee Decision: Issues regarding Paddington Station will be dealt with in detail in our report. At this time, we ask the Promoters to replace the footbridge at Westbourne Terrace with one that fully complies with modern safety and disability standards for users. We would also like to thank the Promoters at this time for their helpful decisions on dust mitigation in their area.

16821. Promoter's response: The Promoter will bring forward an additional provision to enable the replacement of the southern span of the Westbourne Terrace footbridge with a new structure and the addition of a series of ramps complying with modern standards for people with reduced mobility at the southern side of the railway to provide access to street level.

16822. Christchurch, Spitalfields and Bow Bell Church Stepney—Committee Decision: Similarly, the Committee was pleased with the undertakings given by the Promoters to both these churches. However, we wish to clearly state for the record that these churches should receive top-tier mitigation, they should not be expected to pay for the monitoring of any impact on the structures of the churches due to the tunnelling. We expect the Promoter to pay for the independent assessment and monitoring of both these churches during the works.

16823. Promoter's response: The Promoter agrees. The Promoter assumes that the reference to Bow Bell Church is in fact a reference to St Dunstan and All Saints Church, as this was the church the

Committee heard evidence from on day 34, 18 May 2006. The Promoter would like to confirm that the commitment to protect St Dunstan Church given by Mr Tim Mould to the Committee on day 34 applies equally to Christchurch, Spitalfields.

16824. Spitalfields, and, sir, this is broken down into different sections—Committee Decision: The Committee heard a great deal of concern from the people in the Spitalfields area, especially those affected by the Hanbury Street shaft. This is something we will focus on in detail in our report. Needless to say, we do agree that the Hanbury Street shaft is the appropriate area for the shaft. At this stage, we are concerned that there has been a certain lack of clear information about the project in the area and we feel that a certain amount of action is necessary in the locality immediately. We are concerned that local residents feel there are times when they have not been properly informed and times when they were poorly advised during the consultation process. This has led to huge concern and distress in the local area about the extent of the Crossrail project. We have heard all the evidence put to the Committee and wish to make it clear that the scale of the work and the length of construction in the area have been largely overstated. We believe that the Crossrail project must revisit the problems in the Spitalfields area. We want the Promoters to set up a monitoring body with Tower Hamlets Borough Council and representatives within the community, especially those from the local schools affected by the works. This body must meet monthly in order to provide up-to-date information to local residents about the project.

16825. Promoter's response: The Promoter agrees and has already acted on the concerns of the Committee. Invitations are to be sent for a first meeting in October. It is the Promoter's intention that this body should meet monthly.

16826. Committee Decision: We would also like Crossrail to open up a one-stop shop in the area for the duration of the works to enable local people to report concerns and help ensure that the works by the contractor meets with dust and noise requirements set out by the Promoter in the same way as it has been very helpful in the Paddington area. In this respect, we would like this office, working with appropriate government agencies, to advertise how local individuals wishing to work on the project may apply for the jobs connected with the project in Whitechapel and elsewhere.

16827. Promoter's response: The Promoter accepts this decision.

16828. Swanlea School—Committee decision: We understand that the Promoter has reached an agreement with Swanlea School regarding the hours the lorries in the area will operate. This agreement must apply to any road which a school faces onto in the area. We are particularly concerned with access to Buxton Road and the traffic entering Valance

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Road. We want the Promoter to ensure that it employs staff to enforce access rules 24 hour a day. We are concerned that the large number of asthma sufferers and those with other respiratory illnesses should be protected from sources of dust which we understand to be the highest indication of these particular illnesses in the UK. With this in mind, we expect staff securing the roads to ensure that access is only given to lorries properly and securely covered and that access is only given to lorries strictly where necessary. We expect the safety and health of the children and local residents in that area to be the Promoter's first priority. The Promoter must provide a regular liaison meeting with each school to monitor these arrangements and to support the schools during the full period of the work. We also expect the Promoter to work with other government departments, particularly the DfES, to ensure that the schools in the area are in no way disadvantaged by the works.

16829. Promoter's response: The Promoter has written to the Committee to clarify whether the Committee intended for the Promoter to look at alternative proposals to avoid seeking access to their proposed work site through the school premises. The Promoter is preparing an additional provision that would enable such an alternative access and intends to bring this forward. The Promoter acknowledges the Committee's concern in relation to Buxton Street treat and traffic entering Valance Road and will ensure that appropriate measures are taken in agreement with the London Borough of Tower Hamlets to control vehicular access on a 24-hour basis. The Crossrail Construction Code will require all vehicles carrying loose or potentially dusty material to or from worksites to be fully sheeted. The Construction Code forms part of the environmental minimum requirements that the Promoter will make binding on any nominated undertaking. The Promoter will work with the London Borough of Tower Hamlets to develop a strategy for the lorry routes that take into account the nearby sensitive uses, such as schools. Where a proposed Crossrail lorry route passes any entrance to a school that is not currently subject to heavy goods traffic, the Promoter will restrict the hours during which Crossrail construction traffic will operate and/or introduce appropriate traffic management measures to be agreed with the Council. These measures will include a 30-minute prohibition on Crossrail construction traffic when pupils are arriving at school and a 30-minute prohibition when pupils are leaving. The exact hours will be agreed on a case-by-case basis for each school. The Promoter will seek to work with the London Borough of Tower Hamlets and other Government departments, such as DfES, to ensure that schools in the area are not disadvantaged by the Crossrail works.

16830. Historic Buildings in Spitalfields—Committee Decision: We also heard a great deal of evidence about Listed buildings in the Princelet Street area. We want the Promoter to come back to

the Committee in the autumn and demonstrate clearly that an individual assessment has been made of each Listed and historic building in the area and that appropriate mitigation has been put in place.

16831. Promoter's response: The Promoter has done a considerable amount of work to ensure that the settlement impacts of the works on all buildings, including Listed and historic buildings, have been adequately assessed and appropriate mitigation put in place.

16832. The Promoter can confirm that settlement assessment reports have been produced that consider every individual structure within the predicted zone of influence along the route. The results of this assessment process are reported in one of two ways, both of which are described below. Listed buildings are those buildings which are on statutory lists of buildings of special architectural or historic interest compiled by the Secretary of State for Culture, Media and Sport under the Planning (Listed Building and Conservation Areas) Act 1990, on advice from English Heritage. The Promoter can confirm that an individual report for all Listed buildings in the Spitalfields area has been produced. An individual report was considered appropriate because these buildings are statutorily protected and because they have been selected by English Heritage as being of national importance.

16833. The individual report included a heritage appraisal, which established a detailed understanding of the historic character and significance of the building concerned, in accordance with the criteria laid down in PPG15, and in particular identified any feature of particular architectural or historic interest or sensitivity, for example, delicate plasterwork or fine stucco mouldings. Proposed mitigation in this area consist of monitoring and following best practice during tunnelling works to minimise the generation of ground movement at source. During the selection of mitigation, due regard is being given, and will continue to be given, to the sensitivity of the particular features of the building which are of architectural or historical interest and the sensitivity of the structure of the building to ground movement. Further, these assessments, as explained to the Committee, will continue to be reviewed as the detailed design progresses. All other buildings have been reported in a series of settlement reports. Whilst presented in a different format from the Listed building reports, they calculate settlement and building damage in the same way as the individual assessments. The Promoter confirms that appropriate monitoring and mitigation for these buildings will also be provided. With respect to the internal inspections, these will be undertaken for all buildings within a 10mm contour as part of the production of the schedule of defects prior to the commencement of works regardless of the form of report produced for that building. The Promoter will also undertake an internal inspection of buildings within these contours that are on the

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English Heritage Building At Risk Register to ensure that any particularly sensitive aspects of these properties are considered in the assessment process.

16834. Monitoring—Committee Decision: We will expect the Promoter to monitor these building throughout the tunnelling process and for a minimum of seven years thereafter following the completion of the process. Equally, we expect the Promoter to pay for the repair of any damages that occur due to the tunnelling and associated work. These buildings must be repaired in manner appropriate to the age of the building.

16835. Promoter's response: Acknowledging the Committee's particular concerns in the Spitalfields area, and subject to securing all necessary consents, the Promoter agrees to continue monitoring in the Spitalfields area for a fixed seven-year period after the tunnelling excavation works and to use the data obtained as a control case to validate settlement trends across the scheme as far as it is practical to do so. The Promoter confirms that under the settlement policy any material physical damage arising from ground settlement associated with the nominated undertaker's tunnelling works will be made good at no expense to those affected and that particularly in the case of Listed buildings, repairs will be carried out to a standard and quality commensurate with the age and fabric of the building.

16836. 61 Princelet Street—Committee Decision: In respect of the Petitioners who are the owners of flats within the building at 61 Princelet Street in Spitalfields, Alistair and Eleanor Ferguson, Ms Hamilton and Mr Collins and Ms Hatoum, we recognise that these people will be extraordinary affected by the Hanbury Street shaft. We want the Promoter to take steps to ensure that these properties are compulsorily purchased and to provide the Petitioners with individual letters of comfort guaranteeing that the flats will be bought before the work begins.

16837. Promoter response: The Promoter accepts the Committee's judgment that the occupiers of the flats within 61 Princelet Street are likely to be extraordinarily affected should an intervention and emergency access shaft be constructed in the Hanbury Street. The Promoter has written to the owners of the flats within 61 Princelet Street, undertaking, in the case of a shaft being constructed at Hanbury Street broadly as proposed, to purchase their properties no sooner than nine months before the shaft works begin.

16838. Liverpool Street Station—Committee Decision: The Committee has been asked to consider a variety of issues at Liverpool Street Station. We are sympathetic to the argument for enhancing ticket hall facilities at Liverpool Street Station. We have carefully considered the three final options present to the Committee and have decided to ask the Promoter to amend the Bill to enable options 3c and 7b with the extended gate line, removing the

necessary retail units, to come forward as an integral part of the Crossrail project at Liverpool Street Station. We were not convinced that it was reasonable to pursue option 4. Equally, we are not persuaded that the implementation of option 7b should be delayed.

16839. Promoter response: The Promoter accepts the Committee's decision and will bring forward an additional provision to enable options 3C and 7b.

16840. Greenwich—Committee Decision: The major issue arising from Petitions in the Greenwich area was the need for a station at Woolwich. We will refer to this issue in detail in our report. At this time we wish to state that we have carefully examined all the evidence put before us and we are clearly convinced of the essential need for a Crossrail station in Woolwich, an area which includes some of the poorest wards in the United Kingdom. We noted that the Promoter's calculations of cost of this station showed that it would provide exceptional value for money and we require the Promoters to bring forward the necessary additional provision to add this to the Bill. We would also ask the Promoters to work with the local Council to ensure that the Crossrail station is fully integrated into the local transport infrastructure.

16841. Promoter's Response: The Promoter recognises that a strong case has been made for a station at Woolwich. In the light of the Committee's decision, the Promoter has looked over the summer at the design of a station to explore ways of reducing its very high cost. A key reason why the station would be expensive to build is the depth of the running tunnels. A shallower station would be possible if the running tunnels in that area were nearer to the surface. This appears, in principle, to be feasible although much more detailed work would be needed to understand the wider environmental consequences. The cost of a shallower station would be of the order of £200m. The Promoter has given very serious consideration to the Committee's decision. As the Promoter has made clear, the key issue is affordability. The challenge in funding Crossrail is huge and the Promoter is engaged in an intensive value management process to bear down heavily on the cost of the project. The revised tunnelling and depot strategies are a result of that process and will yield substantial savings. The Promoter believes it is vital to continue to develop a Crossrail project that can be delivered in order to secure the benefits that it will bring. The Promoter does not believe that adding £200m to the cost of Crossrail can be justified and cannot therefore accept the Committee's decision."

16842. **Chairman:** Thank you very much indeed, Ms Lieven. First of all I am going to say that we will take away this document and read it as a Committee and go through it line by line, but I can tell you that already it is pretty obvious that we are going to have to come back here because our instructions are on the decisions we have made that it is for you to go

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away and build them into the proposals which come back. Clearly, in the case of 17.1 and 17.2 that is not the case. You have come back and said that you do not accept our decision. While we fully understand you are not the Promoters for Crossrail and you act on their behalf, it is not for Crossrail or anybody else to take the decision on that. It is for this Committee to take the decision and if there are any changes to be made to the decision on the Bill it will be made by the Committee itself or, when it leaves this Committee, on the floor of the House, and there it will be either set in stone or not, as the case may be.

It is impossible to give a full response to this now. We will have to go away and digest it, discuss it among ourselves and then come back here with our response to it, and we will do that at the earliest possibility, but we warn you that people on a Committee such as this do not take kindly to being told that you are not going to accept their decision because that is not your role at all. Anyway, we will move on to the first case. Thank you very much.

16843. **Ms Lieven:** Thank you, sir.

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The Petitioners appeared in person.

16844. **Ms Lieven:** Sir, just a brief factual outline. If I can have put up the relevant map, Ms Cousins' own house and garden are at 71 Abbey Grove, which is to the west of Abbey Wood station. It is not easy to see on that map but it is being pointed out in outline where the site is and you can see the middle of that map is Abbey Wood, which the Committee will remember is at the end of the terminus of the south east branch of Crossrail.

16845. That is the general outline. If I can then put up the plan that shows the two plots concerned, the plots are outlined in yellow, two plots at the end of Ms Cousins' garden. The Committee can see plot 217 and plot 219.¹ You can see from the photograph above that it is outlined in red where the land affected is. The two plots are affected slightly differently. Plot 217 is required permanently for works, including the widening of the railway to four tracks and the erection of an acoustic barrier. Plot 219 is only required temporarily, primarily for sewer diversion works, and Mr Berryman will explain them. You can see from the photographs that Ms Cousins' garden is a slightly unusual shape. It widens out at the end and in that widened section at the end she has constructed a fairly large garden building which I think is used as a playroom and outbuilding to the main house. We will have to demolish that garden building during construction, for which, of course, she will receive full compensation. It is not possible to reconstruct it during the construction phase because there is nowhere else on the site that is big enough to put it on, but it would be possible to reconstruct a very similar building at the end of the construction phase.

16846. I should have said a moment ago that the Committee will remember that the tracks down to Abbey Wood have to be widened to four tracks to allow the railway to operate, so we are in a situation where, certainly in our case, there is absolutely no alternative but to take this land. We have looked at it very carefully and there is quite simply no

alternative, but at least the good news is that Ms Cousins will receive full compensation for the land that is taken.

16847. I hope that is sufficient in opening and I will be calling Mr Berryman to explain why we need the land and what we need to do on it.

16848. **Chairman:** Ms Cousins?

16849. **Ms Cousins:** Thank you. First of all what I would like to do before I introduce myself and what I would like to do is to say a big "thank-you" to Yemi Akinyemi from Crossrail and David Walker from Winckworths, the solicitors, and that is because they have really supported me. I want to make my presentation. I have been very nervous and overwhelmed by it and they have made it clear that if I want a voice I do have a voice and they have been so patient, especially David, in re-scheduling me and saying, "If you want to do it come and do it". I would just like to get that out of the way, thank you very much.

16850. My purpose is to not to go through the petition as is because it is written down and I do not want just to go over old ground, but obviously if there are any questions those will come up later. What I want to do is break up what I want to say into about three sections and talk about me and my family, our property and summarise the key fears that I have about this development and any promises that are being made.

16851. Who am I? I am a single parent. I have two wonderful girls aged 10 and seven and we have lived at 71 Abbey Grove since 1989. That is important. I have not just moved there. I have a long-standing history in that community. I have no plans to leave. This is something that the neighbours are considering, "If this is going to go ahead it is big business against a small person. We have to leave". For some people it is not that easy to uproot and start again. I have been committed to the borough, even at the time of the 17% interest rate, just to show you some of the difficulties I have gone through when house prices went high. I have survived that and I really would like to survive this as well.

¹ Committee Ref: A 191, Oblique aerial photograph showing location of garden building at 71 Abbey Grove (GRCHLB-13303-002).

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16852. I work for Greenwich Council and I am a Justice of the Peace. I am active in the community, for example, with the local church and with helping develop the youth group. I have helped to develop the supplementary school in the borough and over-50s projects for African-Caribbean and African over-50s elders in the community, so I am very much embedded in that community.

16853. When we come home the last thing the children and I need is to feel restricted. Part of the difficulty that I have is that I really do not know what we are going to be left with, because if you look at Crossrail's response they use words like "approximate", and so I really do not know. Just to quickly respond to this full compensation, whatever that will be, it is not about the money. It has taken a lot to get where we are.

16854. To help you to understand a bit more about the property—and I love that aerial view; I am actually going to keep it as one of my photo album pictures, so thank you for that as well—and show you the ground level view of our area I have seven photos that you can scan in apparently and I will briefly explain them. This is Abbey Grove, I live there.² Yes, we have all the other problems with graffiti and so on and it gets cleaned off, but that is part and parcel of our community. That is where I live, I am happy. When I first moved in this was the view, going back to around 1990, straight through to the back. There was not anything there.³ It has taken me years to get to a position, if we move on to other slides, where I could build those two constructions. The garden is a used garden. We use it through the seasons. These were taken when the children were young. Remember, they are 10 and seven now. I did not deliberately go and take photos for this.⁴ I have raided my albums. That is spring when we are out in the garden, summer we are out in the garden. It is well used. Even at that time you can see if you look straight down the garden those structures were not there. On the next slide, autumn, we are out there with fireworks, whatever; we use our garden. There is a winter one as well. We are out there; that is not space that is locked away or we are cooped up in the house. I might be but the kids are outside anyway. We use that space. They are probably in their school clothes there and I was trying to figure out: was this after school or before school? Knowing my children, if it was fresh snow they would have been out there first thing in the morning.

16855. The next slide is bringing you right up to date to this year. What I was meant to be trying to photograph was the plant in the foreground. It was my child's homework. At the end of the summer term they brought home a little seedling that they had in cotton wool in the bottom of a plastic tub. We have all done it in school; I do not care what age you

are now: think back, we have all done that. We nurtured it and it grew and there it is. It is growing up a little bit on the window sill and I just wanted to take that for my daughter but it shows the view about a year and a half, two years ago, when those structures were finally put up.

16856. Just to tell you a bit more about those structures, they are not wooden. They are breezeblock and brick and concrete. I went through a terrible planning and building control process. We had to dig down a certain depth for the foundation. I nearly gave up because of the costs which that incurred as well. We have some very large trees as you can see from this aerial view, so therefore to meet planning and building controls you have to dig down a certain depth.⁵ They are not simple constructions this has thrown up. This is a large garage with a toilet and it leads into a cesspit midway, roughly where the darker grey area on the ground meets the lighter area. The darker trees in the middle obscure it but there is actually a cesspit dug down there, God knows how many feet into the ground. It is a functional toilet. We could not build it into the main toilet supply because it would be going uphill and, as building control said, "We do not pump you-know-what uphill", or something like that, so we had to have a cesspit.

16857. I have been through quite a number of hurdles being a single parent, so it has taken me a while to get there. I really do have an affinity for what I am trying to achieve there and what I am doing in the community, and so now to hear that that is possibly (and to what extent I am still not too sure) going to be taken away from us is a difficulty. My children learned to ride their bikes in the garden. As I say, this is a real live situation. This is how we live. I did not have to have them out on the street. You can see the street on the other side of the photo. They learned to ride in the garden and not fall off. I could be at the kitchen window and monitor them. Now they are older, yes, with their friends they can go up and down the street but at least they are not falling on anyone's cars and damaging anyone's property. I think it is important to accept that.

16858. Moving on to my fears and loss of amenity, as I said, it is all in the petition. I have already mentioned the concern about the building and the work that is done and the amount of land we may or may not get back at the end; I am not sure about that. To me, looking at this property and what I have done, as they say, an Englishman's home is his castle. That is how I feel about this. This is a very large project, not just the Abbey Wood end. During the consultation, and I think things like this will happen with large projects, I was actually sent an invite to the Whitechapel consultation, not to the Abbey Wood one, so even in the development stages there were issues about us not knowing what was going on in Abbey Wood. It was through a

² Committee Ref: A 191, Abbey Grove (SCN-20061011-028).

³ Committee Ref: A 191, View of back garden at 71 Abbey Grove in 1990 (SCN-20061011-028).

⁴ Committee Ref: A 191, Petitioners use of back garden at 71 Abbey Grove (SCN-20061011-029 to -034).

⁵ Committee Ref: A 191, Oblique aerial photograph showing location of garden building at 71 Abbey Grove (GRCHLB-13303-002).

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neighbour saying, "Oh, did you hear about this? Why were you not at the meeting?", and I was not even aware of it. When I look back and think that this was addressed to "The Occupier". This is something so specific you should know who the people are that are liaising with the local authority and so on, but it is not addressed to individuals; it is sent to the occupier and there are risks of miscommunication as well.

16859. I have also had a history of previous complaints with Network Rail. That is not Crossrail; it is Network Rail, the local supplier. I notice a lot is said about noise. It is not so much the noise; it is the vibration. That was one of the concerns I have had to raise over the years with Network Rail. When the freight vehicles go up and down that line, if you are in bed you are rocked. If you need to be rocked to go to sleep it is fantastic. If you do not it is a nuisance and I have had to raise complaints about being in bed and being woken up at 5.30, a ridiculous hour in the morning, when these freight trains have gone down the line. It has taken MP involvement and so on before you get responses. I then thought, "Oh, they have resolved the problem, so where or how are they going to transport the freight? Are they going on the roads?". What they have done is to shift the time of day, so when I am at home in the holidays or have time off work or whatever it is coming along during the day. I have survived. I went to Jamaica once and I survived the earthquake, five-point-something on the Richter scale, and what I feel in the house with the bed shaking and so on is similar to that to me.

16860. I assume there is going to be a greater frequency of trains and longer trains and heavier trains, plus the freight trains. How is that going to impact on the fabric of the buildings along that road? It is the vibration. The noise at the moment is not an issue. To me noise is what is in the air; it is aerial. It is the actual physical structures rattling and shaking that cause concern, so that problem has not been resolved; it still happens. How is that going to get better? I really do not know.

16861. I have also raised with Network Rail the hazard of overgrown trees, which I felt were probably more to do with the line than with me but I certainly did not want trains derailling in my back yard. The trees are left to grow to an extent where it is actually quite amusing to watch. It is like watching a train go through a train wash or a car go through a car wash and the trees are washing up the train as it goes through. As a resident and as an infrequent but every now and then commuter on the trains it does worry me. There are environmental issues here. With the extra building are there going to be more trees, what trees and what will be the maintenance of those trees? The trees cause a problem in terms of leaf drop, et cetera, on our side as well as on the train track side, and also, the length to which the branches grow and overhang. There have been uprooted trees as well. About two years ago a tree actually did collapse across the line.

16862. Those are the problems. I really cannot see that an holistic approach is being taken to this. It is not just about, "Oh, let us get a train in and private investors and maybe local authorities benefit". I do not know who is benefiting in the long run, but there is an environment out there and I cannot see how it will benefit in the long run.

16863. Even that consultation process, it is so paper-intensive. I have a full-time job, I have two children who do their swimming, their gymnastics, their music lessons and when I come home, the last thing I need is to see communications like this coming through the door for me. I do not open it, I am terrified by it because first of all I am thinking, "What's going to be in it?", and in this case it was three of these files, which I think was an error, but it was a waste of paper, a waste of postage. Then the technical information in there, are they really telling me that I must read through that to understand what they may or may not do? There is no way I can really do that. At the end of the day, what I or any other householder who is going to suffer a significant impact wants to know is exactly what the impact is, what we would be left with and then we can have a proper yea or nay negotiation about it. At the moment I feel as though I am fighting against something which is not exactly in a proper form that I can touch and feel or really see. I just know it is something and I do not like the feeling that it is leaving with me. In conclusion, that is Petitioner 133's story. I do have concerns about the impact on lifestyle. I do believe that no matter how it looks, it is not the most wonderful suburban estate or whatever, but it is where I live and I have worked very hard to achieve what I have. There are conflicts between Crossrail's plans and other government priorities as well, for example, its impact on stronger cohesive communities. To me, this will break up communities. In terms of decent homes, I cannot see that my property is going to benefit or other people's property and we surely must suffer worse vibration problems and, to be honest, I do not really know how the house has stood up and I keep wondering if I should go into construction or something, but it has stood up. I cannot see more trains making less of an impact. Obviously there are government priorities around greener environments and so on. We do not want more concrete. We actually do suffer some flooding if we get a heavy downpour. I do not know how well you know the area, but where we are, we are quite low level and my understanding from some of the people who have lived there for a long time is that at the back of the garden where the train track is, that was riverbed some time ago, so actually we do every now and then suffer flooding and I think the last one was just last year. The church itself is still suffering, carpets and stuff have not been relaid, and they are still collecting money to do their improvements. So we do suffer problems and the more concreted over, the less trees and less ground that we have, I cannot see that we are contributing to greener environmental priorities. That is me, my family and my concerns. Thank you for your time. We do trust that you have really heard what I have

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tried to say and that you will give serious consideration in your deliberations to these things. Thank you.

16864. **Chairman:** Thank you very much indeed for that refreshing presentation. Ms Lieven, would you like to respond?

16865. **Ms Lieven:** Well, sir, I was going to call Mr Berryman very briefly to explain the position.

Mr Keith Berryman, recalled

Examined by **Ms Lieven**

16866. **Ms Lieven:** Mr Berryman, the Committee is extremely familiar with you, but perhaps you could introduce yourself to Ms Cousins.

(Mr Berryman) I am the Managing Director of the company established to build the Crossrail project.

16867. Can you start, Mr Berryman, by explaining why we need Ms Cousins' garden?⁶

(Mr Berryman) Yes, there are two reasons. First of all, as you mentioned in your introduction, we expect to widen the railway here to provide four tracks instead of the current two. We also intend to provide a noise barrier along the southern boundary of the railway. That means that we have to take about three metres of Ms Cousins' land at the bottom of the garden. The garden is about 42 metres long. It is eight metres wide for most of its length and 20 metres at the end, so we will be taking a strip about 20 metres by three metres along the very end of her garden. In addition to that, there is a public sewer which runs diagonally across the two plots of land which are mentioned. There is a public sewer which runs down this right of way and then diagonally across the piece of land here and under the railway, and as we are widening the railway embankment in that area, we will need to strengthen that sewer. It is a 300mm-wide sewer, so it is quite a substantial piece of work. That means we will need to take temporary occupation of all of that triangle of land and then permanent occupation of the strip about three metres wide down here. Unfortunately, that means that the building which stands on Ms Cousins' land will need to be removed.

16868. Have we examined alternatives?

(Mr Berryman) Well, we have, but there is not a lot we can do because the sewer actually runs directly under the garden and directly under the building and it is where it is, so there is not a lot we can do about it. As far as widening the railway is concerned, again we have to work with the existing railway corridor and there is not too much we can do about that. As I said earlier, we will be providing a noise barrier there which may ameliorate some of Ms Cousins' concerns about the existing railway operation, but there is not much we can do about actually taking the land.

Examined by The Committee

16869. **Mrs James:** You mentioned three metres. Would that be running the whole length of the track there?

(Mr Berryman) It is three metres in that way, so a strip along here about three metres wide.

16870. Are all those properties in that street affected similarly?

(Mr Berryman) Yes, every one would be.

16871. **Chairman:** The sewer runs from the housing and diagonally across that site which is marked?

(Mr Berryman) Yes.

16872. We were told there was a cesspit slightly higher than that.

(Mr Berryman) Yes, these are two different things. Between these two houses here, there is a right of way or a paved area in any event and the sewer runs down that paved area and diagonally across there. It comes up this road here and down there. Now, this is a trunk sewer, not a sewer for individual houses, so there are no individual house connections in it. It is a big sewer which serves the whole of this Abbey Grove area, so I imagine that when the outhouse was built or the garden building was built with the need to put a toilet in, you normally would not be allowed to tap into a sewer like that.

16873. The reason I am asking is could not one of the benefits be that the cesspit would be joined into the main sewer line?

(Mr Berryman) I am not sure that Thames Water would let us do that. It would require the construction of a manhole in any event at a minimum which may cause even more disruption. We could certainly investigate it, but I would have to say, without going into the details, unless there is something I really have not understood, I would think it extremely unlikely that a connection could be made.

16874. It just seems that if it is there and if it is a problem, part of the gain exchange could perhaps be incorporation.

(Mr Berryman) We will certainly look at that, but, as I say and I reemphasise, I think Thames Water's reaction would not be very favourable.

16875. **Kelvin Hopkins:** It looks as if on the north side, the left-hand side of the diagram, that there were four tracks originally. Is that right? Is it reinstating what was a four-track railway?

(Mr Berryman) No, I understand that it never actually was a four-track railway, but the land was acquired for making it a four-track railway. That is one of the reasons why you see the very strange plot numbering down here and the ownership of this land is actually odd. Normally the garden of a house would be all one plot.

⁶ Committee Ref: A 191, Oblique aerial photograph showing location of garden building at 71 Abbey Grove (GRCHLB-13303-002).

16876. To make it a four-track line, you feel you have to take extra land on the southern side to make it wider? Is that right?

(Mr Berryman) We are taking extra land on the southern side and on the northern side, so we are widening symmetrically. There are houses on both the north and the south side.

16877. So the track bed, if you like, never used on the northern side was not sufficient for two tracks?

(Mr Berryman) At that particular location, it looks as if there was a used track there, but in fact there is not. It never was a four-track railway, but always a two-track railway.

16878. But that was left for the possibility of construction?

(Mr Berryman) Yes, there was always the possibility that it would be widened. At this particular location, you can see there is a road on the north side of the railway, but further along there are houses which back on to it.

16879. So you have to take some land to the south as well as the north?

(Mr Berryman) Yes.

16880. Could you explain in just a little bit more detail what you actually have to do about the sewer?

(Mr Berryman) Yes, the sewer is almost certainly a standard concrete pipe. Because the railway at this point is on an embankment, we will have to widen the embankment slightly. We would normally put in a strengthening pipe to do that, either a steel sleeve or possibly just a more substantial pipe section.

16881. **Mr Binley:** Mr Berryman, I am worried about the consultation again. I have been in marketing for a very long time, so I know how difficult it is to get messages through to people, but I am back to that old monitoring issue again because you do state the consultation vehicles and routes that you use, but there is nowhere in here where your response talks about monitoring to know that the people received those communications. Indeed we have heard from Ms Cousins that in fact she was invited to the wrong consultation which underlines the difficulty. I sympathise, but when I look at the consultation rounds advertised in local newspapers, I know from my canvassing how many people have notices on their doors, "No local newspapers", and I know how many people, given free newspapers, would throw them away without even looking at them. Therefore, I have a concern about simply saying that you have gone through these consultation channels, a concern that that does not mean to say that you have consulted. The only way that you know is by monitoring quite sizeably and that is an expensive exercise, so how can you be sure that you have consulted?

(Mr Berryman) Well, I think evidence was given on this in the last session of the Committee when we explained—

16882. Yes, and I did not accept it then, sir.

(Mr Berryman) Well, we did explain that we had done two—I have forgotten what the technical word is—surveys to see how many people had picked up the information. I was rather surprised myself to hear what Ms Cousins has just said about being invited to the Whitechapel Centre and I will look into that and find out what happened. It is the first time I have been aware of it.

16883. Do you accept that it is quite unbelievable that Ms Cousins did not know about this situation? I can understand your view that it is unlikely, but it is quite conceivable that she did not. That is the point I am putting to you.

(Mr Berryman) I am sure you will know from your canvassing that it is quite difficult to get messages across to—

16884. And from being in marketing for 30 years.

(Mr Berryman) Yes, indeed that too, but it is very difficult to get to every single person. The problem with consultation on a scheme like this is that you are actually aiming for single people, you are not aiming for a segment of the market or that sort of thing, you are aiming for individual householders. It is quite difficult to make sure you reach every one of them. We have had major problems with this issue particularly in other parts of London, not so much here, where we have actually gone round and I have personally supervised things being stuck through doors by our own staff and yet people have still said, "We didn't hear about it".

16885. I sympathise enormously, I really do sympathise, but I think the point Ms Cousins is making has some validity in this respect and that is the point I am making.

(Mr Berryman) I do not think we would have ever claimed, and I do not think we could ever claim, to reach every individual house. We have done our best to try and do it and we have focused on hard-to-reach groups. I would not have put Ms Cousins in that category, by the way.

Re-examined by Ms Lieven

16886. **Ms Lieven:** Just on consultation, Mr Berryman, once the Bill was published, would Ms Cousins have had individual correspondence addressed to her about the situation, that land was to be acquired?

(Mr Berryman) Yes, she would indeed. As an owner of land to be acquired or, for that matter, as anyone impacted in this way, she would have received an individual letter.

16887. **Mr Binley:** Can I ask whether that was after planning permission was sought? That is the relevant point here. If it was after planning permission was sought, it really does impact on Ms Cousins' case in truth.

(Mr Berryman) When a planning application is received, and, as I understand it, it was a late planning application, in other words, the building was already existing, on 20 January 2003.

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16888. **Ms Lieven:** So was that actually before the land was safeguarded in any event?

(Mr Berryman) Yes, it was. The safeguarding did not take place until quite late in this area.

16889. The only other thing I wanted to ask you about, Mr Berryman, was vibration which Ms Cousins is obviously very concerned about and quite understandably being next to a railway which carries freight.

(Mr Berryman) Indeed.

16890. Can you just say in lay terms how the vibration effect from a Crossrail train will compare to that of a freight train which Ms Cousins experiences at the moment and, secondly, whether your understanding is that there will be any vibration threat from Crossrail?

(Mr Berryman) There will be certainly no discernible vibration from Crossrail. It does not get away from the fact that there will still be freight trains on the line of course, that is nothing to do with us, but the Crossrail trains should be significantly smoother even than the existing passenger trains which operate on this line. It should not be causing the kind of vibration that Ms Cousins referred to.

16891. **Chairman:** What about sound-proofing? Would that improve the situation?

(Mr Berryman) Well, we are proposing to put a two-metre-high noise barrier in. The noise from railways comes from quite a number of different sources. The biggest part of it comes from the wheel-rail interface, the actual roughness of the wheel and the rail interacting with each other. By putting up a two-metre noise barrier, you can mitigate 95% of that noise. These noise barriers now are very, very effective. The noise barriers which have been put up on the M1 in Bedfordshire have been absolutely brilliant and we will be putting something similar up.

16892. **Ms Lieven:** Those are my only questions, sir.

16893. **Chairman:** Ms Cousins, would you like to come back?

Cross-examined by **Ms Cousins**

16894. **Ms Cousins:** Thank you for asking about the consultation. I did receive this notice, but that was after and I have got that and I have written on it. I tried to ring up for information, so I have got that, the so-called consultation which I think is meant to be prior, so there are gaps in the process. We ended up talking about noise and vibration. I can see that with construction going on there is a barrier between the property and the line which would affect the noise, but the vibration is something else. If you are putting in a new line that will take freight and possibly while they maintain the old lines, I do not know if they are going to be maintained, can there not be a commitment of vibration-isolating mounting?

(Mr Berryman) On what?

16895. On the track, I presume, on the track itself.
(Mr Berryman) Well, in this area the track will be on ballast on the ground which is not amenable to vibration-free mounting. In any event, that would be a problem which applies over the whole of the National Rail network, it does not just apply to this house.

16896. So nothing can be done about the vibration and we could have freight trains travelling a bit closer?

(Mr Berryman) There will of course be the noise barrier, as I mentioned. The track will be new which will also have beneficial effects.

16897. I do not know what the Committee can do, but maybe in looking at that, if you are coming nearer to the property and there is vibration, there is a difference between noise and vibration as one is aerial and the other is through the ground, or that is what I assume, that if you are in your bed and rocking, there is no way that is aerial, so perhaps the Committee could give consideration to whether if it is right across the whole system, and maybe that is a reality that has to be taken into account, but could serious consideration be given to vibration-isolating mounting? Do not ask me what they are, rubber pads or something.

(Mr Berryman) They are rubber pads, but, as I said, they are just not appropriate for lines which are built on an embankment. I think the track down there, and I should not say this about colleagues' lines, but I think the track down there is pretty poor at the moment and it certainly will be significantly better when it is rebuilt.

16898. **Chairman:** Mr Berryman, there are a number of questions. Ms Cousins was very clear about compensatory matters which we do not want to discuss here, but also about the scale and size of buildings that are going to be left there. I wondered if you could establish some liaison so we can get someone to sit down with Ms Cousins and actually go through all of that.

(Mr Berryman) Yes, we can certainly do that.

16899. **Chairman:** We would be very, very grateful if you could examine whether or not this cesspit was a similar situation which might be rectified which would give a cost benefit to the property owner in relation to all the works which are going on and the loss which will be incurred.

(Mr Berryman) We will certainly look at that.

16900. **Mr Binley:** Mr Berryman, going through a planning application, no matter how large or small, is expensive, it is costly, and it is quite apparent to me that, through no fault of her own, because we have already admitted that the consultation came and certainly your letter came after the planning permission was applied for and we all know that it is not the planners' responsibility to tell people of possible other use in the future, so could you look at

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that too? We are not talking, in the great scheme of things, of a great deal of money, but I think it would be fair to Ms Cousins if you might look at that and see if you can do something to help in that respect. *(Mr Berryman)* I shall need to talk to my property colleagues of course on that.

16901. I know you are a kindly man!
(Mr Berryman) I am a kindly man, but unfortunately some of my colleagues are less kindly than I am!

16902. **Ms Cousins:** One of the things I really would need, and it ties in with what was said about going through planning and dealing with contractors and so on, I really would not want to be left with a piece of ground and be told, "There you are", and have to go through all that again. It is a right of way. It is actually two separate buildings which are separated by half a metre and it is a garage with an integral toilet. We drive down the side between the two properties into the back garden and that dark area is actually the tarmacked area up into the garage, so it is a functional garage/store room and so on, so it is quite large. The playroom or summerhouse, as I prefer to call it when I use it, is a functional building as well. Basically it is just a square room, but it is carpeted and everything. The children use it, they have their birthday parties down there, so I have no problems and the children from the community can come down and go straight down the back and go and play in the playroom and I do not have to have them running up and down in the house. They are functional structures, so I really would want a commitment. Admittedly, before I came here, I had not appreciated, I thought it was the entire, whatever shape area that is that was under proposal to be taken permanently, but if it is only a three-metre strip, whatever is left beyond that three-metre strip to me needs to look like what is there now. That is the commitment I would be looking for.

16903. **Chairman:** What we can give you a commitment of today, Ms Cousins, is that Mr Berryman has promised to set up a liaison with yourself to actually examine all of these questions which you have asked, and in particular the installation of sound barriers, and also to give you exact information of what buildings will be there at the end of it. I am sure, even with assurances now at this meeting, that the state of the land will be put back in such a way that it will not be left in disarray. *(Mr Berryman)* I am happy to give that commitment. We already have an information paper on that point of course, so it is a policy of the whole thing. As regards the buildings, that is a slightly different issue. The issue of whether they can be rebuilt or not would be covered in compensation.

16904. **Chairman:** But perhaps you can take on Ms Cousins' concerns and actually give us an assurance that what will be left will not be worse. *(Mr Berryman)* I am happy to give that assurance now. The reinstatement will be with her agreement.

16905. **Ms Lieven:** Can I just say, sir, that we will look into whether it would be possible for us to make re-provision. Obviously it is not a financial issue, this one, at all because we will compensate in any event, but if it is possible for us to make the provision within the Bill, then that would ease Ms Cousins' position in having to re-apply for planning permission and go through the whole process again, but there are legalities to that which we will have to look into and we will write to her setting out what the position is.

16906. **Chairman:** I do not think that any of the things that were suggested here are great difficulties and I think that they are all solvable so that some kind of benefit on both sides can be achieved. Mr Berryman has actually agreed to this meeting and he has been as helpful as he possibly can. I think that is enough for the Committee.

16907. **Mr Binley:** Can you report back though in good time while this Committee is still in being? That would be helpful.

16908. **Ms Lieven:** We will certainly be able to report back while the Committee is still in being. I do not know how much the Committee knows about the procedure at the moment, but this is likely to be a relatively short period of sitting, perhaps only a couple of weeks or a couple of weeks and a day, but if we can get an answer back within that on it, we will do our utmost.

16909. **Chairman:** Can I just say, Ms Lieven, that it may be for you, but it may not be for us because we have to read all of your reports!

16910. **Ms Lieven:** I should have said the public sittings, sir.

16911. **Chairman:** We also have to write our report and agree our report, so we are going to be fairly busy.

(Mr Berryman) We will of course be back with additional provisions in January.

16912. **Chairman:** We are not out of October yet, so there is still a while to go. Ms Cousins, are there any other matters you want to raise?

16913. **Ms Cousins:** No, I think that is the substantial bit, thank you.

The witness withdrew

16914. **Chairman:** Ms Lieven?

16915. **Ms Lieven:** Do you want me to make a very brief closing, sir, so that you have it on the record largely for those members of the Committee who are not here?

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16916. **Chairman:** Please.

16917. **Ms Lieven:** There are just four points to cover. First of all, there is no real issue; we need the land. Secondly, the permanent acquisition is only of a very small proportion, three metres of a 42-metre garden. Thirdly, on vibration, our trains will not be increasing vibration and they will have no material effect whatsoever and she will be benefited by the acoustic fence which will certainly lessen the noise from the freight trains, albeit not the vibration. As far as the suggestion of putting padded track in is concerned, which we have discussed for the tunnelled sections of the route, as Mr Berryman has explained, on a ballast and earth embankment that simply would not serve the purpose and it would be quite inappropriate. On consultation, we absolutely hear what the Committee says. The consultation has not been perfect, but it never is perfect. It is an impossible thing, I suspect, ever to meet the desires of people who want to know everything with the desires of people like Ms Cousins, and I have to say

myself, not to have every tree cut down to get masses of paper or to persuade people to open envelopes which are addressed only to the occupier, but we will keep monitoring and we will keep reporting back to the Committee on how we are getting on.

16918. I should say that we totally understand that members of the public who are directly affected, particularly whose own houses are affected, may well feel very intimidated by the entire process and we do appreciate that and we do as much as we can and we are learning every day to try to do it better. Of course we have said that we will liaise further and we will look into what further works we can do.

16919. **Chairman:** Ms Cousins, can I thank you on behalf of the Committee for what I described earlier as a very refreshing presentation. We are very grateful to you and we will look at what has been said today and ensure, as far as possible, if we can, that it reaches a satisfactory conclusion. Thank you, Mr Berryman, again. The Committee will now adjourn and will next meet tomorrow at 10 am.

Thursday 12 October 2006

Before:

Mr Alan Meale, in the Chair

Mr Brian Binley
Ms Katy Clark

Mrs Siân C James

Ordered that Counsel and Parties be called in.

16920. **Chairman:** Good morning. We have two petitioners today, Kempton Court Residents and then Saunderson and Saunderson. Would Counsel like to outline?

16921. **Mr Taylor:** Sir, Good morning. The Committee will recall that Kempton Court Residents appeared on day 35 and at that particular point Ms Lieven explained that in respect of the noise issues at that date the promoter wished to

review the position and work was then done that resulted in a report in June of this year which was then produced, I believe to the Committee, and was circulated to the residents reviewing noise issues in the Whitechapel area as a whole. I understand this morning that Ms Singleton has returned to present her petition on the noise issues in light of that report. I think that is a rather brutal summary but there we are.

16922. **Chairman:** It is a start. Ms Singleton?

The Petitions of Kempton Court Residents Committee

The Petitioner appeared in person

16923. **Ms Singleton:** Thank you. I will just be providing a brief report of what I have considered from the noise information. I am satisfied that Crossrail have made an assessment of the likely level of noise that would be produced by any type of open-air activity using mechanical plant. The assessment was by a computer programme called SiteNoise 98. Although this is an accepted industrial model, Crossrail acknowledged that conditions can change in the period up to construction and that these predicted noise projections will then need more work.

16924. The report has produced an understandable, full explanation of how noise mitigation was arrived at. This was what was not at all clear in the original Environment Statement so it is understandable for residents. The report shows a number of properties in Whitechapel Road and Cambridge Heath Road which were not included in our petition. However, I have had telephone calls from two of these owners who have heard that I might have information as they were unaware of any possible problems. Therefore, I hope that these properties have been sent the same information. This highlights the need for a continuing dialogue for any persons who may be affected by Crossrail.

16925. A further issue for Kempton Court residents is the shortening of piles that are beneath the actual building and properties. A minimum of 15, but possibly up to 40 piles, may be in the path of the crown of the tunnel lining. Crossrail sets out the process for mitigating these, and will work with the freeholder. However, it is important for the residents above these areas to have assurance that there will be

no adverse effect to the fabric of their flats which we feel would be best done by a pre-survey of the individual properties.

16926. The one item not provided in the Summary of Off-Site Mitigation is a time-line and a time-line that is understandable to the residents. I realise actual dates are as yet not possible to provide, but a simple diagram could show the likely periods during construction when work would particularly affect an area, say, the relocating of utilities. This would be especially helpful for residents who would possibly face two separate periods of rehousing. It would also give some understanding and information for residents who need to sell during the construction period, this is a very big concern, what will we do if people come along and see the windows with this extra insulation on them and worry about how long this might be the case. I have received a letter from Keith Berryman, Managing Director of Crossrail, that he will be happy to maintain a dialogue with me regarding the Noise Mitigation scheme, and the other proposals relating to the construction of the proposed Whitechapel station including works to the Kempton Court piles.

16927. The particular point I have raised was the concerns of residents of how noise insulation could be installed on floor to ceiling inward opening glass and the extremely large windows of Trinity Hall. I would say that in some of the flats at Kempton Court there might only be one very small window, all the rest of the glass areas are these floor to ceiling inward opening doors. Other concerns there are there is no mention of removal and making good after the whole process of insulation is not required.

The Petitions of Kempton Court Residents Committee

As the Whitechapel site is so large, if they are growing concerns about the building site in the area, I would like assurance that Crossrail will hold informal surgeries in the area or regular meetings.

16928. I note the Promoter's letter of 1 August 2006 that assurances to Petitioners will be put on a register. However, whilst many assurances will encompass the concerns of many petitioners, some assurances, certainly to residents in Durward Street, are specific to them, and in fact, are known only to those who read the transcript of the minutes of evidence. I wonder if it is not possible to have specific assurances now rather than waiting until they appear on the register only where it is concerning residents in Durward Street, that is where we are.

16929. **Mr Taylor:** Sir, I have got Mr Rupert Taylor who we can speak about technical matters if that is necessary but I am probably in a position to respond to Ms Singleton's concerns.

16930. **Chairman:** There are only really two matters, one is the consultation, the request to ensure that other people in the immediate area are also consulted with any documentations which are going around which I think very easily get a response to guarantee on that. The second thing is about a host of matters in relation to ongoing dialogue and we did agree, we recommended in our interim report, about the one-stop shop option should be in the area and I think that meets all the needs and demands that Ms Singleton has put forward for regular surgeries and dialogue.

16931. **Mr Taylor:** Sir, you are ahead of me but I was going to remind the Committee of the fact that we had accepted yesterday the recommendations for a one-stop shop and in our view that will form a focus for consultation with the residents and for the dissemination of information.

16932. **Chairman:** Ms Singleton, is that satisfactory? We have insisted and it has been agreed now with the Promoters to have this permanent one-stop shop

which has dialogue continuously with all the residents in the area on an ongoing basis and that seems to be quite a lot of your demands.

16933. **Ms Singleton:** Yes, I would be very happy with that. I was not sure when I read yesterday's statement whether it was only for the Spitalfields area but if it is the wider area that would be fine, thank you.

16934. **Mr Taylor:** I think the intention is for the entire Whitechapel area. I have two other points which I will deal with very briefly. Ms Singleton raised concerns about the need for a pre-survey of the flats. I can confirm that a pre-survey will be done pursuant to the settlement deed that was entered into by those in the flats. Of course they will be offered that document and so there is already a process that we have outlined to the Committee for ensuring that is done. The only other matter that I would draw to the Committee's attention is that when the specification for noise insulation is worked up, the Committee may not be aware of this but we have got information paper D9 which sets out a lot of the detailed explanation for procedure. Within that document it indicates that the specification for noise insulation will be agreed with the particular resident concerned, so, there is inevitably going to have to be some detailed consultation through the process we have already set out.

16935. **Chairman:** Does that satisfy your concerns, Ms Singleton?

16936. **Ms Singleton:** Yes, thank you very much.

16937. **Chairman:** I think you have had a very good morning, very short but very good and we thank you for coming back to us again and bringing your further concerns. If there anything else in your presentation which needs to be taken account of, we will assess those concerns as we finalise the report. Thank you very much.

16938. **Ms Singleton:** Thank you.

16939. **Chairman:** We will now move on to Mr Saunderson. Ms Lieven, would you like to outline?

The Petition of Mr David James Saunderson

The Petitioner appeared in person

16940. **Ms Lieven:** Thank you very much, Sir. I am afraid I am going to have to tell the Committee in opening something of the history of Mr Saunderson's involvement in Crossrail because of the issues that he wishes to raise and which he raises in his petition. I am going to call Mr Colin Smith who is going to give you a detailed history and explanation of where we are but I thought it would be helpful for me to give it in outline. Mr Saunderson, through a company called SHL, bought a number of companies in the Farringdon area in the mid to late 1980s, and perhaps we could have up the first exhibit, intending to bring forward, a property development company. Their properties which are close to or affected by, and I will show you in detail in a moment, the Farringdon Station at the eastern end, what the Committee have come to know as the Lindsey Street ticket hall. Just to orientate the Committee, this is Smithfield market here.¹ This is Lindsey Street and you will remember the Committee has heard a lot of evidence about that in the past and this is a street called Long Lane. SHL bought a number of properties on Lindsey Street, Long Lane and Hayne Street in the mid to late 1980s intending to develop them for property purposes. In November 1990 a safeguarding order was issued for Crossrail and that is what is shown on this plan in the dark colour which safeguarded all of Mr Saunderson's properties and it is correct to say that the effect of that, and Mr Smith will go through it in detail, was to seriously limit what planning permission, if any, could be gained on those sites on his land.² It is very important to stress at this stage that, of course, Crossrail at that stage although still called "Crossrail" was being promoted by London Underground and British Rail, as it was then, and it came forward before this House as a private bill not a hybrid bill. So, the Department for Transport, although a supporter in the background, had no part in the promotion of the scheme at that stage.

16941. Importantly, in October 1991, the limits of the safeguarding were changed so that the properties that Mr Saunderson, SHL, owned on Long Lane, these properties here were no longer within the safeguarding.³ The reason for that is the Committee may remember that there is a difficult issue at this end of Farringdon around the relationship of Crossrail with Thameslink. When the original safeguarding was undertaken, there was effectively no thought of Thameslink 2000. In 1991 it was then assumed that Thameslink would go first before Crossrail, it was possible to shift the site of the station north because some of the Thameslink 2000 tracks would be closed and that led to the change in the safeguarding and the release of Mr Saunderson's land on Long Lane, so far, so clear.

¹ Crossrail Ref: P120, Crossrail Safeguarding Directions Sheet No. 10 (LONDLB-8204-006).

² Crossrail Ref: P120, Crossrail Safeguarding Directions Sheet No. 18 (LONDLB-8204-004).

³ Crossrail Ref: P120, Crossrail Safeguarding Directions Sheet No. 18 (LONDLB-8204-005).

16942. What happened next had nothing to do with Crossrail which is that the Committee may well remember that there was a very severe property slump, particularly in London and even more particularly in the fringe areas of the City of London in the early to mid 90s, very severe, prices fell enormously. I think in 1995—although Mr Saunderson will give you a precise date I am sure—SHL went into receivership and all the properties owned by SHL except for 10 Hayne Street, which we will come to in a moment, was sold by the receivers and there is no issue that they were sold by the receivers both for a good deal less than Mr Saunderson had paid for many of them at the height of the market in the late 1980s but also for a great deal less than they were valued at an open market value in the 1990s. So, there is no doubt that the value of those sites fell very, very significantly. That, in itself, was not out of line with what was happening in Farringdon and across other parts of London. That outlines Mr Saunderson's first issue which is that he should be compensated for what he perceives to be the detrimental effect of the 1990 safeguards and I will make submissions in full in closing but can I ask the Committee, and Mr Smith who will give evidence on this, obviously in detail, to note three markers at this stage.

16943. First of all, neither the 1990 or 1991 scheme was being promoted by the Department for Transport so, in effect, this is all history and it is not really in my submission a matter for this Committee.

16944. Secondly, and Mr Smith as always will be very straight forward about this, we are not saying Crossrail did not have an impact on SHL but a very large part of what happened to SHL was a consequence of the property market and property speculation and to coin a phrase property values go up and property values go down and this was a speculation which went down but very simply because of what was happening in the property market.

16945. Thirdly, and Mr Smith will give evidence on this as well, what happened to SHL in terms of that slump in property values was not by any means unique to SHL in its interaction with Crossrail. A very similar argument could and would be put, for example, by the Grosvenor Estates about values to many of their sites in central London where they hoped and expected to develop property and found that it was much more difficult, if not impossible, to do so, because of Crossrail. Of course there is a difference because SHL have bought the sites and is a smaller developer than something like Grosvenor Estates, but the fact that there are other sites which in those terms have been difficult, if not impossible, to develop because of Crossrail is reflected across sites in central London. That is the first issue. The second issue specifically concerns 10 Hayne Street, and perhaps we can put up the plan that shows 10

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Hayne Street.⁴ This is the one part of Mr Saunderson's land which is still within his or his partial ownership.

16946. **Mr Binley:** Sorry, can you show us where that is?

16947. **Ms Lieven:** This is the photograph of it.⁵ It is this site here. It is an empty space which could be used for surface level car parking.

16948. **Mr Binley:** Can we then relate that to the map?

16949. **Ms Lieven:** Certainly, if we can go back to one of the maps and focus in on Hayne Street. Hayne Street is here and it is that site there.

16950. **Mr Binley:** Can I ask how that relates to the change in the order?

16951. **Ms Lieven:** Ten Hayne Street would always have been safeguarded.⁶ Here is 10 Hayne Street. The change in the order affected this block on the corner of Lindsey Street and Long Lane, so 10 Hayne Street was safeguarded in 1990 and 1999.

16952. **Mr Binley:** That is fine, thank you.

16953. **Ms Lieven:** The position on 10 Hayne Street is that it is the one part of the SHL land ownership that was not sold by the receivers. It is now owned, we believe, by Mr Saunderson, who appears this morning, Mr Saunderson's cousin, who, slightly confusingly, but through no fault of his own, has exactly the same name, including the same second name, and Mrs Katherine Baxter, who I understand is a member of the family but Mr Saunderson can explain who she is. We understand, although Mr Saunderson may confirm the precise land ownership, that Mr Saunderson himself retains a part ownership of the site. As I said a moment ago, the site is an empty plot and could be used for surface level car parking.⁷ As the Committee can see, it is not a particularly large plot. It is a site that is definitely needed for the scheme, there is no issue about that, and our simple solution, which is very straightforward, to this part of Mr Saunderson's concerns is that if he put in a blight notice, made an application under the blight notice scheme, the site falls within the rateable value limits for blight notices. The Committee will remember, there is a relatively low cut-off but this site falls within it. As long as Mr Saunderson, on behalf of all the owners, serves a blight notice and then is in some way in occupation and control of the site, he will satisfy the

blight notice criteria and we will have no choice but to accept the notice. Have we got the photo that shows the site side on?

16954. The occupation qualification is not a difficult one to meet on this site because all that needs to be done is for the owners to ensure that one or two cars are parked on the site, we are not asking him to move in and take up residential occupation, that is a not necessary. Occupation is a relatively low test here. We may be unreasonable but we are not that unreasonable. If a blight notice was served and that relatively low test was met, we would have no choice but to buy this site as it would fall within the statutory criteria, but we cannot do it until he applies. We have no statutory power to do so. We are waiting for Mr Saunderson, who I would assume has taken his own advice, to take that course and then this part of his concern simply goes away.

16955. I should say at this point, Mr Saunderson is very aggrieved because his perception is that we encouraged him to apply under the Hardship Policy in respect of 10 Hayne Street and then rejected his application. Whys and wherefores of whether he really was encouraged perhaps do not matter very much. If he was then perhaps it was not the best course because it would have always been difficult for him to satisfy the policy. In any event, perhaps the Committee does not need to be too bothered about that and perhaps does not need to get too much into the rights and wrongs of the past history on it because if he serves a blight notice he gets exactly the same effect, which is that we buy the property. I should say, we buy it at open market value, not in any sense as blighted by Crossrail. I understand this site did have a planning permission on it originally and that will be taken into account in assessing the compensation under that blight notice proposal. Mr Smith can explain that to you in much greater detail. On that part of his issues, we say there is a simple solution. The third issue he raises is in respect of the land disposal policy which is the policy to do with owners whose land is compulsory acquired and the share that they get in over-station development profits, our simple answer to that is we have a policy and we will apply it to Mr Saunderson in exactly the same way as anybody else. When I hear what Mr Saunderson has to say about that I will ask Mr Smith to deal with that. I am sorry to have gone into more detail and perhaps put more of my case than I would do normally in opening, but it is a slightly different issue from many of those the Committee has come across. I hope that is helpful. That is all I was going to say at this stage.

16956. **Chairman:** Mr Saunderson, can I say before we set off, we are limited in what this Committee can do in respect of this. Firstly, we are not entitled to go back and alter a court decision which has previously been taken. We cannot do that. We cannot take a decision to award retrospectively things like compensation. I do not think that is within the remit

⁴ Crossrail Ref: P120, Hardship Claim—Location of 10 Hayne Street(SCN-20061012-001)

⁵ Crossrail Ref: P120, View of 10 Hayne Street (LONDLB-8204-001).

⁶ Crossrail Ref: P120, Crossrail Safeguarding Directions Sheet No. 18 (LONDLB-8204-005).

⁷ Crossrail Ref: P120, Alternative view of 10 Hayne Street (LONDLB-8204-002).

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of our powers at all. As long as you realise that. You are here to put your case so please make it as best you can.

16957. **Mr Saunderson:** Thank you very much indeed. I propose to take us through the Petition which you will find on page 49 first of all, so that you have set in writing the facts, some of which differ from the position that has been laid out to you.

16958. **Ms Lieven:** I am sorry, Sir, we only got this morning. If Mr Saunderson had a set that we could give to Mr Grocott, and I can put it on the screen.

16959. **Mr Saunderson:** I have given out 12 sets this morning.

16960. **Chairman:** Can we list this as A192.

16961. **Mr Saunderson:** I believe you have had the Petition for a year.

16962. **Ms Lieven:** Yes, we have the Petition, it is just helpful to do it in the same order.

16963. **Mr Saunderson:** What I propose to do is take us through the Petition, then take us through this bundle of documents and then submit my arguments and submissions to you. I am grateful for your time for this Petition. You will see that it is raised in the name of myself, my cousin, who is sitting behind me and has the same name, and a friend, Mrs Katherine Baxter. She is no relation, but the wife of a colleague of ours. I am asking you to prevent the further passage of this Bill in Parliament which I believe you are entitled to do, so that is what I am asking you to do this morning.

16964. **Chairman:** We have been told that this is a good Bill and we have to present a bill back to Parliament so that it may consider whether to take it forward or not. As you say, we have been given a specific task to do that.

16965. **Mr Saunderson:** I sympathise totally with you.

16966. **Chairman:** Thank you very much, we need as much as we can get!

16967. **Mr Saunderson:** I understand that it has been a long haul for you. You have heard many people and I am sure it is hard going.

16968. **Mr Binley:** Would you mind, Chairman, if I read this first? I do feel if I have it in my head it helps when you allude to it and it will help build a picture.

16969. **Mr Saunderson:** Pages 49 to 55.

16970. **Chairman:** Can I reiterate what I said earlier, we are not able to go back retrospectively to deal with old matters. We will deal with the one which will be presented to us. We can deal with the matter of the land and property you have got now, but we

cannot go back to something you had before where there has been a subsequent court decision. That is a matter for you and the civil law and is simply not now within our powers to do so. We are only dealing with what is now. On the matter of compensation, we will deal with what you have now in relation to your Petition.

16971. **Mr Saunderson:** My understanding is that you can ask the Promoter for certain things, and my case put that the Department for Transport had nothing to do with what was going on back in 1990. I think that is slightly disingenuous. I think everybody here would find that slightly strange to try and disengage the Department for Transport from London Underground and Crossrail.

16972. **Chairman:** I fully understand where you are coming from with your argument because of your position, but in truth, it has been described that what occurred at that time was of a different volition altogether, it came from a different direction. What has been before is not really for this Committee. We can only deal with the present. As you know, one of the fundamental principles of British law is a lack of retrospection in relation to decisions which are made in this place. We cannot interfere. We can only deal with your Petition in respect of the situation now as it stands. If there is an unfairness, however unfair it might be, we can listen to your arguments, but I am not quite sure that we can formally insist upon the Promoter to act upon that.

16973. **Mr Saunderson:** I think all MPs would be interested in the way that the government bodies are conducting their business. If they are conducting that business which is prejudice to small businesses, I do not think that is something MPs would want to support. In my case, for 16 years London Underground, Crossrail, British Rail, however you like to call it, the Department for Transport, has been dealing unfairly with me and my company.

16974. **Chairman:** I understand that your view is that what has occurred in the past probably has been unfair. What I am saying is, we are dealing with now and that is all we can do. We do not have the powers to go back in this regard. I do not see that there is anything wrong with you putting your case, but I want to advise you that we are restricted on how far we can go and what powers we have.

16975. **Mr Saunderson:** For example, you made an order in your interim decision that costs should be paid to certain Petitioners. That is one of the issues I am asking you to award, the costs .

16976. **Chairman:** Certainly, and that is in respect of your holdings now, that is right. We will look at that, there is no doubt about it. I am saying, what you have presented in the past as part of your argument is on land and property which are under a different heading altogether and are no longer in your ownership, they have been gone for some time and have been subject to decisions taken before by the

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receivers and so on. That is not really a matter, I believe—I will take advice—where we have the power to effect.

16977. **Mr Saunderson:** I hear what you say, and I understand what you are saying. Ten Hayne Street I do own with my cousin and Mrs Baxter and I bought that in 1982.

16978. **Chairman:** Can I say, I am in no way trying to stop you in your presentation of your Petition, what I am trying to do is to advise you that, yes, you do have a proper and valid Petition which relates primarily to your ownership which you have now.

16979. **Mr Saunderson:** That is fine. My case includes that because I have owned that since 1982 and the other land has come and gone, as it were.

16980. **Mr Binley:** Having read through the Petition—I am grateful for that opportunity—may I ask Mr Saunderson a specific question which seems to be the nub of the Petition and can I say that I understand, as a businessman, your frustrations and concerns. I do not want you to think that there is not an understanding and there is not a great sympathy in that respect. I hope that at least makes you feel that the world is not against you because that might be helpful to you. Can I refer to page four of your Petition and to clause 10?⁸ I just want to understand a particular point. You will go on and present it. It says: “Due to direct intervention by Crossrail in the planning process to require refusal by the City of London Planning Committee . . .”, are we taking of 1989 and 1990 when you are referring to this because that is the period leading up to the problems? I remember the difficulties of 1989 and 1990 from a business perspective myself and indeed suffered specifically. Are you saying that was the period or are you referring to a later period when you made that statement?

16981. **Mr Saunderson:** Yes, it has continued since that time. We applied in 1992. I have included in here the City Planning Officer’s report accepting our scheme saying they had no objections to our scheme but referring it to the Department for Transport who directed refusal of the scheme for 80,000 square feet of offices in the City of London.

16982. **Mr Binley:** What I do not understand from that statement is the fact that if you are talking about Crossrail, which at that time I understand did not exist, and we are talking about two organisations which were not directly related to Crossrail, I can understand your general feeling that come on, London Underground and British Rail are government bodies, but in legal terms it was not directly related to Crossrail as such at that time, was it? I need to understand that from you.

16983. **Mr Saunderson:** My colleagues will correct me if I am wrong but Crossrail was a consortium, as I understand it, of London Underground, British Rail and the Department for Transport.

16984. **Mr Binley:** It was a different legal entity. I am trying to get your understanding of that.

16985. **Mr Saunderson:** Than today?

16986. **Mr Binley:** Yes.

16987. **Mr Saunderson:** I do not think I can comment on that. The entity as far as we are all concerned here is that it was Crossrail. How exactly the legal constitution of it occurred I do not think is so relevant. It was actually the Department for Transport that directed the City Corporation to refuse the planning so, if you like, that was the government.

16988. **Chairman:** As we understand it, in reply to Mr Binley’s question, Crossrail as was was a private entity promoted by London Underground although, yes, it did have the necessary liaison with the statutory bodies at various times. The difference being this time this is a hybrid bill and it is under the Department for Transport that Crossrail is being done, is that correct?

16989. **Ms Lieven:** That is right, sir. The Bill that was promoted in the early 1990s was promoted by London Underground and British Rail, so that is one point. There was no consortium between London Underground, British Rail and the Department for Transport. The Department for Transport was not a partner in any legal sense in Crossrail, that is why it was a private bill and this is a hybrid bill. It is right to say that the safeguarding was placed by the Department for Transport because safeguarding can only be placed by a government body, it cannot be placed by private individuals. I do not think there was a company called Crossrail or anything like that at that stage, it was literally these two railway bodies and they applied to the Department for Transport and the Secretary of State for Transport exercised his statutory functions in imposing safeguarding, as he would for any other private bill that he thought it appropriate to do so. The Secretary of State for Transport only became directly involved in Crossrail in the early 2000s.

16990. **Mr Saunderson:** I hope that is helpful. I do not want to confuse this but the Department for Transport has been intimately involved with Crossrail, as we all know from the papers, since it began.

16991. **Mr Binley:** I understand that, thank you.

16992. **Mr Saunderson:** Just to take you briefly through the documents. Page three is the planning permission granted on 10 Hayne Street in 1984 for a 714 square metre gross, that is about 6,000 square

⁸ The Petition of David James Saunderson and David James Saunderson and Kathryn Jean Baxter against the Crossrail Bill, www.publications.parliament.uk (SCN-20061012-003).

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feet net roughly, office building on 10 Hayne Street, which I still own with my cousin.⁹ That gained planning permission. It was in Islington Council at that stage but the boundary was moved and it is now within the City Corporation. This is an Islington planning notice. On page four you will see a valuation of that from a firm of surveyors in the area at £200,000 in 1986 for that 10 Hayne Street property, just to show that for interest.¹⁰ In 1990, on page five, there was a renewal of the planning permission, that same planning permission for an approximately 6,000 square feet office block.¹¹ That was February 1990, again from Islington. Then we move to the City of London, the letter on page six in 1991, where we now see the larger site, which I had acquired mostly in the early 1980s.¹² 1981, 1982 and 1985 were when three buildings were acquired and two were acquired in 1988 and 1989, so they were not all acquired in the late 1980s as the other barrister said.

16993. In 1991, in conjunction with discussions with London Underground which had been going on—because I have not gone through the petition I have not explained there were detailed discussions going on with London Underground, Crossrail, whatever you call it, regarding a joint development of this site and, indeed, they had been paying half of the professional fees—we had run an architectural competition for this site run by Jones Lang Wootton and we had six firms of architects and TP Bennett, a big firm, was selected. That firm developed a planning application and it was then agreed that it should be changed because Crossrail had given us new sizes for the ticket hall. In 1991 we withdrew that application and this is a letter from the City Corporation to our architectural associates, Noel Isherwood, withdrawing the planning application we had made and we were going to resubmit one, which we then did shortly thereafter.

16994. You will see on the next pages, starting at page seven, a report of the City Planning Officer—this is now the Corporation of London—to the planning committee of the City of London dated 9 June 1992.¹³ You will see the address, “bounded by Hayne Street, Long Lane and Lindsey Street”, which you are very familiar with, close to the Barbican Station, next to Farringdon. You will see in 1.2 the recommendation of the City Planning Officer: “It is recommended that in view of the representations received from Cross Rail, the application be referred to the Department of

Transport in accordance with the safeguarding directions. Furthermore, the Department be advised that the Corporation of London is minded to raise no objections to the outline application for the demolition and redevelopment of the site to provide a five storey building, with plant room areas and two lower ground floor levels; for use as A1, A2, A3, B1, hotel and provision for Cross Rail/LRT, including associated car parking and servicing, subject to the conditions as set out in the attached schedule.” That was the City Planning Officer’s report on our scheme to develop some 80,000 square feet of offices and other uses on that Barbican/Farringdon site.

16995. “1.3 That I be instructed to inform the London Borough of Islington on your views on that matter”

16996. **Mr Binley:** My apologies, Mr Saunderson. The phrase “Cross Rail” here interests me and I just want to get an understanding of it. That is not an official company name as it is used here, is it, it is simply a description of a project which is a Crossrail project. Is there a difference there?

16997. **Mr Saunderson:** I am a chartered accountant, as it happens.

16998. **Mr Binley:** I am a salesman!

16999. **Mr Saunderson:** I see what you are saying. Crossrail, as the barrister has said, was a scheme promoted by London Underground Limited. I believe on the bottom of the notepaper it states the exact status. I do not have that in my mind.

17000. **Ms Lieven:** I think it is important that the Committee understands that what is being got at here is that there be provision for the Crossrail project, infrastructure railway, and when it says “LRT” it means the sub-surface lines of the Metropolitan and Circle Lines. It is an operational provision, it is not making any legal point between Crossrail and LRT. There had to be provision both for the Met and Circle Lines to keep running and Crossrail down in a deep basement.

17001. **Mrs James:** I just have to ask you, 6.16 on page 15 has a heading “Cross Rail” and there is a whole section referred to as “Cross Rail” and all the points from 6.16 through to 6.19 refer several times to “Cross Rail”.¹⁴

17002. **Ms Lieven:** I am sorry, I was not clear and I should have been. The project that was promoted in the early 1990s was called “Cross Rail” and it was a project in this area very similar to what the Committee knows as Crossrail. It had differences elsewhere but here it is very similar. There is no doubt at all that it was Cross Rail, that was what it was called, but as a legal entity it was a joint

⁹ Committee Ref: A192, London Borough of Islington Planning Permission for 10 Hayne Street, 20 November 1984 (SCN-20061012-004).

¹⁰ Committee Ref: A192, Valuation for 10 Hayne Street, 14 August 1986 (SCN-20061012-005).

¹¹ Committee Ref: A192, London Borough of Islington Renewal of Planning Permission for 10 Hayne Street, 12 February 1990 (SCN-20061012-006).

¹² Committee Ref: A192, Correspondence between the City of London and Noel Isherwood Associates, 28 February 1991 (SCN-20061012-007).

¹³ Committee Ref: A192, City Planning Officer Report to the Planning Committee of the City of London, 9 June 1992 (SCN-20061012-008 and -009).

¹⁴ Committee Ref: A192, City Planning Officer Report to the Planning Committee of the City of London, Cross Rail, p15, 9 June 1992 (SCN-20061012-010).

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promotion of LUL, possibly LRT (one never knows with LUL what it called itself legally at any particular moment), call it LUL, and British Rail.

17003. **Mrs James:** You can see why Mr Saunderson has made this assumption.

17004. **Ms Lieven:** Totally, and I totally accept that in terms of what Mr Saunderson saw on the ground, which was a railway going underneath his land, it was a railway in a very similar form but legally there is a very important distinction.

17005. **Chairman:** It is a different legal entity.

17006. **Ms Lieven:** Absolutely, sir.

17007. **Mr Saunderson:** I must say I would be surprised if the Department for Transport sought to push forward an argument to you that they had nothing to do with Crossrail in 1990.

17008. **Chairman:** I never sought to say that and I do not think Ms Lieven has either. What we are saying is it is about the legal entity both now and then. What we have now is a different legal entity entirely, it is the Government now and before it was mainline railway companies basically under a private bill. This is an important fact of law because on your petition you are seeking redress and, as I say, we have to look to see who has responsibility.

17009. **Mr Saunderson:** I am seeking redress from the Department for Transport who existed then and who exist today. If Crossrail would like to pay the bill that is fine, I do not mind who pays, but I think it would be disingenuous to suggest that there would be a distinction from a legal point of view. We would have to come back on that if one was trying to run an argument technically trying to get the Department out of the line of fire.

17010. **Chairman:** Let me give the distinction. Let me put it down on the record as a distinction. What we have now is a Government Bill called Crossrail which is supported by a private entity set up by the Government and that is the entity which exists at the moment. The previous Cross Rail was not that, it was a private bill without the Government. Yes, it encouraged it, I do not think there is any doubt at all about that, and there is enough evidence for everybody to assume that was the case, but the fact of the matter is it was a private bill run by private partnerships of groups of people coming together, so there is a distinction in law between the two. If we could move on.

17011. **Mr Saunderson:** I completely understand and accept that it was a private member's bill. Paragraph 1.3: "That I be instructed to inform the London Borough of Islington of your views on the matter and that a copy of this report be sent to the Borough raising no objection to that part of the scheme within

their authority.¹⁵ 2.1 Paragraph 5 of the safeguarding directions for development affecting the route proposed by London Regional Transport and the British Railways Board for the Cross Rail project . . . provides that applications which authorities are minded to approve against London Regional Transport's advice, must be referred to the Department of Transport. 2.2 The purpose of this report is to seek your views . . ." We move on to four, the proposal, that is outline planning permission to demolish the buildings on the site and erect a new building with a ticket hall for Cross Rail/LRT. Level one is to be used for Cross Rail, in 4.2, and level two will be Cross Rail plant and ancillary plant. "4.3 The building provides a total of approximately 8,614 square metres of floor space", some 90,000 square feet, and 1,496 square metres is for Cross Rail/LRT use and it goes on about plot ratios and so on.

17012. 5.1 is what the Cross Rail Project Team stated: "The above proposed development site falls within the safeguarding limits in respect of the Cross Rail Project for which the Secretary of State for Transport has issued directions under the General Development Order 1988. To safeguard the Cross Rail Project, we recommend that the application be refused on the grounds that the current ticket hall arrangements are inadequate, and further refinement is required in connection with this scheme which fails to address several outstanding ticket hall issues regarding the Cross Rail works. Accordingly, an objection to the outline application must be registered at this stage to safeguard the operational requirements of the railway undertaking."¹⁶ London Transport have commented, and they then make a point about the use of Farringdon East ticket hall and they require flexibility to handle 12 car trains up from eight car trains, and you have probably heard about that in the course of your hearings. So there is a comment on the size of the ticket hall which is addressed later in a revised scheme.

17013. In 5.2 on page ten, about the middle of the page, you will see that in London Regional Transport's submission they comment: "Further matters such as joint venture arrangements also require to be discussed. I am hopeful that agreement can be reached on these matters which will not prejudice LUL's powers and ability to construct, operate and maintain Cross Rail and the station facilities at this location and which would therefore avoid the use of the veto. In these circumstances LUL are willing to withdraw conditionally their objection to this application on the limited basis that a section 106 Agreement which unequivocally safeguards LUL's ability to exercise a veto over this scheme must be in place before planning permission

¹⁵ Committee Ref: A192, City Planning Officer Report to the Planning Committee of the City of London, Paras 1.3—4.3, 9 June 1992 (SCN-20061012-009 to -013).

¹⁶ Committee Ref: A192, City Planning Officer Report to the Planning Committee of the City of London, Para 5.2, 9 June 1992 (SCN-20061012-014 to -015).

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is issued". If we move on, the rest of that is just a report with various other parties commenting on the scheme, health and safety and so on. We come to the conclusion on page 16, item seven, the City Planning Officer's conclusion: "Having regard to the above, I am of the opinion that, subject to appropriate conditions, the scale and bulk of the building and the mix and range of uses is acceptable. Given the terms of the safeguarding directions for Cross Rail, Members' views are sought on the scheme. 7.2 It is recommended that in view of the outstanding objections from Cross Rail, the application be referred to the Department of Transport for their comment or a direction, and that the Department of Transport be advised that the Corporation of London is minded to raise no objections subject to the imposition of appropriate conditions."¹⁷

17014. We then move on in May 1995 on page 18 to 10 Hayne Street.¹⁸ This is a renewal of the planning permission which was unimplemented on the smaller site. The City Planning Officer writes to our architects, Noel Isherwood Associates: "I refer to your application for the renewal of planning permission. I would normally be able to recommend that planning permission be granted. However, as you are aware, the site is within the route proposed for the Cross Rail Project and I have received a comment from the Cross Rail Project Property Manager, recommending that the application be refused. I therefore intend to report the matter to the next available meeting of the Planning & Transportation Committee for their views, and if they are minded to grant planning permission, I propose to refer the application to the Secretary of State for Transport as required by the Cross Rail Safeguarding Directions issued on 5 November 1990." You are beginning to form a picture of what is happening and the various entities that are involved in this situation. "I will let you know the outcome . . ." Then he writes on 4 January 1996: "The Common Council of the City of London hereby refuses . . . to permit the development referred to in the undermentioned schedule", which you will see at the bottom of the page is 10 Hayne Street, renewal of the planning permission for the smaller office building of 600 square feet.¹⁹ So in January 1996 we get a refusal notice from the City Planner for the renewal of something that had already been renewed twice in 1984 and 1990. In 1996 it was refused.

17015. You will see on page 20 he goes into the details in the report associated with the decision.²⁰ In the middle of the page: "(A) 10 Hayne Street, EC1—

¹⁷ Committee Ref: A192, City Planning Officer Report to the Planning Committee of the City of London, Para 7.2, 9 June 1992 (SCN-20061012-016).

¹⁸ Committee Ref: A192, Correspondence between the City Planning Officer and Noel Isherwood Associates, 2 May 1995 (SCN-20061012-017).

¹⁹ Committee Ref: A192, Correspondence between the City Planning Officer and Noel Isherwood Associates, 4 January 1996 (SCN-20061012-018).

²⁰ Committee Ref: A192, City Planning Officer Report, 10 Hayne Street, EC1—Redevelopment (SCN-20061012-019).

Redevelopment. We have received an application for the renewal of planning permission for the redevelopment of 10 Hayne Street, EC1, to provide 714 square metres of offices . . ." A little bit further down: "Since planning permission was granted by the London Borough of Islington, the Secretary of State has issued the CrossRail Safeguarding Directions and 10 Hayne Street is one of the properties identified as being likely to be required for the construction of CrossRail. In accordance with the Directions, the CrossRail Project Team were consulted and they have advised that planning permission should be refused on the following ground: 'That the site, which is the subject of the application, lies within the route proposed for the CrossRail Project and is likely to be required for the construction of that Project.' We were advised that the lies directly over the proposed Crossrail ticket hall . . ." and so on.

17016. **Chairman:** Mr Saunderson, following that refusal, it was refused by the Committee, was it?

17017. **Mr Saunderson:** It was refused and the refusal notice was on page 9.

17018. **Chairman:** Did you then appeal to the Secretary of State?

17019. **Mr Saunderson:** I did not appeal, no, because we had had the Order from Crossrail.

17020. **Mr Binley:** Could I ask a question about the Order because on page 20 to that, it says, "Since planning permission was granted by the London Borough of Islington, the Secretary of State has issued Crossrail's Safeguarding Directions and 10 Hayne Street is one of the properties identified as being likely to be required . . .", so there is no doubt about that with regard to 10 Hayne Street and your rights have been made clear to you. I would have thought that would give you some comfort. How does that statement impact upon the other properties? Does it have any impact on the other properties at all?

17021. **Mr Saunderson:** First my question to you would be: if you had a property—

17022. **Mr Binley:** Forgive me, but I am asking you the questions.

17023. **Mr Saunderson:** Well, number one, the impact is that we had a little property, 10 Hayne Street, which has then been frozen effectively for 16 years and we have been unable—

17024. **Mr Binley:** Yes, I understand that about 10 Hayne Street certainly and I understand the difference between 10 Hayne Street, but that Planning Order also encompassed the other properties, did it not, laid by the Secretary of State and that is not in any doubt at all, is it, at that time?

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17025. **Mr Saunderson:** No, we never received permission for the bigger scheme.

17026. **Mr Binley:** My mind is slightly confused. At which stage was the plan was altered and pushed back, remind me of that date.

17027. **Mr Saunderson:** We have had the little scheme approval since 1984. The big scheme, the City Corporation raised no objection in 1992 to our final scheme and the Department for Transport ordered them to refuse it, so that was 1992 after the safeguarding directions had come in in 1990.

17028. **Mr Binley:** Thank you, I have the chronology.

17029. **Mr Saunderson:** So it was obviously clear before 1990, but we only ever put the large application in after the safeguarding directions because we were in detailed discussions with London Underground, London Regional Transport, the Department for Transport, Crossrail, all the different bodies that were involved and we worked with them, as you will see in the details, with the engineers, and we had Ove Arup's working on the engineering with London Underground and so on. I use the terms because they start to intermingle, London Underground Limited, London Regional Transport, the Department for Transport, Crossrail, but you can see a slight merger of those and you will forgive me if I ever get one particular thing wrong, but they were working together and in my mind it was the Government because it was all Government-owned.

17030. **Mr Binley:** The machinery of State, you could say.

17031. **Mr Saunderson:** Yes. So the final recommendation on page 21,²¹ "... we recommend that planning permission be REFUSED ..." and a refusal notice was issued which I showed you on page 19.

17032. On page 23 you will see that I wrote to the Rt Hon Dr Brian Mawhinney, now Lord Mawhinney, who was Secretary of State for Transport: "Dear Brian, I was delighted for you to hear how the Party finances have recovered—a sterling achievement in so short a time.²² As you kindly expressed interest over the last year in my Crossrail problem, I thought I should let you know the end result of my 17-year business effort. Four out of the five buildings on my blighted site were sold by the Receivers this month for £1.3 million—I paid £4.3 million for them between 1981 and 1989. In order to more accurately reflect what my company is reduced to by order of the Government, I have changed the name of Saunderson Holdings Ltd to CBCP Ltd", and you

can probably imagine what those initials stand for. "I am now available for up to four days per week consultancy work since my business has all but ceased."

17033. **Mrs James:** That has gone over my head, "CBCP"?

17034. **Mr Saunderson:** Well, it could be called 'Crossrail Blight Compensation Programme' or something like that. It was just a name out of Companies House. It just changed its name, the company. It was the same company, but changed its name at Companies House.

17035. **Chairman:** When this occurred and you had that subsequent loss, did you then take any legal action to recover because of the loss against the partners in the previous Crossrail project?

17036. **Mr Saunderson:** We did not take legal action because we were in pretty reduced circumstances, so we were not able to fight a legal case.

17037. **Chairman:** The reason I am asking, you have gone through the reference, but I am just trying to find if there were avenues explored which then reached a dead end. That is all I am trying to get it, but you did not take legal action?

17038. **Mr Saunderson:** No, I did not take legal action.

17039. **Chairman:** And you did not appeal to the Secretary of State?

17040. **Mr Saunderson:** Well, you can see that I wrote to Brian Mawhinney and you will see his reply on 4 October on the next page.²³

17041. **Mr Binley:** May I ask you a question, Mr Saunderson, because I think this is often not understood and taken into account, but it is very relevant. This would have been a very sizeable blow to you emotionally as well as financially.

17042. **Mr Saunderson:** Yes.

17043. **Mr Binley:** It does impact heavily on confidence and ability to think clearly as well. We often make a case in this place for people who are seen to be victims, if you like, by explaining that there are other issues that impact upon them, but there are equally other issues in this respect: hard businessmen are not always as hard as is often portrayed, so there is an emotional part of this that impacts at the time this sort of thing happens and I wonder if you want to put that on record too because I think it is often misunderstood. We are seen as hard-faced businessmen, but this is our baby and it impacts upon us in quite an emotional manner. Is that fair?

²¹ Committee Ref: A192, City Planning Officer Report, 10 Hayne Street, EC1—Redevelopment (SCN-20061012-020).

²² Committee Ref: A192, Correspondence from David Saunderson to Secretary of State for Transport, 30 September 1996 (SCN-20061012-021).

²³ Committee Ref: A192, Correspondence from the Secretary of State for Transport to David Saunderson, 4 October 1996 (SCN-20061012-022).

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17044. **Mr Saunderson:** Yes, indeed. The effect was devastating and it impacted on my other little businesses as well in software and other interests. It meant the whole house was basically unable to continue. One little company survived which has prospered since, but it is very unsatisfactory to have a blot on your record like this. There was a reference to the downturn in the property market. Well, that occurred in 1991/92 and I weathered that through, but this was 1996 to 1999 when we sold the buildings and that was well into recovery even if Labour were in power, the recovery was under way, but the recovery values did not happen for this site because it was blighted by Crossrail, so there was a very unsatisfactory result.

17045. **Mr Binley:** What I am trying to get at is that is one of the reasons possibly that you did not take the action suggested by the Chairman that your mind was in more of a turmoil than people might understand?

17046. **Mr Saunderson:** Well, I think taking legal action against the Government is quite a big undertaking—what is the expression—“Fools go in where angels fear to tread”. I was not in a position to fund a major legal case against the Government. This is the first time I have really had to be heard in 16 years about the situation which I believe has been unnecessarily aggravated by the actions of Crossrail, and I use that in the broadest terms there, Crossrail, but you will see that on a number of occasions they have led me into joint venture discussions where we have had barristers working for us, planning consultants, surveyors, engineers, all of which cost me money, and they have encouraged that. They have now got City Planning Officer approval for the bulk of the building that is to be on that over-station development and I funded that and I am saying now that we should be paid for the work that we did for London Transport, for London Underground, Crossrail, however you like to call it, and they encouraged that. They encouraged advance purchase discussions on several occasions and the barrister suggested that we file a simple blight notice on 10 Hayne Street. We had been advised that there is no way they would pay a blight notice. We do not have the occupation qualifications, putting a car on it. Some lawyer in the Government will say, “No way is that occupancy of that site. It is a derelict site”, so for her to suggest that we file a blight notice and get paid out even now is what has been happening all the time. They have said, “Come and have advance purchase discussions. Come and give us surveyor evaluations. Incur expenses to do this”, and then they say, “No”. That is what we have had on numerous occasions and it is unsatisfactory and there is no reason for them to encourage us to do things and then say no. That is what has really annoyed me in addition obviously to the freezing of the assets.

17047. **Chairman:** The one thing is that everything that Ms Lieven has said today is actually on the record and if it is on record, it could be used by you

to ensure what I think is pretty clear, what was being offered by Ms Lieven on behalf of the Promoters today, and that is that you would qualify. I think it would be very difficult once reading what was said this morning for you not to be, so I think that is a bit disingenuous. Can I just go back to the question of not suing the Government, but going back legally to the Crossrail partners, as was then, which was London Underground and, did you go back to Crossrail legally and say, “You have caused us to lose this money. Having entered into a variety of areas, you have caused this to occur to us and we want redress”?

17048. **Mr Saunderson:** Yes, I did and you will see it in the next couple of pages. At page 25 I wrote to the City MP, Peter Brooke, to tell him what had happened.²⁴ I had been keeping him informed and he just says that he is sorry to see it. I wrote to the Parliamentary Ombudsman in October 1996, citing the case of something that was in *The Times*, as you will see on the next page, 27, where the Parliamentary Ombudsman was ordered to pay or £1 million was to be paid to this couple who had had maladministration in a compulsory purchase situation and I asked him to look into this Crossrail situation, so I was pursuing each angle that I could.^{25,26} In fact a High Court judge, Mr Justice Sedley said that the couple had been innocent victims of the scheme, this was a road scheme, and found that the Ombudsman, William Reid, had been guilty of maladministration in his treatment of them. It was the first successful challenge to a finding of the Ombudsman who must now review how everyone from the Council to the Transport Secretary dealt with the case, and I never received a reply from the Parliamentary Ombudsman.

17049. **Chairman:** You did not receive a reply?

17050. **Mr Saunderson:** No.

17051. **Chairman:** Well, perhaps we could help you there. Can I just say that we will endeavour to write to the Parliamentary Ombudsman and ask why did you not receive a reply to that and we will report back on that.

17052. **Mr Saunderson:** That would be very helpful. You will see the copies of the letter there and the enclosures, 28 October 1996.²⁷ Then Sir George Young at the Department for Transport writes to Peter Brooke on 18 November 1996: “Dear Peter, Thank you for your letter . . . enclosing further copy

²⁴ Committee Ref: A192, Correspondence from David Saunderson to Mr Peter Brooke, MP, 22 October 1996 (SCN-20061012-023).

²⁵ Committee Ref: A192, Correspondence from David Saunderson to The Parliamentary Ombudsman—Crossrail Blight Compensation, 28 October 1996 (SCN-20061012-024).

²⁶ Committee Ref: A192, Damages victory for couple hit by bypass blight, *The Times*, 26 October 1996 (SCN-20061012-025 and -026).

²⁷ Committee Ref: A192, Correspondence from the Department for Transport to Mr Peter Brooke, MP, 28 October 1996 (SCN-20061012-027).

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correspondence from Mr D Saunderson of CBCP Limited . . . As you know, Mr Saunderson's property did not come within the scope of the regulations on blight, and London Transport concluded that it was not appropriate to make a discretionary advance purchase. I realise that this will be of little comfort to Mr Saunderson, but there really seems to be nothing fresh that I can add. You also asked about the inter-departmental working party on blight. The group has been considering the scope, cause and effects of blight arising during the various stages of large infrastructure projects. Their main aim is to ascertain whether any practical changes can be made to the existing arrangements for property purchase and compensation. The present position is that a draft interim progress report is being considered with a view to its being placed before Parliament thereafter. A final report will follow."

17053. You will see further correspondence about the blight, and on page 31, in answer to your question, Chairman, I wrote to Mr Andrew Trott on 28 January 1997: "Further to our telephone conversation on Monday, I enclose, as requested, the record of my involvement with LT/Crossrail from 1988 to date. My charge-out rate is £150 per hour and I would be grateful if you would have this approved in order that I can send in an invoice for payment of the appropriate sum. I am grateful for your assistance in this matter."²⁸

17054. Then you will see on page 32, 32A and 33 that I set out the time record of involvement with London Transport and Crossrail which is in summary, but you will see from April 1988, instructing Jones Lang Wootton; May, co-instructing with LRT Ove Arup; August, meeting with full development team and LRT to progress scheme; September, co-instructing with London Regional Transport and Jones Lang Wootton to prepare the development brief; the preparation of brief to six firms of architects; honing and agreeing the brief; initial interviews; and brief sent out to agreed firms.²⁹

17055. **Mr Binley:** Can I take you back, and I am awfully sorry about all this, but this is a very complicated case, and we would normally leave our questions until the end of the presentation, so please do not think I am trying to interrupt you to cause any problems for you. I want to go back to a letter on page 30 where you were asked why you did not take any steps to argue blight at the time.³⁰ One assumes that this letter sort of dispelled any hope at all in your mind that that might be an avenue open to you.

²⁸ Committee Ref: A192, Correspondence from David Saunderson to London Transport Property, Properties on Hayne Street, Lindsey Street and Long Lane, London EC1, 28 January 1997 (SCN-20061012-028).

²⁹ Committee Ref: A192, Summary Timeline of the Petitioners involvement with London Transport and Crossrail Property (SCN-20061012-029 to 033).

³⁰ Committee Ref: A192, Correspondence from the Department for Transport to Mr Peter Brooke, MP, 28 October 1996 (SCN-20061012-027).

17056. **Mr Saunderson:** Yes. Statutory blight, as I understand it, we did not qualify for because it is only for rateable values below £18,000 which is quite small properties, and you have to be an owner/occupier, so it is more for residential. Then you will see going on into 1990: dealings with the press on planning application; funding partner discussions; planning and LRT discussions.

17057. Then in 1991: LRT engineering and property meeting to amend Crossrail design in scheme; funding and planning discussions with Ove Arup, the engineers; reached agreement with LRT in October 1991 over a Section 106 Agreement, and we had had barristers in to work this up with London Transport's and Crossrail's barristers; Crossrail Petition prepared with Dyson Bell Martin, who are now Bircham Dyson Bell; December, London Transport meeting regarding planning.

17058. Then in 1992: planning preparation for new application; London Transport liaison; lodged the Petition for the Private Member's Bill; submit the new planning application to the City; instruct counsel, Mr Jonathan Karas, regarding safeguarding the London Regional Transport interest in the site; meetings with counsel, Michael Burroughs, planning consultant and Daniel Watney, all of whom obviously had to be paid; preparation of Deed for London Transport safeguarding; further legal advice; meetings with London Transport and Crossrail regarding the planning application; City planners' discussions; Islington planning meeting; City Planning Committee supports the scheme; new architects list produced; Department for Transport correspondence; architects' appointment; compensation group proposals; further legal advice; meetings with Department for Transport, Department for the Environment and Crossrail; then a joint venture with London Underground Limited heads of terms prepared at the request of London Underground Limited, you will see in November 1992, so here formally the joint venture is put into legal form, as mentioned in the City Planning Officer's notes that I referred to earlier; then meeting with LRT regarding planning and joint venture; meeting at Crossrail regarding the legal position after London Underground consulted counsel; Farrell Architects' first report to London Underground after Crossrail had asked us to change to Terry Farrell who, they decided, should do the scheme.

17059. Then in 1993: further legal discussion on safeguarding; further meetings and London Transport discussions; Petition discussion; meeting with London Transport; joint venture again proposed by London Transport with the Terry Farrell new architecture plans.

17060. Then in 1994: Petition hearing preparation; London Transport send joint venture agreement; discussions continue regarding that; Crossrail writes, and this is an interesting point, to our tenants

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in our buildings where we had got rental income coming in and Crossrail wrote to them, much discussion ensued and two tenants subsequently left as a result of the Crossrail letters, so we lost rental income there; meeting with London Transport to discuss the Petition and the joint venture; discussions commence on the acquisition of Saunderson Holdings' buildings; valuations requested and supplied, so here is another instance of London Transport requesting us to do things for them, providing them with valuations so that they can advance purchase the buildings which they were talking about doing; Petition work carried on; joint venture work carried on; and then in May 1994 the Private Member's Bill was voted out and you will all remember the history where the Chairman gave the casting vote against the Bill in a fit of pique, I think; assessment of position; discussions with advisers, June to December of 1994.

17061. Then in 1995: we regrouped and corresponded with Members of Parliament, London Transport personnel, Crossrail personnel; preparation of blight claim and submission at the request of London Transport; and then in 1996, correspondence and meetings regarding the blight compensation.

17062. It really ends at that point because that letter was sent at the beginning of 1997, so that gives a summary of what went on in that eight-year period from 1988 to 1996 of extensive work, a heavy demand on our resources and heavy costs that we incurred in pursuit of a joint development which never happened.

17063. **Mr Binley:** Can I ask, Mr Saunderson, how many people the company employed at its height?

17064. **Mr Saunderson:** About 180. Then on 30 January 1997, Mr Andrew Trott replies for Crossrail.³¹ He says:

17065. "Thank you for your letter dated 28 January 1997. During our recent telephone conversation you informed me that you wished to invoice LUL for the work which you have undertaken with respect to the above site, both in terms of discussions in the late 1980s regarding its potential redevelopment and latterly regarding the effect on the site of the proposed Crossrail scheme since 1988. I explained on the telephone that if you chose to submit these details it was without prejudice to LUL and LT's position and that I felt it unlikely that these fees would be met. Nevertheless, I agreed to forward the details to Patrick O'Sullivan, the Project Manager for the Crossrail scheme. I have today sent a copy of your letter to Patrick and I will contact you again once I have received his response."

17066. Then the Department of the Environment sends me a letter about the progress report on the blight committee which does not really add much: "The Group has completed its consideration of the proposals . . . and is currently deliberating over the conclusions" on blight.³²

17067. I write back to the Department of the Environment: ". . . I cannot understand why you say that Crossrail is an issue relating to statutory blight—the issue is precisely that there is no statutory compensation on commercial property of any significant size. There is 'generalised' blight of an enormous nature and this is, as you say, the Group's main focus. Secondly, why was I not consulted to provide evidence as I have been the largest blight casualty of Crossrail with all my property holdings frozen by order of Crossrail for the Farringdon East station which will most likely never be built."³³ That was my view in 1997.

17068. I write to Mr Trott in February 1997 on page 37: "Thank you for your letter of 30 January. The situation for me is dreadful, as you are aware. My company has been destroyed with the freezing of our buildings by order of Crossrail and I am left with very little income. I need to recover the time spent on LT business to enable me to rebuild some sort of life. Please would you personally attend to the clearance of this vital matter as it is of desperate importance to me."³⁴ I was making an effort to help them to understand the situation.

17069. The Department of the Environment writes back about blight on page 38 and in the third paragraph: "I infer from your letter that your definition of generalised blight would encompass commercial properties in a safeguarded area whose rateable value, being in excess of £18,000, precludes the owner from serving a statutory blight notice. One of the Working Group's tasks is the consideration of how the concept of generalised blight (which, as you know, is not recognised in statute) may be defined. In proposing a definition, the Group needs to distinguish it from statutory blight—irrespective of the existing rights of property owners to claim compensation. The Group is also charged with considering the existing arrangements for property purchase and compensation, including (amongst many other issues) the pre-qualifications for the service of blight notices. You asked why you had not received a personal invitation to submit evidence to the Group. The Group specifically invited the views of a wide range of representative

³² Committee Ref: A192, Correspondence from the Department of the Environment to David Saunderson, Interdepartmental Working Group on Blight, 31 January 1997 (SCN-20061012-035).

³³ Committee Ref: A192, Correspondence from David Saunderson to the Department of the Environment, Interdepartmental Working Group on Blight, 3 February 1997 (SCN-20061012-036).

³⁴ Committee Ref: A192, Correspondence from David Saunderson to London Transport Property, Properties on Hayne Street, Lindsey Street and Long Lane, London EC1, 7 February 1997 (SCN-20061012-037).

³¹ Committee Ref: A192, Correspondence from London Transport Property to David Saunderson, Properties on Hayne Street, Lindsey Street and Long Lane, London EC1, 30 January 1997 (SCN-20061012-034).

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bodies and other organisations”, and he lists them there. “These organisations, in the Group’s view, were best placed to articulate the views of the large—and unknown—number of people affected by proposals for major infrastructure projects. (You may be interested to know that BPF, who gave written and oral evidence to the Group, specifically raised the issue of compensation for commercial property owners affected by proposals for Crossrail). The Group has sought primarily to identify the principles underlying the issue of generalised blight rather than the detail of individual cases. The Group expects to make its final report to Ministers shortly.”³⁵

17070. Mr Trott writes again on 7 March.³⁶ He says: “I refer to my letter dated 30 January 1997. I have now received comments from both the Crossrail Project Manager and London Transport Property’s Development Manager regarding your claim for the recovery of costs. I regret to inform you that neither London Underground Limited nor London Transport Property accept that there is any liability to pay these costs and consequently no such payment will be offered. I am sorry that I cannot be of further assistance to you in this matter.”

17071. I write back and say on 20 March: “Thank you for your letter of 7 March. The situation is not as you describe. LT and Crossrail put me to considerable expense in the course of the discussions. They requested amendments to plans and also requested legal opinions from us for which the barristers and surveyors are chasing for the money even now. The properties have gone into receivership and I am destitute as a result with personal commitments unable to be met. There must be a way in which the reimbursement of these costs can be made even if it is on a without prejudice basis. Please would you speak to the Minister responsible as this case is a scandal of victimisation awaiting to erupt. PS You have the precedent set in the agreement to pay 50% of the costs originally which Mike Withers”, who was the London Transport property man, “agreed.”³⁷ He had agreed to pay half the costs in 1998.

17072. **Chairman:** On that, you did not have any earlier correspondence or anything about that with Crossrail? It just seemed a long time, 1998 through, as to whether or not you were getting your costs paid when you agreed in 1998 or Mr Withers had agreed, but you have no correspondence which clarifies that.

17073. **Mr Sauderson:** I did not actually locate copies of that correspondence to bring today, but there was obviously correspondence and they paid fees for the architects and the engineers, so there will be evidence for that, but I just have not included it today.

17074. **Mr Binley:** Letter 41 shows a degree of despair which I find moving, quite frankly, yet letter 42 seems to show such a cold face of bureaucracy to the point where not only are you rejected, but the letter is not even signed by the person who supposedly sent it.³⁸ Do you remember any feelings at that time that you had? Did that matter?

17075. **Mr Sauderson:** Well, I think I was shocked because there had been this relationship with them and to just get completely, as you say, cold-shouldered was unbelievable. I could not believe it. In fact Colin Smith is here today, who signed the letter, PP-d it.

17076. **Mr Binley:** Then we will ask Mr Smith because it just smacks of a very harsh bureaucracy.

17077. **Mr Sauderson:** Yes, I agree totally.

17078. **Chairman:** Mr Sauderson, I will give you 10 minutes or so to refresh yourself because we are going to break now.

After a short break

17079. **Mr Sauderson:** Could I take you to page 43 of the documents where I write to Richard Asher who was working for Jones Lang Wootton who had formed a body called ‘the Business Compensation Forum’ and he had invited me to join that forum.³⁹ I just said that it was good to speak with him on the telephone about Crossrail. “As described to you, we have been severely hampered by the Safeguarding Order on our properties which descended in November 1990. our site has been zoned as the Farringdon East ticket hall and a working site. Your senior partner, Clive Pickford, was advising us on development in 1989/90 and then subsequently every planning application we have made to the City Corporation has been stopped by Crossrail. The City was ‘minded to grant consent’ in 1992, but was ordered to withhold consent by Crossrail. We would have either developed or sold the site assembled over 10 years by now for some £10 million. Instead, last year, LPA Receivers were appointed and four out of five properties were sold for £1.3 million. One remains in the company and I hold one property in my own name, both still within the Safeguarding Order. Surely this is not the right behaviour for a

³⁵ Committee Ref: A192, Correspondence from the Department of the Environment to David Sauderson, Interdepartmental Working Group on Blight, 31 January 1997 (SCN-20061012-038 to 039).

³⁶ Committee Ref: A192, Correspondence from London Transport Property to David Sauderson, Properties on Hayne Street, Lindsey Street and Long Lane, London EC1, 7 March 1997 (SCN-20061012-040).

³⁷ Committee Ref: A192, Correspondence from David Sauderson to London Transport Property, Properties on Hayne Street, Lindsey Street and Long Lane, London EC1, 20 March 1997 (SCN-20061012-041).

³⁸ Committee Ref: A192, Correspondence from London Transport Property to David Sauderson, Properties on Hayne Street, Lindsey Street and Long Lane, London EC1, April 1997 (SCN-20061012-042).

³⁹ Committee Ref: A192, Correspondence from David Sauderson to the Business Compensation Forum (SCN-20061012-044).

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democratic government in a free market economy. Please would you see if you can help secure some measure of compensation for the losses suffered.”

17080. In 1998 I write again—

17081. **Mr Binley:** Could I stop you again and ask you a quick question, and I apologise, but I need to understand. Is the point here that the sites were sold to anybody specifically?

17082. **Mr Saunderson:** Yes, one person. Michael Chambers & Partners bought four properties. That is a law recruitment firm and he produced a book called *Chambers Directory* which you might have heard of, a directory of lawyers.

17083. **Mr Binley:** Yes, I have, but this is true, that it is normal practice that receivers sell well below what most people consider is the market value.

17084. **Mr Saunderson:** Well, they endeavour to get the maximum they can. They do not choose to sell below price.

17085. **Mr Binley:** That is the theory.

17086. **Mr Saunderson:** I appreciate obviously that they sell for what they can get. They did not sell them immediately, but they held them for some time and indeed the fifth property was held for a further three years and sold for £1.1 million, so the total that I had paid of 4.3 got to 2.2 over the course of four years, so they did not sell them overnight, as it were, they did leave them.

17087. **Mr Binley:** What I am trying to establish is that that was not the true market value at the time.

17088. **Mr Saunderson:** Correct.

17089. **Mr Binley:** That is the point I am trying to establish.

17090. **Mr Saunderson:** No tenant would take occupancy of the buildings who felt he wanted to be there for 10 or 15 years because there was the Crossrail going to be built on it, so it was very unlettable. Michael Chambers was a local occupier across the road who needed more space and he thought he would just buy the buildings for a song because nobody else wanted them. No proper investor would buy these buildings, yes, that is absolutely right.

17091. On page 44 I write again to Richard Asher at Jones Lang, the Business Compensation Forum: “I will repeat if I may the plight of CBCP Ltd in which I am the major shareholder. I thus declare a personal interest. CBCP Ltd owned five adjoining freehold buildings . . . These five properties had been acquired over the period 1981 to 1989 and considerable time, effort and financial resources were expended in the acquisition process. The end objective had been the comprehensive redevelopment of the site into a

prestigious City office totalling some 100,000 square feet net. The freeholds were valued at c£9m in 1990 and London Transport funded half the expenses for a joint development study to span the railway tracks over the Barbican station. In 1990, the Crossrail Safeguarding Order was issued and from that time on the site has been frozen for redevelopment and applications for planning which the City had approved at committee level were ordered by London Transport”, or the Department for Transport, that should say, “to be refused. Receivers were appointed in March 1996 and four buildings were sold for £1.2m in September 1996; the one remaining building is currently for sale at some £1m. Approaches to Crossrail to purchase the block were encouraged and then rejected. A claim for reimbursement of expenses incurred in connection with LT-related work was lodged with London Transport in 1996 and rejected by Peter Ford, the Chairman. In addition to my interest in CBCP, I personally 50% of a car park site at 10 Hayne Street which had planning permission for a 6,000 square foot office block. The planning permission renewal has been refused on instruction from London Transport/Crossrail. Losses on CBCP could be estimated at many millions. On the car park, I am being prevented from developing a 6,000 sq ft office which would yield site value and development profit amounting to a significant sum. I will leave the calculation to others, but the essence of the history is here.”⁴⁰

17092. Then there is a long gap when there is nothing much and I have not included any papers and we move to 2002 when I get a letter from Derek Baxter who is the husband of Mrs Kate Baxter who is a co-owner in 10 Hayne Street.⁴¹ He writes to me: “Dear David, Out of curiosity, I have recently contacted Crossrail about their interest in 10 Hayne Street. A very helpful lady confirmed that the property lies within their ‘surface’ interest and that they will in due course acquire the property by compulsory purchase. She said that construction is due for 2006 and that a CPO notice would be issued in 2005. Perhaps we could discuss this matter on the telephone soon.” Well, we all live in hope.

17093. Then we move to 2005 at page 47 where Bircham Dyson Bell, acting as our parliamentary agents, write to Winckworth Sherwood acting for Crossrail and the Department for Transport.⁴² “We write to you on behalf of our client, David James Saunderson (representing the Saunderson family) whose position is as follows: our client, through the vehicle of a company called Saunderson Holdings (whose name was later changed to CBCP Limited) is

⁴⁰ Committee Ref: A192, Further correspondence from David Saunderson to the Business Compensation Forum (SCN-20061012-045 and -046).

⁴¹ Committee Ref: A192, Correspondence from Mr Derek Baxter to David Saunderson, 10 Hayne Street, 2 May 2002 (SCN-20061012-047).

⁴² Committee Ref: A192, Correspondence from Bircham Dyson Bell to Winckworth Sherwood, David James Saunderson (and ORS)—10 Hayne Street (SCN-20061012-048 and -049).

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the former owner of 3-8 Hayne Street and 20-23 Long Lane . . . ('the Main Site') and, in that capacity, also petitioned against the original Crossrail Bill; our client also still owns 10 Hayne Street; both these properties are subject to compulsory purchase under the Bill; CBCP Limited was forced into receivership due to its inability to advance the redevelopment of the Main Site; the Hayne Street property continues also to be blighted by the Crossrail proposals; as these brief particulars convey, our client has suffered substantial financial loss due to the quite exceptional blight caused by the Crossrail proposals. We should be grateful to hear from you as soon as possible with proposals on behalf of the Promoter to address the injury suffered by our client. In particular, we would invite the Promoter to consider: (a) offering now to purchase the Hayne Street property at full development value; (b) compensating our client for the loss which he and his family have already suffered due to the blight caused by the Crossrail proposals; and (c) providing for our client to have an appropriate interest in the redevelopment proposed of the full Lindsey Street site. We and our client appreciate that the Bill and the application of the standard Compensation Code under it do not provide for any such compensation. However, for reasons which we think will be self-apparent, we invite the Promoter to conclude that this is unjustifiable and contrary to the protection which our client is entitled to expect in relation to private property rights. We look forward to hearing from you."

17094. Then we lodged the Petition which you have read and I do not propose to read that through, but it says in detail what that letter said and we pray at the end of it that, "the Bill may not be allowed to pass into law as it now stands and that they may be heard by themselves, Counsel or Agents and with witnesses in support of the allegations in this Petition against so much of the Bill as it affects the property, rights and interests of your Petitioners and in support of other such clauses and provisions as may be necessary or expedient for their protection or that such other relief may be given to your Petitioners in the premises as your Honourable House shall deem meet."

17095. We have a reply to that letter and Petition on 13 October 2005 from Winckworth Sherwood where they give their point of view writing to our agents, Bircham Dyson Bell.⁴³

17096. **Mr Binley:** Could I ask you a question about that letter because it does seem to me that the information you received this morning contradicts the contents of this letter quite sizeably, does it not?

17097. **Mr Saunderson:** Contradicts the 13 October letter?

17098. **Mr Binley:** Yes, does it not?

17099. **Mr Saunderson:** I think it does.

17100. **Mr Binley:** ". . . unlikely to satisfy the qualifying conditions in (a)".

17101. **Mr Saunderson:** Yes, I think they have chosen to change their position, albeit, as I did indicate slightly to the Chairman, I have a degree of scepticism about the so-called offer which indeed had been made to me on the telephone by Colin Smith several days ago where the Department for Transport suggested they could see no reason to contest a blight notice, "provided Mr Saunderson satisfied the qualifying conditions for a blight notice". Well, I have been advised that I do not satisfy the qualifying conditions. If they want to give an undertaking that I do, that is super, and they are undertaking then unconditionally to purchase 10 Hayne Street which is an offer which it would be great to receive, if that is the case.

17102. **Chairman:** Let me make you an offer which might be helpful. We have heard Ms Lieven earlier today make the offer to you and we have also had a telephone call to a person a number of days ago about this. We still have time, because you can apply now, and certainly before this Committee rises, before its full report is concluded we will be able to judge for ourselves whether or not what has been offered is meaningful. All I can say is that I think it is disingenuous not to accept that there have been two offers made. You may be sceptical and I have no doubt after your experiences you are likely to be so, but we have a window of opportunity for you to make an application now because there is sufficient time before we leave this Committee and in the forthcoming weeks and months to see if it comes to fruition. Does that help?

17103. **Mr Saunderson:** Many thanks for that. I have, in my summing up, made suggestions as to how that could be handled and perhaps we could cover that in my suggested—

17104. **Chairman:** I see Ms Lieven bobbing up and down.

17105. **Ms Lieven:** Yes, I am really sorry, sir, but after an incident many months ago I am unwilling to interrupt, but it is really important that everyone understands exactly what is going on here. The issue at (a) of the letter was an application under the hardship policy. It was found that Mr Saunderson did not qualify under the hardship policy in no exceptional circumstances. What I raised in opening was that he could serve a statutory blight notice and as long as he meets the qualifying criteria which, as Mr Smith will explain, are extremely low for a site such as this, he just needs to show that he has left his car on the site with reasonable frequency over six months, very low qualifying criteria, and then we buy the site at full open market value, disregarding the effect of Crossrail. It is not formally an offer

⁴³ Committee Ref: A192, Correspondence from Winckworth Sherwood to Bircham Dyson Bell, Crossrail Bill—David James Saunderson (and others) 10 Hayne Street, 13 October 2005 (SCN-20061012-050).

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because it is a statutory process but what we are saying is what Mr Smith said to Mr Saunderson on the phone the other day. I do not know what advice Mr Saunderson has received but Mr Smith is very experienced in these matters and is firmly of the view that it would be extremely easy to meet those qualifying criteria

17106. **Chairman:** That is very helpful again. Mr Saunderson, do you want to move on and deal with that in your summing up?

17107. **Mr Saunderson:** Yes, indeed. Thank you very much. I am sorry if I misinterpreted the question about Winckworth Sherwood. Winckworth Sherwood wrote back, "As you may be aware the project has published a policy for the purchase of property in cases of hardship which provides for advance purchase of properties in certain cases. We enclose a copy of that policy. While your clients are welcome to make an application under that policy, it seems that your clients are unlikely to satisfy the qualifying conditions since you have indicated that they do not have a qualifying interest in the property for the purpose of the 1990 Act. It is not obvious that there are exceptional circumstances in this case justifying an advance purchase outside this policy, but if your clients consider that there are, these could be explained in the application. Our clients are not prepared to depart from the Compensation Code which applies to this project as it does to other infrastructure schemes. Any change to the code should be the subject of general legislation which applies on a national basis. As we think you will also be aware, the project has published a Land Disposal Policy which sets out the basis on which landowners will be offered the opportunity to acquire a beneficial interest in land that has been compulsorily acquired under the Bill", and so on about the Disposal Policy and there is a copy of that which we received. "If your clients want to pursue an advanced agreement on the development opportunity prior to Royal Assent and a decision to construct Crossrail then they will have to form a consortium of all owners of the site, and show that they have the expertise and means to take the development forward to those timescales. If your clients consider that a meeting to discuss the Bill proposals and their concerns would be helpful, our clients would be happy to arrange this.

17108. I have included the land acquisition policy on page 58. It says that they should pay fair compensation and they should compensate for "... other losses arising as a direct and reasonable consequence of the acquisition". That goes through to page 66 where there is a note about the exceptional circumstances on hardship. It says, "... the Secretary of State will exceptionally consider providing assistance for hardship cases falling outside this policy on a case by case basis having regard to the specific circumstances of the case and the reasons why the case does not fall within this

policy." ⁴⁴You will see that we then, through our agents, Bircham Dyson Bell, write back to Winckworth Sherwood.⁴⁵

17109. The letter states: "We refer to your letter of 13 October 2005. We have explained in our letter of 2 September 2005 how the current compensation regime and purchase policy for the Crossrail scheme is inadequate to address the exceptional long-term blight suffered by our clients. Your response to our client's rather distressing concerns on this matter does not deal with these quite particular and unusual circumstances. The Crossrail Hardship Policy to which you refer in particular is clearly not designed to deal with our client's circumstances and, furthermore, making no provision at all except in relation to applicant's who can satisfy 'the qualifying conditions' which it is clear that our clients can make an application under that policy or for such an application by them to be favourably considered. We feel that we should highlight the point that the current status of the site and the diminution on our client's stake in it results directly from the long-term blight caused by the Crossrail scheme. Our client's application for renewal of the planning permission for the site (granted in 1990) was later refused because of the proximity of the project route and has remained vacant: the best use that could be made of the site for seven years was that of a car park operated by certain licensees. You say: 'it is not obvious that there are exceptional circumstances in this case justifying an advance purchase outside this [Hardship] policy' but that overlooks in particular that a major part of our client's claim for redress is not in relation to property which they still own and might now sell but rather in relation to property that they have lost due to the blighting effects of the Crossrail project. Our client remains extremely concerned about the loss which they have and continue to suffer and the apparent unwillingness of Crossrail to respond appropriately to this. We therefore request that further consideration be now given to our client's position. As you will no doubt be aware, we have also now received a standard form letter from one of the Crossrail petition negotiating team and we are therefore copying this letter to him".

17110. Winckworth Sherwood replied on 12 December: "Thank you for your letter of 18 November. The policy does recognise in clause 7.1 that the Secretary of State may exceptionally consider providing assistance for hardship cases falling outside this policy having regard to the circumstances of the case. If your clients consider that there are exceptional circumstances which

⁴⁴ Committee Ref: A192, Crossrail Information Paper C8—Purchase of Property in Cases of Hardship, billdocuments.crossrail.co.uk (SCN-20061012-052).

⁴⁵ Committee Ref: A192, Correspondence from Bircham Dyson Bell to Winckworth Sherwood, David James Saunderson (and ORS)—10 Hayne Street, 18 November 2005 (SCN-20061012-053 and -054).

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apply in their case justifying a departure from the policy, we should be grateful if you could let us have details of what these are.”⁴⁶

17111. Then I will include two articles from the *Estate Gazette* about Crossrail negotiating with London landlords at prime sites and during this period they have spent a considerable amount of time negotiating with Grosvenor estates which has already been mentioned with Derwent Valley.⁴⁷⁴⁸ They have had no negotiations with us during that period. Bircham Dyson Bell then advise me to submit a hardship submission which we then do. Page 73 is just stating that we forwarded a copy in March 2006, so six months ago.⁴⁹ Here is the hardship claim.⁵⁰ It defines the site in question and the claimants, as we have heard. It shows how the purchase of the property was made up during 1981, 1982, 1985 and 1989. “Considerable expenditure was incurred on refurbishing the properties which were all in poor condition. The total amount spent to refurbish these properties was £468,734. A valuation of the main site was carried out for Saunderson Holdings Limited on 30 September 1990 for £8,987,000”.

17112. “At the time of acquisition, the main site was not safeguarded for Crossrail”.⁵¹ Saunderson Holdings Limited was a private company which I held 100%. I subsequently gave 10 per cent to a charitable trust that I have, the Saunderson Foundation, of which I am a trustee. In 1996 its name changed, as we know there were two mortgages on the properties, Commercial Union and Barclays Bank, and they decided to appoint LPA receivers to the properties in 1996. “Due to the presence of the existing Crossrail safeguarding directions over the main site since 1990, the sale conducted by the LPA Receivers obtained a sale price that was less than the initial purchase price paid by the company. As a result, and as stated in the final audited accounts of the company as at 30 September 1999 (a copy of which is attached), the shareholders of the company, including the First Claimant, obtained none of the proceeds of sale of the main site from the receiver, nor did they receive any remaining capital following the payment of debts and subsequent winding-up of the company.

CBCP Limited was formally dissolved and removed from the companies register on 25 September 2001.”⁵²

17113. Then the Hayne Street site where we hold 100% of the freehold. At the time of acquisition, the Hayne Street site was not subject to safeguarding and we retained the freehold of the site. Then we talk about hardship policy.⁵³ “The First Claimant is not, in relation to the main site, nor in relation to the Hayne Street site, an owner occupier and for that and other reasons, he does not have ‘a qualifying interest’ for the purposes of statutory blight or the hardship policy”. We state that clearly in 5.1, this is on the advice of Bircham Dyson Bell whom I think you have heard continuously throughout your hearings. Then we repeat in 5.2 part of the Petition which I do not need to read. 5.3: “Attempts were made to sell the Hayne Street property to a development company in 2005 but the offer to purchase was withdrawn when the purchaser was made aware that Crossrail Bill was to be introduced shortly that year.⁵⁴ A copy of the correspondence evidencing these negotiations is attached.

17114. Now I will illustrate the hardship, and Bircham Dyson Bell have set out the hardship.⁵⁵ The loss occasioned to the Claimants is of the following order, the main site, the value of the property is £ 8.9 million less the mortgage of £5.7 million which is £3.2 million which was the net equity in the properties and a copy of the accounts is enclosed. On the Hayne Street site there was a loss of net rental income amounting to £100,000 a year for 15 years because we have been unable to use the site except for car parking which occurred but no longer occurs because it no longer has permission from the City.

17115. “The First Claimant needs to recover his loss suffered in relation to the main site and the joint second claimants need to sell the Hayne Street site for the following particular reasons: The First Claimant and the Second Joint Claimants do not claim compelling personal reasons in relation to the loss of the main site or for now needing to sell Hayne Street beyond the extreme financial loss suffered over many years which is unwarranted and a fundamental breach of their civil rights. The First Claimant received a finding by the Hardship Committee of Lloyds of London in 1996 for hardship on the basis of severe financial difficulties occasioned by the events stated herein. The

⁴⁶ Committee Ref: A192, Correspondence from Winckworth Sherwood to Bircham Dyson Bell, Crossrail Bill—David James Saunderson (and others) 10 Hayne Street, 12 December 2005 (SCN-20061012-055).

⁴⁷ Committee Ref: A192, Push for Crossrail CPO alternatives, *Estate Gazette* (SCN-20061012-056).

⁴⁸ Committee Ref: A192, Hanover Square tenants win Crossrail reprieve, *Estate Gazette* (SCN-20061012-056).

⁴⁹ Committee Ref: A192, Correspondence from Bircham Dyson Bell to David Saunderson, Crossrail Bill, 7 March 2006 (SCN-20061012-058).

⁵⁰ Committee Ref: A192, Hardship Claim in respect of David James Saunderson, David James Saunderson and Kathryn Jean Baxter (Petition No. 82) (SCN-20061012-059).

⁵¹ Committee Ref: A192, Hardship Claim in respect of David James Saunderson, David James Saunderson and Kathryn Jean Baxter (Petition No. 82) First Claimant’s Interest in the Main Site (SCN-20061012-060).

⁵² Committee Ref: A192, Hardship Claim in respect of David James Saunderson, David James Saunderson and Kathryn Jean Baxter (Petition No. 82) (SCN-20061012-061).

⁵³ Committee Ref: A192, Hardship Claim in respect of David James Saunderson, David James Saunderson and Kathryn Jean Baxter (Petition No. 82), Hardship Policy and Non-statutory blight (SCN-20061012-062).

⁵⁴ Committee Ref: A192, Hardship Claim in respect of David James Saunderson, David James Saunderson and Kathryn Jean Baxter (Petition No. 82), The Hayne Street Property (SCN-20061012-064 and -065).

⁵⁵ Committee Ref: A192, Hardship Claim in respect of David James Saunderson, David James Saunderson and Kathryn Jean Baxter (Petition No. 82), Hardship suffered by the Claimants (SCN-20061012-065 and 066).

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Claimants request: (a) payment in full compensation for their loss in respect of the main site; and (b) acquisition of the Hayne Street site at its prospective development value having regard to the planning history and with a carried interest in the overall development of the sites. The above information has been assembled for this submission in good faith. Whilst considerable effort has been expended to ensure the accuracy of the data provided, some dates and references in this submission extend to approximately 25 years. For this reason, should further information be required prior to the making of a decision on this submission, please specify the nature of any information required.

17116. **Mr Binley:** Are you telling me that the City withdrew permission for car parking on the site?

17117. **Mr Saunderson:** Yes.

17118. **Mr Binley:** Given that, how, therefore, can you claim a level of occupation as suggested by Ms Lieven? You have only had your car parked there for two or three times in the last six months. How do those two statements equate?

17119. **Mr Saunderson:** Precisely, they do not.

17120. **Mr Binley:** Secondly, can I ask you about legal costs? Is it fair to say that if you got into a discussion of qualification of that kind that the legal costs would be a sizable burden to you?

17121. **Mr Saunderson:** Yes, indeed.

17122. **Mr Binley:** And that would have an impact on your mind about proceeding in that way.

17123. **Mr Saunderson:** Yes and, indeed, incurring surveyors' costs and so on which may or may not be recoverable, which I have to fund in the meantime.

17124. **Mr Binley:** Do you feel that is one of the areas that is not fully understood by people who make cold legal judgments and write to you and talk to you in that respect? It is outside of the law but it sits very firmly in your mind, is that fair?

17125. **Mr Saunderson:** Absolutely, and thank you for that. I even attended today and I am very pleased to be attending but it obviously incurs cost, time and photocopying 13 copies of this document and preparing it and so on, which obviously I am happy to do but it is all incurred because of Crossrail. I would love to be here in your presence but I do have other places to be. It is because of Crossrail that we are here and, in my humble opinion, Crossrail should pay for that.

17126. We are nearly finished the documents. Page 78 is just a copy of the CDC letter, a development company which expressed an interest in acquiring 10

Hayne Street.⁵⁶ They wrote to my cousin saying that they would like to secure an option agreement and on the next page, page 79, they say they would be prepared to pay £300,000 initially but in the event that we are successful in obtaining an acceptable Planning Consent for the larger development site then they will pay a top-up of £200,000, the total consideration thus rising to £500,000. They will pay an option fee of £6,000 for that. That proposal was withdrawn last year when the Crossrail Bill came forward.

17127. Then, on page 80 we have a reply from the Department for Transport.⁵⁷ Mr Tim Neate, Policy Adviser, Crossrail Bill team, Zone 2/08, Great Minster House: "I regret to inform you that, after consideration, the Secretary of State has decided not to accept your client's hardship application in respect of Crossrail. In making this determination the Secretary of State has had regard to the written advice of the Crossrail Discretionary Purchase Panel and the circumstances of your client's application. He accepts the conclusions of the Discretionary Purchase Panel that the circumstances of your client's case do not satisfy two of the Qualifying Conditions set out in his Property Purchase Hardship Policy. He is also unable to find exceptional circumstances to otherwise justify discretionary assistance. The Panel has advised that the Secretary of State reject your client's hardship application. In relation to 'the main site' 3, 8-9 Hayne Street, 20-21, 22 and 23 Long Lane and 2 Lindsey Street, London EC1, the Panel has advised the Secretary of State that your client's application: 1. fails to comply with Qualifying Condition 3.1 (b) of the Hardship Policy. This condition is that the property must not be required for acquisition, whether in whole or in part for the Crossrail scheme. The properties comprising the main site are required for a worksite in connection with the eastern ticket hall at Farringdon Station.

17128. "(2) Fails to comply with Qualifying Condition 3.1 (a) of the Hardship Policy. This condition requires the applicant to have a qualifying interest in the property for the purposes of the Town and Country Planning Act 1990 ('the 1990 Act'). As at the date of application, none of the applicants was the owner or the occupier of any of the six properties, nor had they been an owner or occupier during the relevant period of time prior to the service of the application as defined in section 3.2 of the policy. In relation to 'The Hayne Street Property' 10 Hayne Street. The Panel has advised the Secretary of State that your client's application: 1. fails to comply with Qualifying Condition 3.1 (b) of the Hardship Policy. As with the main site, the property is required for a worksite in connection with the

⁵⁶ Committee Ref: A192, Correspondence from CDC London Ltd to David Saunderson, Property at 10 Hayne Street, London EC1 (SCN-20061012-067 and -068).

⁵⁷ Committee Ref: A192, Correspondence from Department for Transport to David Saunderson, Crossrail hardship application—David James Saunderson (and others), 8 June 2006 (SCN-20061012-069 and -070).

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eastern ticket hall at Farringdon Station. 2. Fails to comply with Qualifying Condition 3.1 (a) of the Hardship Policy. The Panel was not satisfied that the Second Joint Claimants had a qualifying interest for the purpose of the 1990 Act as required by Qualifying Condition 3.1 (a), because no evidence had been supplied that they were in occupation during the relevant periods of time prior to their service of the application. An independent lay member sat on the panel and has separately reported to the Secretary of State (in accordance with paragraph 5.7 of the Hardship Policy) to indicate their agreement with the advice of the Panel. For your client's information, I have enclosed two Office of the Deputy Prime Minister booklets explaining Compulsory Purchase and compensation".

17129. Our Agent wrote back on 15 June to Mr Tim Neate: "We thank you for your letter of 8 June received here on 14 June. We made patently clear in our letter to Winckworth Sherwood of 18 November 2005 that it was accepted that our clients did not satisfy 'the Qualifying Conditions' and that, in the circumstances, there appeared to be no basis upon which our clients could make an application under the policy which they were then being invited to do or for such an application by them to be favourably considered. In their former letter of 13 October and in their response of 12 December, Winckworth Sherwood made clear that the Secretary of State may exceptionally consider providing assistance for hardship cases falling outside the ordinary scope of the policy and that the proper course was for our clients now to submit a hardship application. In reliance upon this, our clients went to the further trouble and expense of preparing their application.

17130. In these circumstances, we simply do not understand why the Crossrail Discretionary Purchase Panel has been asked to rule on whether our client's application complies with Qualifying Conditions when, as a precursor to the application, we had conceded that it did not. Equally, we do not understand how, when our clients had been expressly invited to explain through the mechanism of a hardship application the exceptional circumstances applying to them, these do not appear to have been considered by the Panel.

17131. You say that the Secretary of State is unable to find exceptional circumstances to otherwise justify discretionary assistance without giving any reasons for this judgment and as to how the case made by our clients was considered and found wanting. These are matters which our clients may wish to pursue before the Select Committee in the House of Commons to which their Petition has been referred. We should be grateful, therefore, for an earlier and detailed response clarifying the position.⁵⁸ We received no reply to that letter of 15 June.

⁵⁸ Committee Ref: A192, Correspondence from Bircham Dyson Bell to Department for, Crossrail Hardship Application—David James Saunderson (and Others), 15 June 2006 (SCN-20061012-071 and -072).

17132. I then decided to appear in person and I have just included the statement required for me to be the parliamentary agent today instead of Bircham Dyson Bell on page 84, 85 and 86. Paul Thompson, whom I think you know well, certified that to the best of his knowledge and belief I am in every way a respectable person.

17133. I have prepared a little summary which I would like to pass to you, if I may, which does provide in short order my arguments and suggestions. May I take you through this?

17134. **Mr Binley:** Can we read it first?

17135. **Mr Saunderson:** Yes. I sought to summarise the arguments as to why there is an issue and why I am here at all today. Crossrail has over 18 years, I have said, been dealing with me on this site and have, in my view, dealt with me unnecessarily unfairly. I go through the different periods, the early stage, 1988 to 1990, the first development opportunity where they paid half the costs and then that was halted by the safeguarding order. In the next two years there was a huge amount of effort expended to revise that development to take into account the Crossrail ticket hall and ventilation shaft required on 3 Hayne Street. That was then re-submitted to the City who found no reason to object to it, which was a considerable amount of work with plot ratios and uses and involved a lot of expenditure with professionals to get the City to that point. That was then vetoed, as we have seen, and then they requested a joint venture be pursued and that we would both develop a joint venture agreement and a section 106 agreement to protect London Underground which was then done and agreed.

17136. Then they requested advance purchase proposals from us which we then, again, had valuations done and they sought to discuss the purchasing of the main site from us. Then after receiving all that they then said "no" they would not proceed. They then refused the renewal of the 10 Hayne Street planning permission which could have been dealt with on its own and then the submission at the time, as we have seen, to Mr Trott, and then a refusal to pay for that work done. As we have seen finally with this hardship claim where they suggested the hardship route and then proceeded to reject it and, indeed, done it in a rather unsatisfactory manner where we have said we do not qualify and yet they have still asked for the exceptional circumstances and then they proceed to say we do not qualify, which in my submission is highly unsatisfactory.

17137. On the 3 October Mr Colin Smith telephoned me at 9.30 at night on my mobile phone to suggest that Crossrail might purchase 10 Hayne Street in advance and that we had missed a trick by not serving a blight notice. During the subsequent seven days he has telephoned me on a couple of further occasions to discuss the possible purchase of 10 Hayne Street. No offer to purchase materialised. A

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statement to the effect that the DfT could see no reason to contest a blight notice providing I fulfilled the occupancy qualifications was proffered. Mr Smith accepted that this did not amount to an unconditional offer.

17138. Then I have sought in point 2 to say about what the financial effects of Crossrail have had on me over these 16 years since the safeguarding order was issued on 5 November 1990. The loss of the net equity of £3.2 million in the company, the reputation that I have suffered, loss of reputation as a direct result of this company fizzling out and then my cousin, my associate and I lost out on the income that we could have had from 10 Hayne Street and the loss of liquidity. We could not do anything with the asset over these 16 years. I humbly request in my third point that the Select Committee makes orders on Crossrail to provide certainty to the owners through the advanced purchase of 10 Hayne Street at the CDC large development valuation within 30 days of today's date and make an additional payment equal to the excess, if any, of open market value over the some paid at completion within 180 days.

17139. That is my response as you requested, Chairman. Make the Petitioners whole in respect of their loss of income on 10 Hayne Street over the last 15 years, and that is detailed in the hardship gain. Make myself whole in respect of the pre-safeguarding equity that has been lost and pay the costs incurred by myself in developing the Farringdon East ticket hall and overstation development as submitted to Crossrail on 28 January 1997 together with interest thereon from that date until the date paid. Provide the Petitioners with pre-emption rights on the overstation development at Farringdon East or alternatively a carried interest in the development pro-rata to their land holding at 10 Hayne Street.

17140. That is my submission. Thank you so much for your patience in listening to what has been quite a lengthy time. You will appreciate from me that it has been 16 years and for you it has been two hours.

17141. **Chairman:** You did very well. Thank you very much. Ms Lieven?

17142. **Ms Lieven:** Thank you, Sir. Because Mr Saunderson has presented his Petition himself it would not be appropriate to cross-examine him and, in any event, I think the most sensible way to proceed is to call Mr Smith and have him go through the issues that we do and do not accept in my Saunderson's Petition.

17143. **Mr Binley:** Before we do that, I would like to ask you a couple of questions which seem to be very important. I want to preface my remarks by referring to the Petition which suggests that every time something was handed out to Mr Saunderson he pursued it in good faith at sizeable cost to himself on occasions and then had it rejected, almost thrown

back in his face, as I would see it from an emotional political view point, not a legal viewpoint. I want to be clear about what you are actually offering him now. Are you saying that if he has not parked his car on that site on a couple of occasions in the last 6 months he should say he had, I am sure you are not? If he has not, how could the blight order be worked in that respect in terms of compensation?

17144. **Ms Lieven:** Sir, can I make a preliminary point. We do not accept many of the things that Mr Saunderson says in his Petition about us having encouraged him to make applications and so on, and Mr Smith will deal with that. As far as the blight application is concerned, of course I am not saying on behalf of the Secretary of State that he tells a lie. What Mr Smith will tell the Committee, as an experienced surveyor in this area, is that in order for somebody in Mr Saunderson's position to meet the blight notice requirements there is a relatively low test of him. If he can show for the last six months that he has parked his car there, then fine, if he cannot but from today parks his car there, or the other owners, it does not have to be him, on a reasonably regular basis, then the statutory criteria will be met. I have to be absolutely clear about this. The Secretary of State is saying to the Committee that he will fulfil his statutory duty so long as that relatively low test is met and Mr Saunderson serves a blight notice, then we have no basis and we would not serve a counter-notice and then we would acquire the site. Whether he has met those conditions already or not, we do not know because he has not served the notice and produced the evidence. He may, he may not have done, I do not know anything about what parking has taken place, but even if he has not he can start meeting the requirements now and do some relatively simply and within six months.

17145. **Mr Binley:** Let me clarify this absolutely solidly. You are telling me that if he has parked his car, fine, that will be accepted without question and without qualification and payment will be made on that basis? Equally, you are telling me that if he has not done so far he may in the next two weeks park his car twice on that site and he will equally be allowed to be paid without qualification or exception or any legal costs to himself whatsoever? Is that what you are telling me?

17146. **Ms Lieven:** The period, I am instructed, is six months. That does not mean six months of parking your car every day. Mr Smith would be better qualified to answer the question than I, but my understanding is the period that is taken is one of six months and as long as there is evidence of occupation within that six months, which given the nature of the site would be the parking of a car owned by Mr Saunderson or one of the other owners, on a reasonably regular basis, then that would be sufficient for us not to serve a notice. Let me take instructions on that because I want to be absolutely clear. I am instructed by Mr Smith that is correct.

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17147. **Mr Binley:** I need to have on record what you consider to be a reasonably regular period. Forgive me for playing legal games but we have to look into this.

17148. **Ms Lieven:** Can I ask Mr Smith? I will take instructions and put it on the record. Mr Smith says once a fortnight or once a month.

17149. **Mr Binley:** Six times over the next six months?

17150. **Mrs James:** How long for, two hours a day?

17151. **Ms Lieven:** An hour a day.

17152. **Mr Binley:** What would be the proof required for that? A photograph on each occasion with a newspaper showing the date or whatever? Do you see how silly this gets?

17153. **Ms Lieven:** I totally understand, Sir. There are many aspects of the law. In the circumstances of Mr Saunderson's case, I think I can say, even without instructions, that so long as he wrote us a letter saying that such parking had taken place on such dates, perhaps with a photograph of one occasion, we would accept that.

17154. **Mr Binley:** Thank you, that is on the record.

17155. **Chairman:** Thank you for that good clarity. You were aware that if such an application for this was not successful the Committee is then empowered to change the Bill and to then ask for this property to be purchased at some point. Just so that it is on the record and it is understood, we expect that if the qualifications are met for such an application to be successful.

17156. **Ms Lieven:** Sir, I can say on the record that so long as Mr Saunderson serves a blight notice and writes to us in good faith, I am not asking him to lie, that he has parked his car or his cousin or the other owner, between once a fortnight and once a month over a period of six months, he gives us the dates and sends us one photograph, we will not serve a counter-notice.

17157. **Mr Binley:** Forgive me, I have one final question for you. You can assure us that any order made by the City of London with regard to parking on that site does not forbid him from so doing?

17158. **Ms Lieven:** Yes, Sir, I think there may be a confusion there. My understanding is that what has happened is Mr Saunderson has not pursued a further planning permission for commercial car parking on that site. I do not know whether the City would have granted it or not. There is a difference between commercial car parking where you let a site out for third parties, in which case, Mr Saunderson would not be entitled to blight because he would no longer be in occupation. The third parties who are parking there would be this occupation and the

situation now where he cannot let it to third parties but there is nothing to stop he himself parking on the site. We do not know exactly what the planning permission is but on the basis of the documents we have seen and what Mr Saunderson said this morning, that appears to be the position. He may not have pursued a planning permission because it may have been preferential in rating terms for what he has to pay for 10 Hayne Street to the City. That is a possibility.

17159. **Ms Lieven:** I think we can move on from blight. Before I call Mr Smith, can I explain one thing that may have confused the Committee. When Mr Saunderson or SHL owned the larger site he would not have been entitled to blight notice because the rateable value would have gone over the limit. That is why there is a letter in the bundle saying he could not serve blight notice in 1995 because the company was still the owner of the larger site. Now that it is only 10 Hayne Street we have very carefully checked that the rateable value of 10 Hayne Street falls below the blight threshold and therefore he would be entitled to serve a blight notice. That is the explanation for that discrepancy in the papers.

17160. **Mr Saunderson:** Can we just clarify that any purchase would be on the basis of the planning permissions granted on 10 Hayne Street before they were directed to refuse by Crossrail.

17161. **Ms Lieven:** Any purchase will be based, as is all compensation under the Compensation Code, on open market value disregarding the impact of the scheme. So whether Crossrail would ultimately make the site more valuable or less valuable is not taken into account in the calculation of compensation.

17162. **Mr Binley:** Forgive me, that is not the question Mr Saunderson asked. A site with planning permission in my part of the world is sizeably more valuable than a site without it. That might not be the case in London but it certainly would be in Northamptonshire. I want to clarify that for him, that because of the history we accept that it will be seen as a site with planning permission because the process was not stopped by Mr Saunderson but by legal edict.

17163. **Ms Lieven:** I will do my best to answer. I should say Mr Mould is the compulsory purchase expert and Mr Smith will stop me if I get this wrong. My understanding is that in calculating the compensation one takes into account what the planning permission would have been absent the scheme, in this case absent Crossrail. Although at the relevant date—I am trying to be very careful about this—there is no planning permission on the site, that is not an issue, as an actual matter of fact there is no planning permission, but the compensation would take into account the fact that there would be an undoubted expectation of planning permission if it was not for Crossrail.

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17164. **Chairman:** There is built an arbitration formula to appeal on that anyway.

17165. **Ms Lieven:** It is not arbitration, sir, there is a right to appeal to the Lands Tribunal, to a wholly independent tribunal.

17166. **Mrs James:** Forgive me if I have got a little bit confused between the larger property and this property, 10 Hayne Street. Was this the property that you originally had the planning application for for the six storey building?

17167. **Mr Saunderson:** Yes.

17168. **Ms Lieven:** This was the site where there was a freestanding planning permission on 10 Hayne Street itself. There is every reason to assume that one would take that, in fact one would take that, into account in calculating the compensation.

17169. **Mr Saunderson:** That is now a categorical statement that it would be taken into account. It changed from “every reason to take it into account” to “it would be taken into account”.

17170. **Ms Lieven:** I am sorry, I know I am a lawyer and, however hard I try, I can never forget that I am a lawyer.

17171. **Chairman:** Mr Saunderson, you are going to have a chance to come back at a later point but you must allow Ms Lieven to proceed.

17172. **Ms Lieven:** Lawyers never make categorical statements because history shows that the strangest things pop out of the woodwork. On the basis of the papers I have seen it is clear that the planning permission in 1984 and renewed in 1990—I may have got the dates slightly wrong—would be taken into account in the calculation of compensation. Can I proceed to call Mr Smith?

Mr Colin Smith, recalled

Examined by **Ms Lieven**

17173. **Ms Lieven:** Mr Smith, you are well known to the Committee but can you just explain to Mr Saunderson what your role is here and what your role was in the past that is relevant to this particular petition.

(Mr Smith) At the moment I am a consultant to Crossrail, but at the time of Mr Saunderson firstly coming along and wanting to undertake a development here, and through the original Crossrail Bill, my position then was director of property for London Transport Property which was in charge of all London Transport and London Underground property matters, so ultimately I took the decisions there.

17174. Just to be clear on one point, when you say you are a consultant to Crossrail what that means now is that you are a consultant to the Cross London

Rail Links Limited, which is a company of which joint owners are Department for Transport and Transport for London, is that right?

(Mr Smith) Yes.

17175. That is just so Crossrail in this becomes defined very clearly. Can we move on to this site? In opening I explained the safeguarding position and I do not think we need to go through that again, but can you just explain, so far as the Lindsey Street, Long Lane, Hayne Street block is concerned, was it ever the case that SHL or Mr Saunderson owned the whole of that block?

(Mr Smith) No. He owned a reverse L shape at that site—I am sorry that plan is not too clear—along Long Lane and up Hayne Street.⁵⁹ The property elsewhere was owned by the City of London, London Underground owned the raft over the railway to the north of the site, and the Guardian Royal Exchange also had a property interest in the north end of the site towards Charterhouse Square. It was in multi ownership.

17176. Can we take out Mr Saunderson’s chronology, which I think appears at pages 32 and 32A, and go through, as briefly as we can, what was going on here?⁶⁰ Firstly in the period 1988-89 there is reference to a joint venture with LRT. Can you explain what was happening at that stage?

(Mr Smith) Yes. In these years this was prior to Crossrail beginning and Mr Saunderson came, as many others did, adjoining London Underground ownership. He had purchased the land and wished to explore development and my department as it then was agreed to explore that jointly with him. This was nothing to do with Crossrail, this was just to see whether between the two of us there could be a development on both London Underground land and Mr Saunderson’s land, a normal commercial arrangement.

17177. We will come back to the normal commercial situation and the property crash a bit later. If we stay with what happened with Crossrail and London Underground for the moment. At the end of 1989, somewhere around here, the Crossrail project starts to come forward, is that right?

(Mr Smith) That is correct, yes.

17178. Can you explain what happened then in relation to this site?

(Mr Smith) Obviously the position changed as far as we were concerned because we could no longer explore easily a joint development between the two of us because Crossrail materially changed the nature of what needed to be done there, it was a massive work, and, therefore, it created a new situation entirely. I would accept that we did jointly pay fees to look up the initial development for Crossrail but obviously once Crossrail came along,

⁵⁹ Crossrail Ref: P120, Hardship Claim—Location of 10 Hayne Street(SCN-20061012-001)

⁶⁰ Committee Ref: A192, Saunderson—Record of Involvement for LT/Crossrail on Farringdon (SCN-20061012-030 to -033).

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and London Transport was about railways rather than development, we had to concentrate and the priority was Crossrail.

17179. When we come to the period after 1990, the site was safeguarded in November 1990.

(Mr Smith) Yes.

17180. So the period 1991-92. Mr Saunderson in his evidence suggested that it was London Underground who were encouraging Mr Saunderson to come forward at that stage to promote a joint venture. Can you just explain to the Committee your understanding of the position?

(Mr Smith) Yes. Mr Saunderson wanted to promote a development on the site. He submitted in 1990 an application south of London Underground land which was refused because it did not take account of Crossrail. He put in another application in 1991, as I think is shown in this bundle, which included an LRT ticket hall to try and incorporate Crossrail. We then had the Crossrail Bill and Mr Saunderson was an original petitioner to the original Bill promoted by London Underground then. In his original petition he sought to secure arrangements binding upon the Board, by which I believe he meant the London Underground Board, whereby development could continue contemporaneously with Crossrail. Looking at it I think he wanted to continue his development and see whether it could fit in with Crossrail, which was not feasible.

17181. Through this period was London Underground encouraging him to come forward with a joint venture?

(Mr Smith) No. He was a petitioner so we were responding to his actions. We were originally looking to co-sponsor but once Crossrail came along the situation changed. As Mr Saunderson wanted to continue to see whether it could be tied in we, I believe properly, tried to explore that but it was not run by us and, indeed, a private development contemporaneously with a work like Crossrail is far harder to deal with than otherwise.

17182. **Mr Binley:** Forgive me, Ms Lieven, but this is such a complicated matter that I do need to clarify as we go along otherwise we will forget and it will be much more difficult. My concern is about the evidence for what seems to me to be a subjective answer given by Mr Smith. The subjective answer was, "No, I don't think it was us, I think it was Mr Saunderson". The implication of that subjective view is, "Okay, we were just going along with it". Can we have any evidence to that effect?

17183. **Ms Lieven:** Sir, can I just interpose two thoughts. There is, of course, a huge amount of correspondence about this site which I would rather not burden the Committee with unless we have to, but as far as objective evidence is concerned I was going to ask Mr Smith to explain why it was that going into a joint venture with Mr Saunderson and

trying to develop the site together was actually going to make life much more difficult for London Underground and the Crossrail project.

17184. **Mr Binley:** I am sure it would have done, no doubt about that.

17185. **Ms Lieven:** That may be some objective evidence to support what Mr Smith was giving evidence on. Can you just explain what London Underground's position was on such a joint venture?

(Mr Smith) Yes. The difficulty in developing contemporaneously with Crossrail was that Crossrail needed the space to build a big raft over the northern end of the site and, therefore, if some of the works had gone ahead in advance then it would not have given them enough space, as I understand it, to build that raft, so it caused a lot of difficulties in terms of trying to integrate the whole thing together, that is what I am trying to say.

17186. **Ms Lieven:** Can I say to the Committee that there is a difficulty here, and Mr Binley has completely put his finger on it. We have a very different perspective on what was happening in 1991 and 1992 from that which Mr Saunderson explained in detail this morning, but in order to make that good there would have to be a very extensive investigation into the documentation and so on. It would be my submission to the Committee that that is not necessary because at the end of the day this is all history which is not a matter that it would be appropriate in any sense for this Committee to make a ruling on. All I want to establish in front of the Committee at this stage is that there are two sides to this story in essence and the Committee does not need to decide which side is correct or precisely what judgments to make on it at each stage. I do not want the evidence that Mr Saunderson gave this morning to be simply not contradicted so the Committee went away with the impression that LUL and British Rail in the original Crossrail project had behaved outrageously to Mr Saunderson by leading him up the garden path again and again, as there is another side to that story. If we can just go through the history as far as we need to with Mr Smith and if there are any specific points that the Committee would like us to come back to we can dig out the correspondence and put it in front of the Committee.

17187. **Chairman:** I think it would be more helpful, Ms Lieven, if we had a note from Mr Smith on events as he saw them and we will have the two balancing notes.

17188. **Ms Lieven:** We can certainly do that, sir.

17189. **Mr Binley:** Might I help you too, Ms Lieven. I understand the legal differential and the fine points relative to that that I think you might be able to make that you intimated in your opening. However, there is another dimension to this beyond and above the legal dimension, and that dimension is in conglomerate the effect of the machinery of state even though that was not an objective position that

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the machinery of state took. In that respect we, as a Committee, as I understand it, have the right to make that point when we make judgment, that we are not here only to assess the legal implications but we have the freedom, because we are politicians, to be slightly less legally defined and restricted than you are. I want you to know that we have a slight difference of approach from that perspective.

17190. **Ms Lieven:** I completely understand that and, if I may say so, it is wholly admirable that the Committee should take that approach. The only thing that follows from that is that in order to be fair to my clients I do have to explain that the, as it were, wider human picture that is being played may not be an entirely objective wider human picture itself, but equally I am conscious that the Committee does not want to spend too much time on such issues because ultimately we want to try and focus on the issues the Committee has to determine. Mr Smith will produce a note and we will try and do so by the Committee's next sitting next Tuesday of our position on this. Can we stay on the chronology for a moment and turn to the next page if you would, Mr Fry. I think we have dealt with 92. What we are talking about to some degree is this comment here, "Joint venture with LUL. Heads of terms prepared at request of LUL", and we will come back to that. There is another specific point in this that Mr Saunderson raised which is that in February 1994 Crossrail writes to tenants of affected buildings and Mr Saunderson suggested that had a very bad effect on his business because lots of tenants got these letters and then left and the rent fell. Can you just explain why Crossrail or whoever it was, probably LRT, wrote to the tenants in affected buildings at that stage?

(Mr Smith) I believe this was a referencing under the Bill to find out exactly who was where and unfortunately that was the reason for it, I believe.

17191. **Mr Binley:** So it had a blighting effect then, did it, Mr Smith?

(Mr Smith) I am not denying it, I am just explaining it.

17192. **Ms Lieven:** We might have been in a very unfortunate position with the tenants, however, if we did not do that. Before we come to the 1995 hardship application, can we just go back in history and look at the property market situation when Mr Saunderson or SHL purchased the most expensive of these sites and what happened to the property market in the following years.

(Mr Smith) I think Mr Binley is probably aware of this. Broadly this is a City fringe area which tends to be quite volatile and prices go up and down even more in City fringe areas but in the City in the property market from about late 1989 onwards there was the biggest depression in the market since the Second World War. I was involved personally with a development above Monument Station for the Underground where we happily sold it in 1988 and it was based on a rent then of £65 a square foot with a three to six month rent-free period. When they

came to let it in 1990/91 they achieved £30 a foot and they had to wait 18 months to two years to get any rent coming in. Values were slashed and I am afraid Mr Saunderson was not the only person to feel the effects, a lot of property companies went out of business and others sold their assets to cover their debts. I do not want to go on but it was unprecedented and values went down terrifically.

17193. Can we just have a look at page 74, not for the purpose of the document but because of the facts it sets out.⁶¹ At paragraph 3.1 it shows when SHL purchased the various bits of this site. We can read it for ourselves but as far as Long Lane and Lindsey Street was concerned, that was bought in 1988 for two million and 22 Long Lane was purchased in 1989 for 950,000.

(Mr Smith) Yes.

17194. Mr Saunderson in evidence-in-chief said that I had got it wrong in saying a large part of the site, the most expensive part of the site, was purchased at the height of the market. How do you analyse those figures?

(Mr Smith) From the evidence it looks that almost £3 million was spent in 1988-89 on the Long Lane properties. All I can say is that was at the time of the top of the market. They say general hindsight never lost a battle, but it was at the height of the market, I am afraid.

17195. We know that the properties, except for 10 Hayne Street, were sold by the receivers. Mr Saunderson told us that they were not all sold at the same time but in and around 1996 for, I believe, a total of about £3.2 million. In terms of that kind of diminution, in your view how does that relate to what was generally happening in the property market?

(Mr Smith) It was in line with the reductions. I understand from this document the value of Mr Saunderson's holdings was just about nine million in September 1990. For it to decrease to a fraction of that was certainly not unusual in that period. The market had a profound effect on values.

17196. So far as this type of location is concerned, the City fringe, when did values begin to rise significantly again and at what stage did they regain the kind of values that Mr Saunderson had paid in 1989 and 1990?

(Mr Smith) At the moment City offices, the prime grade A City offices, are letting for £52, £55 a foot. They have not yet reached the £60, £65 a foot nominal figures yet of 1988. In real terms they are still way below the 1988 levels even today, they just have not caught up.

17197. Turn now to the specifics of this case. Mr Saunderson implied in evidence-in-chief that if he had been able to hang on to the site to 1997-98 he

⁶¹ Committee Ref: A192, Hardship Claim in respect of David James Saunderson, David James Saunderson and Kathryn Jean Baxter (Petition No. 82) First Claimant's Interest in the Main Site (SCN-20061012-060).

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would have got back something close to what he paid. Given the nature of the area, how does what you just said relate to that suggestion?

(Mr Smith) He actually paid £4 million in nominal terms. It was valued at £9 million in 1990. I do not think he would have got back the £9 million is what I am saying. If he was able to wait until the end of the decade, towards the end of it, he might have got back his original purchase price. I can only speak generally here. Property values were significantly affected, that is what I am trying to say, and have gradually recovered but have not got back to 1998 levels.

17198. Finally on this point, before we leave the impact of Crossrail and move on to hardship, the next plan shows the effect of the 1991 safeguarding change and the Long Lane properties were no longer safeguarded, would it have been possible for Mr Saunderson to sell those, or seek to develop them, separately from the rest of the site?⁶²

(Mr Smith) Yes, he could have either developed or traded them after they were excluded from Crossrail which was in 1991.

17199. **Ms Lieven:** Can we then move on to—

17200. **Chairman:** No!

17201. **Ms Lieven:** I did wonder, that is why I said it very slowly.

17202. **Chairman:** We are going to break now and meet back at 2.45. Thank you very much.

After a short adjournment

17203. **Chairman:** Good afternoon. Ms Lieven?

17204. **Ms Lieven:** Thank you very much, Sir. Mr Smith, the point that we had got to was Mr Saunderson's hardship application in 1995 to London Underground, I do not want the details but can you explain the form of that application please?

(Mr Smith) Yes, Mr Saunderson applied in 1995 in a hardship claim to have his properties acquired by London underground at the time. I think the details were set out in a letter from his agent in July of that year.

17205. I do not think there is any need to put the letter before the Committee, but can you explain what Mr Saunderson was asking for in financial terms, please?

(Mr Smith) Yes, the request was to acquire the SHL premises at 1989 values for £9 million. Loss of potential profits for development and investment at £10 million. Other losses from selling shares in Unisoft Group, planning losses and other financial losses including rental losses and the total amount that we looked at came to just about £31 million.

17206. Thank you. Did London Underground feel that it was appropriate to pay that?

(Mr Smith) No. They did not have that money to pay. The basis of the assessment was looking back to the late 1980s as if that had continued. I accept that Mr Saunderson's property did decrease in value, but, as I say, the market conditions apply to that. We could not meet that sort of cost, it was something outside of our requirement. The other point was we only needed the Hayne Street properties for Crossrail, the Long Lane properties at the south end were excluded from safeguarding, they could be sold separately anyway.

17207. I have gone through that. If you turn to Mr Saunderson's documents, between pages 34 and 42 there are various correspondence including three letters from London Transport property which end with a letter on page 42 which was from Mr Trott but you signed it in his absence and I think this is the letter that perhaps if taken baldly does look like the strong arm of bureaucracy but is there a background to that which is relevant to take into account?⁶³

(Mr Smith) This followed this claim and the request for costs and it was at the end of that that these further costs were requested and although Mr Saunderson had put in time and effort to develop on this site simultaneously to Crossrail. As I say if he wanted to do that and he took the decision that was something he wanted to do, as I said before, it was more difficult to arrange that with Crossrail and we did not feel that in relation to those costs there was a liability on London Underground.

17208. One final point on this, in terms of an application whether it be an advanced purchase application or a hardship application, quite apart from the fact that he was asking for £31 million, were the terms of such a purchase that which London Underground would have found unacceptable?

(Mr Smith) Yes, they also included a right to a 999 year lease for an eventual over site development. We had not even designed Crossrail, so it was very difficult to agree to that because we did not know exactly. We were developing the Crossrail design and the Crossrail design life was 125 years so to have an agreement that was longer than that was very, very difficult for the engineers to agree so that was another reason.

17209. **Mr Binley:** I am not quite sure that I understand the point of presenting as evidence against Mr Saunderson, the fact that he should have made an objective value judgment with regard to the property because it seems to me, and you have been in the world of property for a very long time, that what property might be at a given time or indeed at any time over the next two years or indeed 10 years is a massively subjected decision which will differ between experts enormously, is that fair?

⁶² Crossrail Ref: P120, Crossrail Safeguarding Directions Sheet No. 18 (LONDLB-8204-005).

⁶³ Committee Ref: A192, Correspondence from London Transport Property to David Saunderson, Properties on Hayne Street, Lindsey Street and Long Lane, London EC1, April 1997 (SCN-20061012-042).

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(Mr Smith) Valuation of property is very often—

17210. I have noticed that as a house owner, buyer and seller and I have noticed the massive differences that professional advisers have told me a given house was worth depending on my position as a buyer or as a seller and I have no doubt that everybody in this room has had a similar experience. Is that fair?

(Mr Smith) That is very fair.

17211. I would like that on record too because I am not sure I understand that point.

17212. **Ms Lieven:** In terms of what Mr Saunderson was claiming in his hardship application is the difference between the £9 million valuation he put on the site and I think at the date the valuation that our expert put on was something like, I cannot remember—

(Mr Smith) It was £1.4 million.

17213. There was also the issue of £10 million for potential loss of profit?

(Mr Smith) Yes.

17214. Was that, in your view, a justifiable claim at all?

(Mr Smith) We had no provision to pay that sort of loss.

17215. **Mr Binley:** Might I ask a question about that because your background is within government service, I recognise that it has been within London Transport and proud you should be of that as well. I am in no sense demeaning that. The area of judgment and profit does not really come into your expertise, does it?

(Mr Smith) I am not judging, Sir.

17216. I just wanted to make the point that making a judgment about profit would not fall within your expertise at that time.

(Mr Smith) No, I am not judging.

17217. Thank you.

17218. **Ms Lieven:** I will leave that issue there, if I may and move on. Briefly, there are two other points we need to cover, 10 Hayne Street and the land disposal policy. Just to touch on the land disposal policy, in respect of his ownership of 10 Hayne Street, what is the position with regard to Mr Saunderson being able to be involved in any over station development which involves 10 Hayne Street?

(Mr Smith) We now have a land disposal policy on Crossrail. This is a multi-owned site and the policy is clearly that once Crossrail is constructed Mr Saunderson, along with other owners on the site, will have the right to apply to the Secretary of State under the hardship policy to apply to have those rights so he can apply to develop the site but he has to do that in competition. The Secretary of State will choose between one owner or another.

17219. Let us turn to 10 Hayne Street. I went through this in some detail with the Committee this morning, although I do not want to have Mr Smith repeating everything. The explanation I gave, for the purposes of the transcript, of the position and what Mr Saunderson would have to do and his co-owners to qualify, did you accept that as being correct?

(Mr Smith) I accept it.

17220. Hopefully, that is enough, I will not have Mr Smith repeating it all. Can we look at two factual points. First of all, Mr Saunderson says that he never responded to the letter from Bircham Dyson Bell dated 15 June 2006. I am going to put it up.⁶⁴ The text perhaps does not matter very much but do you understand this to be a response from the Department for Transport to that letter?

(Mr Smith) Yes.

17221. And indeed I have not got it in front of me but is it your understanding that Bircham Dyson Bell acknowledged that they had received that letter?

(Mr Smith) Yes. That is my understanding.

17222. Maybe there are problems with Bircham Dyson Bell and Mr Saunderson but there is no doubt at all that that letter was responded to whether the terms of response were satisfactory or not, that is not the issue, it was responded to.

17223. **Mr Binley:** Could I ask whether that was done through registered post?

17224. **Ms Lieven:** No, Sir. I do not think any of our letters are done through registered post but Sir it is not an issue because it was acknowledged by Bircham's. Whether Bircham's passed it onto Mr Saunderson I cannot possibly comment on and I am not suggesting they did not, that is for the person from Bircham's, and this is not an issue we can get involved in. Secondly, the suggestion that we encouraged Mr Saunderson to apply for hardship, we are now in the present hardship scheme rather than the London Transport hardship scheme. Can we have a quick look at a letter at Mr Saunderson's page 56 from Mr Irving of Winckworth, Sherwood our agent and focusing on letter (a) "as you maybe aware the project has published a policy for the purchase of property in cases of hardship which provides for advance purchase of properties in certain cases. We enclose a copy of that policy. While your clients are welcome to make an application under that policy, it seems that your clients are unlikely to satisfy the qualifying conditions since you have indicated that they do not have a qualifying interest in the property for the purpose of the 1990 Act. It is not obvious that there are exceptional circumstances in this case justifying an advance purchase outside this policy, but if your

⁶⁴ Committee Ref: A192, Correspondence from Department for Transport to Bircham Dyson Bell, Crossrail Hardship Application—David James Saunderson (and Others), 26 July 2006 (SCN-20061012-080).

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clients consider that there are these could be explained in the application.”⁶⁵ Do you read that as encouraging Mr Saunderson to reply?

(Mr Smith) It seems to set out fairly that he is unlikely to satisfy the qualifying conditions. I do not know any more. I was not involved in this directly but on the face of that paragraph I do not know if there are any other discussions.

17225. Absolutely finally, there was a complaint made by Mr Saunderson that you rang him at 9.30 at night, why did you ring him at that time of day?

(Mr Smith) He and I are busy people and often not available to take each others calls during the working day.

17226. Does that apply to Mr Saunderson as well as yourself?

(Mr Smith) Yes.

17227. **Mr Saunderson:** Sir, those are all the matters I was going to deal with.

17228. **Chairman:** Mr Saunderson, you can cross-examine.

Examined by **Mr Saunderson**

17229. **Mr Saunderson:** I do not know if it is unusual for items to be read out in evidence which are not provided to the other side.

17230. **Chairman:** If you have got evidence which you want to put to the Committee, all of the Committee must see it and also the Promoters must see it.

17231. **Mr Saunderson:** It really refers to the two letters that were referred to by Ms Lieven. She referred to a letter from 1995.

17232. **Chairman:** Have you not received that from Ms Lieven?

17233. **Mr Saunderson:** No, I have not received anything.

17234. **Ms Lieven:** Sir, the letter of 1995, which I did not put up, was a letter from Mr Saunderson, the hardship application was from Mr Saunderson, it was from his agents and I did not put it before the Committee. The other letter was one written by us to Mr Saunderson’s agents in response, the letter that is going on the screen now, I am sorry I had wrongly assumed perhaps that Mr Saunderson had seen this. It is a letter to his agents in respect of his Petition if he has not seen it then I am afraid the fault has to lie with Bircham’s and not us.

17235. **Chairman:** I think at the same time we could get some copies.

17236. **Mr Saunderson:** I think it would be helpful because I am completely unable to comment on the letter from Mr Thornley-Taylor because I do not have it in front of me or the letter from the Department for Transport which I do not have from Bircham Dyson Bell.

17237. **Chairman:** At the same time it must be put on record that Ms Lieven is quite right, it is not the responsibility of the Promoters, it is your agents’ responsibility.

17238. **Mr Saunderson:** Assuming they have received it, of course. I have not had it from them. I specifically asked them where the reply was and they said they had not had one. I do not think we need to go on a witch hunt as to whether it got to Bircham’s or not. They say they acknowledged it. I am surprised, it was Paul Thompson. Let me just say I have not received it.

17239. **Chairman:** I think that is a matter you have got to raise with your agents and if you find that they have never received it, although we have been told it was acknowledged, perhaps you could get in touch with the Committee again. We must now proceed with Mr Smith.

17240. **Mr Saunderson:** I am merely making the point that it is very hard to deal with something when you have not copies of it. I would still appreciate copies of those two letters.

17241. **Chairman:** The clerk is getting them for you. We will put them on the screen and you can have a minute or two to read them.

17242. **Mr Saunderson:** I have got a number of points for Mr Smith which I will take first, if I may, while those are being copied. Mr Smith, could you just tell us when you were in charge of London Transport Property approximately how many staff you had there?

(Mr Smith) I was director from June 1993 and I was deputy from 1986-93. My staff was roundly 100.

17243. One hundred staff. Gosh, you had an enormous team. Approximately how many projects would you have had on the go at any one time, Mr Smith?

(Mr Smith) Development projects?

17244. And other projects.

(Mr Smith) We managed the London Underground estate, 5,000 properties. It was a busy time.

17245. Yes, indeed. It must have been a very responsible job. Approximately what would have been the value of the portfolio of London Transport, London Underground?

(Mr Smith) Commercially most of the property was operational so its value really was not realisable. I cannot remember the accounts but £1 billion. Just to

⁶⁵ Committee Ref: A192, Correspondence from Winckworth Sherwood to Bircham Dyson Bell, Crossrail Bill—David James Saunderson (and others) 10 Hayne Street, 13 October 2005 (SCN-20061012-050).

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be clear, that is the cost of replacing the operational assets, it is not like the asset value of the company which very often are tradable assets.

17246. Can you remember roughly what the annual budget in your area might have been?

(Mr Smith) Annual budget? To be honest, no. Just give me some time and I will come back to you on that. I will try and think about that.

17247. We can understand and obviously we all appreciate that it was a very substantial operation that Mr Smith was in charge of.

(Mr Smith) Yes.

17248. A hugely responsible job with some 5,000 projects on the go and with 100 staff.

(Mr Smith) Just to be clear, our job in many ways was to acquire land for new railway projects and new bus projects and, where land was surplus to requirement, to dispose and gain income for investment back in the transport infrastructure. The budget that we got, I believe I am right in saying, at that time, because the memory fades, we probably gained 20 million a year, 20 or 30 million a year to invest in public infrastructure. That was the nature of our business on the one hand; on the other hand, we were spending money buying property that was required for approved schemes for railway and bus projects.

17249. You would have had experts on your staff dealing with the different projects.

(Mr Smith) Yes.

17250. Would your job mainly have been management of those staff?

(Mr Smith) Yes. I was responsible for what they did, yes.

17251. Would you have become involved in the nitty-gritty detail of particular arrangements?

(Mr Smith) No, in essence.

17252. You made the statement earlier that London Transport and Property had agreed to pay 50% of the cost of pursuing a joint development study in that 1988–90 period which Mike Withers had agreed.

(Mr Smith) That is my understanding from memory but if you could confirm that is true I would accept it.

17253. Mr Withers worked for you?

(Mr Smith) Yes, he did, but I cannot remember all the way back then, I am afraid. I accept it if he did. I am not contesting that.

17254. You made a comment on questioning by Ms Lieven that you felt after that period, 1991, 1992 and thereafter, that London Transport were not really very interested or were not pursuing this and it was me who was really undertaking it on my own.

(Mr Smith) In relation to the over site development simultaneous with Crossrail, that was an element that we were not pursuing. We were pursuing

designs with Crossrail and we were pursuing our own designs on how that might fit in with some larger scheme that would be required by the City later on, but that would have been after we built Crossrail so it would have been on the basis we occupied the site, built what we needed to build, integrated any designs into it, would take something over and then would hand it back later on.

17255. I was just wondering how you managed to remember that level of detail for that 1991–92 period when the details of individual schemes were not really something you were concerned with.

(Mr Smith) That is not a detail, Mr Saunderson, that is a principal point. It is not a detail. Crossrail was a major infrastructure project brought forward by the Underground and we had to give it priority. I had to give some time to Crossrail on a number of issues and I do know that was the case and that is not a point of detail, with respect. If you ask me about individual points of the development you were proposing I probably would not know.

17256. Could I take you to page 32 of my index of documents, please.⁶⁶ This is now 1991, the bottom of that page 32. Would any of this be familiar to you: “London Transport Engineering and Property meeting to amend Crossrail design in scheme; February–June funding discussions; July—London Regional Transport engineering discussions with Ove Arup; August—London Regional Transport meetings on engineering; September—planning discussions on uses in development; October—reached agreement with London Regional Transport to section 106 Agreement . . .”

(Mr Smith) Yes, sorry?

17257. Would you be familiar with that level of detail?

(Mr Smith) In general terms yes, but in very much detail no.

17258. How would that accord with London Transport not really wanting to pursue the scheme?

(Mr Smith) I see what you mean, sorry. As I understand the position, and based on what I understand from your petition, you wanted to pursue the development of the site—I forget what the words were—contemporaneously with Crossrail and a lot of these discussions were responding to your various planning applications as we were developing Crossrail to try and see if they would fit or not with your proposals. In the general sense, that is what I understand.

17259. Could I take you to page six of the City of London paper from the City Principal Planning Officer to our agent architect, Noel Isherwood, confirming: “Following your instructions authorising the withdrawal of application 5011 . . .” referring to that main site, “the papers have been

⁶⁶ Committee Ref: A192, Saunderson—Record of Involvement for LT/Crossrail on Farringdon (SCN-20061012-030).

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filed accordingly.”⁶⁷ Can you remember who asked Saunderson to withdraw the application filed with the City Corporation?

(Mr Smith) I would imagine it came from the Crossrail team but I would not know who in the Crossrail team.

17260. Thank you. I am just trying to give the impression that there was intimate working going on between Saunderson, Crossrail and London Underground with regard to this scheme on an ongoing basis.

(Mr Smith) There was. Could I say that I am not contesting that point. What I am saying is we were properly responding to your proposals but we had our own proposals that we were developing at the same time.

17261. Could you remember what the section 106 Agreement that was agreed with London Underground actually stated?

(Mr Smith) Not in detail but, from memory, I think what you were aiming for was to obtain planning consent subject to a planning agreement or a section 106 Agreement which would enable your application to be approved and the development to effectively undertake some of the Crossrail works. I think the problem with that was whether Crossrail would have the control over such a major project if they put bits of it into, if you like, individual private developments. From memory, I believe that London Underground required a veto, I think that was the word used, in any case. That was the situation as far as I understood it.

17262. You mentioned to Ms Lieven under examination that the reason why London Transport was backtracking, if you like, or going slowly on the development was the need for a raft over the tracks.

(Mr Smith) Yes, a new raft.

17263. You mentioned in reply to Ms Lieven that was the reason for London Transport going slowly.

(Mr Smith) I do not remember the exact question but the Crossrail proposals required a new raft over the railway that goes into Moorgate. In order to build that they needed the space upon which to put the plant equipment and materials, which was the land to the south which was partially your land and partially City of London land.

17264. That was the concern for a raft.

(Mr Smith) Yes.

17265. That was why you said you were backtracking on it. Does that jog your memory as to the section 106 Agreement and, indeed, the preparation of the deed mentioned in January to March 1992 and what was contained therein?

(Mr Smith) As I said, I think the draft deed was something that was put forward by your people to get London Underground to sign up that those

works would be done in part under your development, from memory. I believe that London Underground had legal and practical issues with whether that could in fact be allowed to happen. I do not believe that agreement was ever signed because I do not think the Crossrail engineers felt they would have enough control over the building. The Crossrail works were enormous in their scale and from memory they were totally out of all proportion to the size of the commercial development in terms of their cost.

17266. Would it be helpful to go through the 1992 actions on page 32A just to help your memory?⁶⁸ “Preparation of Deed for London Regional Transport safeguarding; further legal advice; meetings with LRT and Crossrail regarding the planning application and s106; meetings with LRT on planning application”.

(Mr Smith) No-one is disputing this took place in relation to your development. I am not disputing it at all.

17267. **Mr Saunderson:** I am trying to ascertain whether the Committee feels that London Transport were not really involved and Saunderson was just flying a kite.

17268. **Chairman:** Can I help you, Mr Saunderson, because I think you have made your view on the issue and what we have to do is deal with the issues now, with Crossrail now. I think you made the point that you felt you were disadvantaged by circumstances. We have got that message and we now must move on with the present matter.

17269. **Mr Binley:** Could I just ask one question because the impression I got from Ms Lieven’s examination of Mr Smith was that all of this activity was taken at the behest of Mr Saunderson and that London Transport were replying almost because they wanted to be kind and courteous. The question I would ask is that you ran a very big department which was immensely busy and which cost a great deal of public money, so surely your customer servicing would not have been that generous as to spend all of that money and do all of that work if there was not a real interest from your organisation because if that was not the case, you would not be doing your job properly and you are too assiduous and too competent and, if I may say so, too committed a person, and I know that from listening to you, to do that, so I do not understand the point being made in respect that this was all about Mr Saunderson and not at all about your organisation.

(Mr Smith) Sorry, I do not want to mislead anyone in this and you are quite right to ask whether this was a waste of money. All I can say is that Mr Saunderson was a Petitioner to the original Bill and he did want this looked into, and we did look into it.

⁶⁷ Committee Ref: A192, Correspondence between the City of London and Noel Isherwood Associates, 28 February 1991 (SCN-20061012-007).

⁶⁸ Committee Ref: A192, Saunderson—Record of Involvement for LT/Crossrail on Farringdon (SCN-20061012-031).

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17270. But the truth is that you acted on a perfectly proper basis in the interests of your organisation because there might have been a outcome which they required. That is the truth of the matter, is it not?

(Mr Smith) Yes, if we could make it work.

17271. **Mr Saunderson:** There is just one other point with regard to the main site. There has been some to-ing and fro-ing on the proportions of the site and I just wanted to say that 60% of the site was acquired in 1985 and prior which is listed in the hardship claim, 16,000 square feet of buildings was acquired in 1985, 1982 and 1981. It was only 11,000 that was bought in 1988 and 1989. There has been this comment that we paid a lot at the top of the market. Well, that did apply to the 1988 and 1989 purchases, but it did not obviously apply to the 1981, 1982 and 1985 purchases. Therefore, to imply, as was done, that we just bought a load of buildings at the top of the market and then they had gone down in value would not be an accurate position for the Committee to go away with. The second point is on the values. Ms Lieven said it was sold for £3.2 million, but it was actually sold for £2.2 million which is 24% of what it was valued at in 1990, the £9 million, so it fell to 24%. I would like to ask Mr Smith whether he knows of any other properties which fell to 24% of their value. He mentioned one where the rents fell 46%, but in fact yields in the latter 1990s fell, so the effect would not have been for the capital value to fall to half. We are talking now of the late-1990s when the buildings were sold, 1996 and 1999.

(Mr Smith) So these were sold for £3.2 million?

17272. No, £2.2 million. Just offhand, does that seem more than the market fall?

(Mr Smith) Not necessarily, not on secondary property. If you look at what happened in 1991—

17273. I am not looking at 1991, but 1996 to 1999 when they were sold.

(Mr Smith) They were sold for £2.2 million, the Long Lane properties?

17274. Yes, all the five CBCP Limited properties, all five properties.

(Mr Smith) They were sold when?

17275. In 1996 and 1999.

(Mr Smith) Somewhere between 25 and 45% is the sort of range, I would have thought, which would be normal. I have to give a range because it would be misleading—

17276. Perhaps I can advise on selling London Transport properties for you!

(Mr Smith) Well, I hate to say it, but I was in your position, although not in your position because it was not my personal money, but we did buy property near the peak of the market and it did fall significantly in value.

17277. I would put it to you that the 24% is exceptional.

17278. **Chairman:** Mr Saunderson, we are going round and round and round and back over the same thing. I have already said that we have got this message. We have got the argument being put forward and you keep revisiting it time and time again and I think you have more than adequately covered the questions which Ms Lieven put to Mr Smith in the light of that. What I and the rest of the Committee really do want to know is about the present property, the present blight and how it affects the building as it is now, not what happened in the previous Bill. As I say, we have more than understood that and I must insist that we move on.

(Mr Smith) Yes, certainly. Well, I have sought in my summing up to suggest, in my submission, what the Committee could order the Promoter to undertake and they are my five suggestions for the Committee to undertake.

17279. **Chairman:** Thank you, and thank you, Mr Smith.

The witness withdrew

17280. **Chairman:** Ms Lieven, do you want to sum up?

17281. **Ms Lieven:** Can I make a very short summing up, sir. So far as the large site is concerned, we do not dispute that Mr Saunderson's property interests have been detrimentally affected by Crossrail and it would be silly to do so, but a large element of his problems, and we will never get to the bottom precisely of how one splits causation here, but a large element stems from the collapse in the property market. This was a City fringe site and it was always going to be precarious and you have literally just this moment heard Mr Smith's evidence of that. It is important to remember that part of the site, the most valuable part in commercial terms, the Long Lane/Lindsey Street site, could have been developed at any date on from 1991 because it was not safeguarded and perhaps that slightly shows that a significant element of the problem here was the collapse in the property market because that bit of the site had nothing to do with Crossrail from then on.

17282. There has been a lot of evidence and a lot of cross-examination about who initiated what in 1991 and, sir, we are quite happy that it was mutual interest, but I do ask the Committee to put themselves back into the position of LUL. Leading up to the 1994 Bill, we had a Petitioner or, rather, London Underground had a Petitioner who was saying, "Don't go ahead with this Bill unless you allow me to develop this site", so we absolutely had to negotiate out with them as far as we could possibly go in terms of allowing the development to go ahead, otherwise the Committee in 1994, if it ever got to that stage which of course it did not, would have been deeply critical of the way the Promoters had acted.

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17283. Ultimately, sir, I rely entirely on what you have said repeatedly today, that all this is a matter of history rather than a matter for this Committee. We have different Promoters. The site was sold 10 years ago now or at least one large part of it. If there was maladministration, and I do not accept that there was for a moment, but if there was, then the complaint to the Ombudsman should have been pursued. Why the Ombudsman did not reply if he did not reply, I do not know, but that was the remedy back in the mid-1990s to what Mr Saunderson is complaining about now, an unfairness within the blight scheme.

17284. I do say gently, but very importantly, that if compensation for this kind of loss had to be paid for by Crossrail, then it would make major infrastructure development in central London almost impossible, if not impossible, because the costs that would be added on would become overwhelming, but all of that really is history.

17285. If we focus on 10 Hayne Street, which is what this Petition ought really to be about and is really about, the simple solution which meets the lawful part of Mr Saunderson's requirement A is to serve a blight notice and he will then get open market value, disregarding any impact of Crossrail for that site. He could have done so at any date from when the bulk of the site was sold, but has not done so for whatever reason which is entirely a matter for him, but he continues to be able to do so now.

17286. As far as the over-station development point is concerned, we will deal with him like any other owner of land in a site where they are only a partial owner rather than a complete owner. There is obviously a difference when we are dealing with somebody who owns the entirety of an over-station development site.

17287. Sir, I kept that short, but, in my submission, that deals with the points in the Petition.

17288. **Chairman:** If I can just comment on one thing, the fact about if compensation is awarded, it may preclude investment by Crossrail in infrastructure projects, that is a matter which we have to consider, but also a matter which we have to consider is justice and fairness and where it applies in the areas of our responsibility, we will do that. Thank you very much.

17289. Mr Saunderson, can I just make one suggestion. In your humble request, you have suggested a number of things and one of the things you have not included in there and what we may, with your permission, list is also your application for blight in relation to your present property, so we could include that in the humble request which you make. Is that acceptable to you?

17290. **Mr Saunderson:** I personally have a difficulty with the blight thing. The way it was discussed this morning was very disturbing, in my mind, and, in my

view, if they feel they have a duty to purchase the site, they should make an undertaking to purchase the site at open market value. This business of parking cars and things, I do not really want to get involved in something that is slightly—I do not know what you would call it—but I found it quite disturbing and I would prefer that a straightforward undertaking was given. Blight is terribly complicated and, as we heard this morning, there were various statements made to and fro. I found it very difficult to accept that there was not—

17291. **Chairman:** One thing which I think is important is that I think the suggestion which was being made by the Promoters this morning was not in some way underhand and designed to get around the law. What they were saying was that there is a statutory requirement for things to occur for you actually to be able to apply and I think that is where Ms Lieven helped this morning with the clarity. I must say, I was only suggesting that it was a thing which was being offered and if you wanted to include it, we could agree to include it in your request which you have listed. If you do not wish to do that, then the Committee can consider its own course in a whole variety of ways, including that, but it was just whether or not you wished to request that.

17292. **Mr Saunderson:** I think it would have been helpful actually if I had asked Mr Smith, or perhaps we can ask him now, whether they have actually paid out as yet on any blight notices. I have also been advised, which I forgot to say, that a blight notice did not apply on a Safeguarding Order.

17293. **Chairman:** Let me repeat this again because I did give an indication of how the Committee would view this. If the application was made now, it would have been handled and sorted out or dealt with by the time this Committee concluded and reported to the House. That is the general point we were making this morning. Then we would be the judge of that. If it had not been handled, then we could make our own views on that. As I say, if it had been, then of course that might be a different area of satisfaction in relation to the decision that we actually make. Is that helpful?

17294. **Mr Saunderson:** It is really helpful. I just wondered if you could ask the Promoters if they would give an undertaking to advance purchase the site at open market value, simple as that.

17295. **Chairman:** Ms Lieven, if you could state what you have already said this morning, it might give some clarity.

17296. **Ms Lieven:** Let me state three things. Firstly, and I repeat what I said this morning, if Mr Saunderson serves a blight notice and meets the criteria in the terms I have described this morning, and I described them very carefully and I do not want to describe them again because they may be slightly different and then there would be confusion, but then there would be no ground for us to contest

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a blight notice and we would not do so. That gives him purchase now or within six months at open market value, and I am struggling to see what the problem is.

17297. Secondly, as far as we know, and we have just pooled our joint knowledge, only one blight notice has been served so far and that is on Crossrail 2, a joy for this Committee to look forward to, but perhaps not for a year or two, and that has been accepted.

17298. **Mr Binley:** Not this Committee!

17299. **Ms Lieven:** Nor me! This is a process which has been accepted by the Department.

17300. **Chairman:** Just to amplify that, you would also confirm that if there was any contest over what was a market value, then there is the Lands Tribunal to clarify that?

17301. **Ms Lieven:** Absolutely, and that comes on to point three, sir. What Mr Saunderson is asking us to do, and I genuinely do not understand why he would rather this route, is to go on the non-statutory route of advance purchase for which we have no parliamentary authority to spend money to start with and which would fall outside the statutory protection in conformity with the Human Rights Act that he would get if he served a blight notice where, if he did not agree with the compensation, he could go to the Lands Tribunal. Unless there is something that I am completely missing, that is the straightforward statutory route which the Secretary of State has power to take where, if Mr Saunderson does not like the conclusion on compensation, he can go to the Lands Tribunal and if he does not like the decision, and there is no reason why he should not for the reasons I have just given, he can go to judicial review. It is all completely straightforward, up-front, open—

17302. **Mr Binley:** And expensive.

17303. **Ms Lieven:** No, no, sir, in my submission, not necessarily at all. Serving a blight notice is not in the least bit expensive. I am absolutely sure, having heard Mr Saunderson today, that he is more than capable of doing it himself. If, as seems overwhelmingly likely, there is no contest, then the blight notice is accepted and then in terms of compensation, it is only cost if ultimately it goes to the Lands Tribunal and he is seeking a value which the Lands Tribunal does not give him. As long as it is dealt with either by negotiation or he seeks a higher value and we are being unreasonable and pay less, then he gets his costs, so, in my submission, that is a complete answer to the problem.

17304. Can I just put it on the record that we are doing nothing underhand. We are not attempting to twist or abuse the statute at all. What I have told this

Committee is on instructions and on expert advice from Mr Smith who is highly qualified in this area. There is nothing funny going on here at all.

17305. **Chairman:** Mr Saunderson, we cannot do anything until the end when we make our report and Parliament decides. Certainly I have given you an indication that we have opened a door. Whether you go through it or not is entirely up to you. Whether, when you go through that door, it reaches the conclusion which you find acceptable is up to you, but we have opened the door and whether you pursue it, I cannot advise you on.

17306. **Mr Saunderson:** Could I just say, as I think we did have the answer, that there have been no blight notices served under the present Crossrail Bill. I believe, and I am not an expert, this is a terribly complex area, blight, which is why I am being so nervous about it, but I believe that you cannot serve a blight notice on a Safeguarding Order. I have had that advice in the past. I believe that I cannot serve a valid blight notice and that is my belief.

17307. **Chairman:** In a final attempt at clarity, we have been told this morning on a number of occasions and this afternoon that if a blight notice application was made, then it would be looked at and given very, very serious consideration. What I have said to you is that that will be dealt with in time when we are still sitting and we will view this matter in the course of any response to it. There is a first for everything in life and, as politicians, we see it on a fairly regular basis and sometimes it comes back to haunt us, but nevertheless there is a first, so why not suck it and see or not as the case may be, but that is your decision. Perhaps you would like to conclude with your summing up.

17308. **Mr Saunderson:** Yes, thank you, just a short conclusion. My suggestion is that the five things I have listed down are, I believe, the correct way for the Promoters to proceed to provide certainty to the owners through a non-conditional purchase. The sums of money are tiny in relation to the £300 million which has already been spent by Crossrail, so for them to plead poverty is absolutely unacceptable. That is £300 million which has been spent on fees so far, I understand from the papers, and you probably know more about it than me.

17309. I believe the Petitioners should be made whole in respect of their loss of income over the last 15 years, and that is set out in the hardship claim.

17310. I believe that I should be made whole in respect of the pre-safeguarding equity that I held, and again that is laid out as £3.2 million.

17311. I believe the costs that I have provided to Mr Trott of London Transport in 1997 should be paid and again in terms of the value that we added to the Farringdon East ticket hall in getting the City Corporation to approve the bulk and uses of the over-station development as that is of immense

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value to Crossrail/London Underground/the Department for Transport, whoever you like to name as the owner. They have that already achieved and the costs, therefore, should be paid as laid out. I understand the point about the pre-emption rights on the development and I take the point of the policy that there is and I am aware of that.

17312. Point E is of pro-rata carried interest, which is my suggestion, to compensate to some extent for having an asset frozen for nearly 16 years which I feel, if nothing else, the Committee should endeavour in future to ensure that the Promoters either put up or shut up and they should not be allowed to freeze an asset for 16 years. That is the biggest thing in general terms which I would like the Committee to take away. It does not do the business world any good, it does not do the Government any good and it wastes a lot of time and energy in the process. They could have bought this site from us years ago and we would not be having these issues today. We would still be employing 180 people and hopefully more. We have 180 lives that have been changed because of not being able to be employed in this location because of Crossrail. We have tenants who have had to move. It has had a devastating effect on so many people and all through something which so easily could have been avoided, the very few sums of money in relation to the £300 million which has already been spent on fees alone, so the value which Mr Smith mentioned that £10 million was a lot, I do not know where he got that £31 million from and I was quite disturbed that he read that out without showing us the letter, but obviously there were losses of other companies that I owned that went down because of this, but it was hard to recall the figure when I had not seen a copy of the letter recently.

17313. So there are a lot of lessons to be learned, in my view, that the land should have been bought and the project should have gone ahead or it should have been unfrozen, but it should not have been left frozen for 16 years, in my submission. Thank you.

17314. **Chairman:** Can I just remind you that we will be in touch because we will be getting in touch with the Parliamentary Ombudsman to see what happened to your request which you made, and I

suggest that you get in touch with your agents at the time to see why they did not forward on to you some correspondence which was mentioned.

17315. **Mr Binley:** I just wanted to leave an aide-memoire on the record for my own use and hopefully for consideration by the Committee when they come to consider this more fully. I would like to make the point that this is at this stage without any prejudice whatsoever because it is my initial feelings, but I have no doubt that property prices fell and that is part of a business risk that anybody would take in these circumstances, but I have equally no doubt that it is almost impossible to consider as a proper financial risk the sort of hurdles, the sort of difficulties that had to be faced in this matter. I understand that the machinery of State is heavy, often impersonal and seeming uncaring, but that is the nature of the machinery of State. That does not, however, mean that our job is not to improve that and to change it so that this unacceptable risk be removed because I do believe your final words, that the impact upon the business and commercial community is an important one. Often I think government, in its unthinking way, not because it means to be malicious, but in its unthinking way, often creates situations that, if it had a chance to think about in their entirety, it would not do, so I think we need to take that into account and that is why I think those remarks were important.

17316. **Ms Lieven:** Sir, can I just put two points on the record about blight notice which Mr Saunderson referred to in closing so that he understands the point. It is not correct to say that you cannot serve a blight notice on a Safeguarding Order. That is absolutely clear. I do not know where his advice came from, it does not matter now, but it is not correct, and we have accepted a blight notice on a Safeguarding Order on Crossrail 2.

17317. The other point to make on the record is that if a blight notice is served, we will pay reasonable surveyor and legal costs of that process.

17318. **Chairman:** I am sure Mr Saunderson will take that away with his advisers and consider it. Can I thank everyone. We now conclude today's business and we will next meet on 17 October at 10 am.

Tuesday 17 October 2006

Before:

Mr Alan Meale, in the Chair

Mr Philip Hollobone
Kelvin Hopkins

Ms Katy Clark

Ordered: that Counsel and Parties be called in.

17319. **Chairman:** Today we will be hearing two petitions, the London Borough of Tower Hamlets and Eleanor Street Travellers All Residents Group. Before we start, if we are here at 11.30 we will take a short break for coffee and then come back. Mr Mould, would you like to outline the first case. I hope yesterday was a good day for you!

17320. **Mr Mould:** It was indeed, and it is very kind of you to mention it, but back to real life now, which is also delightful. Sir, I do not think I need to say very much about the first petition. Mr Drabble is here on behalf of the London Borough of Tower Hamlets. I believe he is going to make a short statement to the Committee explaining the borough council's position in the light of recent correspondence that we have had with them in relation to their outstanding petition and concerns. Rather than take outstanding petition concerns and rather than take time anticipating what he is going to say, I think the sensible thing is to hand over the floor to him and then I can respond to that.

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Mr Richard Drabble, QC appeared on behalf of the Petitioner

17321. **Mr Drabble:** Chairman, Members of the Committee, as Mr Mould said, I simply wish to make a relatively short statement expressing the borough's position in relation to the second additional provision as it has developed in the light of correspondence and largely to read things on to the record, if I may do that. You will know that the borough's Petition in relation to the second additional provision related to three issues: The Eleanor Street Traveller's site, the noise and vibration policy, and the H.A.M & Wick Sewer diversion. The council's Petition contains 15 specific objections and in preparing its Petition the council repeated a number of the objections contained in the first Petition, for example in relation to traffic management consultation. As the Committee may recall at its hearing in June, the council only gave evidence on two of its original 35 objections. This is because the Promoter has given a number of assurances to the council which would have dealt with many of the council's objections. However, in order both to protect the council's interest and, most importantly, to provide both transparency in what the council regards as essential reassurance to the local community, the council has asked the Promoter to provide formal legal undertakings on

all matters that have been agreed. The Committee will, of course, recall that it requested the Promoter to provide such undertakings to all Petitioners.

17322. The council has accordingly sought undertakings in respect to dealing with its objections to AP2. Following continuing pressure from the council the Promoter has finally provided a formal letter of undertaking by 11 October 2006 and another dated 16 October 2006. Although these documents will appear to meet the council's concerns there has been insufficient time to consider them in detail. It seems to the council inevitable that some further attention will have to be given to the detailed wording of the undertaking and we trust that the Promoter recognises this and will acknowledge this.

17323. Notwithstanding receipt of these letters, the council would like to draw the Committee's attention to our original objections on the undertaking which we believe we have received from the Promoter. The purpose for doing this is both to place the matter on the public record and most importantly to provide reassurance to local people that their concerns are being dealt with.

17324. The letter of 11 October records the fact that the Promoter has given contractual binding undertakings contained in a deed to some land owners affected by Crossrail and invites the council to indicate whether there are some undertakings contained in the letter which it wishes to be treated in the same way and which is suitable for the same treatment because they affect property matters. The council welcomes this invitation which it will respond to in due course.

17325. Just a word about the Eleanor Street Traveller Site. We are very pleased that the Promoter has accepted the council's preferred proposal for the relocation of the travellers and most importantly that the residents are also satisfied. The council is also pleased that the Promoter accepts that the traveller site will be treated as a special case in terms of the noise and vibration policy should the nominated undertaker's construction methodology trigger entitlement for noise insulation. Finally, positive ongoing discussions are now taking place with the Promoter and the residents on a practical arrangement for organising the relocation of the site.

17326. Noise and vibration policy: this is a matter on which the borough is acting as lead authority on behalf of a number of councils affected by Crossrail.

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A great deal of discussion has taken place with the Promoter on the policy, particularly in the last few months.

17327. Considerable progress has been made during negotiations in clarifying and revising the policy. The promoter has, as a result of the negotiations, revised the mechanism for triggering noise insulation to include a clearer assessment process which better reflects the protection that will be afforded to those residents that live near the proposed construction sites and currently enjoy quieter environmental conditions.

17328. At the request of the council's environment health team, the Promoter has extensively revised that information paper known as IPD9, Noise and Vibration Mitigation Scheme. This paper will now better inform residents about how the scheme works and how they may be entitled to receive additional environmental protection. The Promoter has confirmed the mitigation scheme may identify properties which trigger noise insulation that are currently not being identified in the Environmental Statement as being expected to receive noise insulation nor as having a significant noise impact. This is because the final eligibility will depend on the more detailed assessment process that will be undertaken once the nominated undertaker's actual construction methodology and environmental management plans are known.

17329. Other issues included in the revised information paper D9 include the fact that residents will now be given the chance to choose double-glazing rather than secondary glazing as a form of noise mitigation. A new protocol has been introduced to provide a fairer and more easily understood system of entitlement for noise insulation in buildings for long facades.

17330. Finally, residents who are eligible for noise insulation who have existing secondary or double-glazing will be given advice on whether its condition is adequate with, if necessary, the Promoter bringing it up to standard.

17331. The boroughs collectively are now satisfied that the policy provides greater protection for those affected by noise. Tower Hamlet's environmental health team will continue to work with the Promoter to include refinements of the supporting documentation to the scheme to ensure that it fully reflects the improvements and clarifications established during the constructive negotiations.

17332. H.A.M & Wick Sewer: the impact of the sewer on residents in the Bow area of the borough remains the council's major concern in respect of the second addition of provision. The original bill proposal relocated the sewer outside the borough and thus was not a matter of great concern to this council. However, the revised proposal now only affects Tower Hamlets. As a result, the council has given very careful consideration to the position it

should take in front of this Committee. The starting place is that the construction impacts in Tower Hamlets will be particularly severe. For a period of nearly two years there will be construction activity taking place on seven separate sites within a 400 metre corridor between the Manhattan building and Payne Road on the east side of the borough. Furthermore, the Pudding Mill Lane worksite will be just across the borough boundary in Newham.

17333. The Promoter's supplementary Environmental Statement recognises that the revised proposals have significant adverse construction impacts on the borough. The council would like to draw the Committee's attention to those impacts. It believes that it is essential that the Promoter takes all available steps to minimise and mitigate the impacts.

17334. In Grove Hall Park, it proposed to construct a shaft to provide access and egress from the new sewer. This is a small park but it is the only area of open space in this part of the borough. As such, it is very heavily used by local people as well as by local schools. In recognition of its heavy use, the council has secured substantial capital funding for improvements that were programmed to be spent during the next two to three years. The council has commissioned a landscape proposal for Grove Hall Park and a master plan is being prepared. This is still work in progress but it would seem that the scheme as it currently exists would not be significantly prejudiced by the Crossrail proposals. The council is anxious to ensure that Crossrail undertake to reinstate both parts of the park affected by the proposals and the specification within the emerging master plan. The letter of 11 October does contain an undertaking that the site will be reinstated having regard to the reasonable requirements of the master plan.

17335. Construction of the H.A.M & Wick Sewer diversion will have significant noise and visual impacts in the park during the six month construction period. As a result of this impact, both the council and local residents have been strongly opposed to the location of a shaft in the park. There have been considerable discussions and negotiations both with the Promoter and Thames Water to seek to secure the removal of the shaft from the scheme. However, Thames Water has advised the council that the shaft is essential in meeting Thames Water's health and safety responsibilities towards their employees while working underground.

17336. Although we understand that such underground working is unlikely to take place more than once in every ten years or more, the council has had to weigh up the adverse construction impacts for a six month construction period against minimising the risk to Thames Water's employees. It accepts that very considerable weight will, of necessity, be given to health and safety issues.

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17337. Reluctantly, we have concluded that the balance must lie with the health and safety of underground workers and so the council has withdrawn its objection to the principle of the shaft subject to a range of mitigation measures which have been agreed with the Promoter. These include an undertaking to consult the council on the exact location of the shaft and manhole, and undertakings relating to the management of the haul route and vehicular access.

17338. Manhattan and Lexington buildings will also be significantly affected by construction works that will take place right next door to people's homes in these buildings. The seriousness of the impact is demonstrated by the fact that 28 of the properties may qualify for temporary rehousing for a period of 15 weeks. The residents will also lose total access to their car park for three nights as well as suffer serious inconvenience throughout the construction period.

17339. In view of this severe impact, the council requests that the Promoter makes more effort to develop proposals to reduce the scale of the work site at this location and the construction impacts on local residents. We are seeking a similar undertaking that was given by the Promoter in relation to Hanbury Street when the Promoter agreed to minimise the size and impact of the work site. We do not believe there is any difference in principle between the parties on the issue and some comfort is given in the letter of 11 October. However, this is an example of a case where some further attention may have to be given to the wording.

17340. At the southern end of the sewer diversion, the construction works necessitate the demolition of a McDonald's restaurant and the loss of on street parking bays. These parking spaces are important to attracting visitors to the adjoining Greenlight Youth Centre and helping to maintain its financial viability. The Promoter has therefore agreed to work with the council to identify alternative parking spaces for use by visitors to the centre. Although not a construction site as such, the council would also like to draw attention to the concerns expressed by the residents of the Fairfield Road Conservation Area who will be affected not just by the Crossrail tunnel running underneath their properties but also by the tunnel sewer diversion. In order to provide adequate protection to the area the Promoter has given an undertaking that the protection of the Ground Settlement Policy (leading to the availability of settlement deeds) will be available to local residents. Once again, some further detailed discussions on the wording may be necessary.

17341. Finally, in this connection, there will be construction impacts arising at the four other smaller work sites in the area. Most of these will be covered by the Construction Code of Practice and other generic policies but there are particular concerns that could arise as a result of traffic diverted by the night time closures of the Blackwall Northern approach.

17342. The Council is aware that residents will shortly be advancing a case in front of you stressing the need to ensure that the Promoter maintain pedestrian access through the Wick Lane work sites at all times. Of course this is a busy pedestrian link between the Bow Flyover and Old Ford. The council sees the force of this case and would like to place on record its support for it.

17343. Finally, before I conclude, a word on consultation. We return to the issue of consultation. The council, as we have made it clear throughout, supports the Crossrail project but is extremely anxious to ensure that it is carried through with all available mitigation measures and on the basis of the fullest possible consultation with those who will inevitably be affected by its construction. The letter of 11 October indicates that the Promoter is committed to working constructively with the council on an ongoing consultation on Crossrail proposals in the Tower Hamlet area. For its part, the council is committed to attempting to ensure that full consultation machinery is set up by the Promoter and operated across the borough as a whole.

17344. Conclusion: as will be clear to the Committee, the construction impact of the H.A.M & Wick Sewer will be very severe and effective mitigation is essential. The council acknowledges that the revised proposals deal with the construction and sustainability objections to the original proposals that would have required a much longer diversion in a new pumping station at Abbey Mills. However, we repeat, this must not be at the expense of further disruption to the residents of Tower Hamlets. Thank you.

17345. **Mr Mould:** The issues arising in relation to H.A.M & Wick Sewer proposals are to be the subject of a more detailed examination through the Petitioners you are going to hear tomorrow, and in the light of that, I am not proposing to say anymore at this stage than this. The Promoter acknowledges the points that have just been made by Mr Drabble on behalf of the London Borough of Tower Hamlets and it is right to say that those matters have been the subject of recent correspondence and the substance of that correspondence is reflected in remarks that he has just made to the Committee. The Promoter welcomes the fact that in the light of recent correspondence, particularly the letters sent to the borough council on 11 and 16 October this year, we have now reached a position where matters of substance in relation to the concerns raised by the local authority, and other matters which you have heard today, have reached a common position and that matters of detailed wording are all that effectively remains for some further consideration. We are content that the matter should remain on that basis. Sir, one or two other matters, if I may. One particular matter is the borough council has raised a question if the Promoter could make efforts to develop proposals to reduce the scale of the work site at the Manhattan building location and the

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result of construction impacts on local residents arising from that work site. I can confirm that, as was made clear in the letter of 16 October from the Promoter to the local authority, the Promoter will ensure that the nominated undertaker limits the physical area of each proposed work site in Tower Hamlets, that would include the work sites to which reference has just been made, to that is reasonably required for the construction of the works and the Promoter shall release each site for reinstatement as soon is reasonably practicable after the construction work there has been completed. That is an undertaking in relation to the work site across the borough. It embraces these sites as well. Sir, I think unless there are any matters that the Committee wish to raise that is all I would wish to say in response to the borough council and the statement made Mr Drabble.

17346. **Mr Drabble:** I have nothing further to add.

17347. **Chairman:** Thank you very much. We now move on to the next Petition, Eleanor Street Travellers All Resident Group.

17348. **Mr Mould:** Perhaps I should outline the position in relation to the Eleanor Street site because you are going to be hearing from two or three Petitioners in the course of the next few moments in relation to that. What I will do is set out our position in relation to that.

17349. Could we have our document number AP2-9—04-009.¹ The Committee is now concerned with what is known as the Bow Street Triangle. You can see that the Bow Street Triangle is now being shown with lines along Eleanor Street and other streets in the surrounding areas. Presently within the Triangle area itself there is a very well established travellers' site, outlined in red, which we understand from Tower Hamlets is an important travellers' site facility. There are also some industrial units—Bow Business Units 1-3—which are outlined in green; and what is known as the Laundry site, another industrial site to the north of the travellers' site.

17350. The proposals for the scheme in relation to the travellers' site are that there should be an access and ventilation shaft (which is being pointed out) to the south-east corner of the Bow Street Triangle. Proposals under the amended provisions AP2 are designed to mitigate the impact of the construction of that shaft particularly on the travellers who occupy the travellers' site. The clear preference and policy of the Borough Council as planning authority in discussions with the Promoter was that the travellers' site should remain in itself a settled location—the reasons for that I will go through. This is a site which is very well settled and it clearly accords with Government policy that sites of that kind, which are often very difficult to locate, should be protected where possible, if it is possible to do so.

¹ Crossrail Ref: P122, Eleanor Street Shaft—Current Site Plan, Aerial Photograph (TOWHLB-AP2-9—04-009).

17351. In relation to that site, the Promoter has looked at a number of options for relocating the site within the Triangle, with a view to trying to accommodate the need to locate the shaft and to minimise the impact on the travellers during the construction phase. Could we go to 04-10; this is the construction phase.² This involves the acquisition of numbers 39-41 Eleanor Street, and Units 1-3 of the Bow Business Park, which I pointed out to you earlier, just to the south-west of the Triangle, and the realignment of Business Park Road and the phased construction of new caravan pitches to be carried out before the construction of the shaft; we would carry out those works to relocate the travellers within the site prior to construction of the shaft. After construction of the shaft the Crossrail work sites would then become available for redevelopment in accordance with our policies. That is the area broadly to the south-east of the Triangle site. The advantages of that are that the disruption to the travellers is minimised through the construction process.

17352. If you go to page 011 we can see the permanent rearrangement.³ You can see the travellers' site, the access road and then the surplus land which is shown in purple, and the permanent operational landtake to the south-eastern corner just adjacent to the land that would be available for disposal. That is the position in relation to the travellers. I think it is the travellers whom the current Petitioner is speaking on behalf of.

17353. I will deal with this a little later when the relevant Petitioner appears so that he is not disadvantaged. I should just foreshadow, you are going to hear from Petitioner Paperback who are the business occupiers of one of the business units at the Bow Business Park. They would be displaced by these proposals and would need to secure alternative premises for their business. I will deal with the nature of their business and the details in relation to what we can do for them in terms of compensation and assisting in the relocation process later. The Committee ought to note that that is one of the consequences of the arrangements that we are proposing and would be asked to confirm later on today.

17354. Chairman, I think that is a brief overview of the proposals in relation to the Bow Street Triangle, and I will hand over to the Petitioner.

The Petition of Eleanor Street Travellers All Residents Group

² Crossrail Ref: P122, Eleanor Street Shaft—Proposed Traveller's Site During Construction (TOWHLB-AP2-9—04-010).

³ Crossrail Ref: P122, Eleanor Street Shaft—Proposed Traveller's Site Post Construction (TOWHLB-AP2-9—04-010).

The Petition of Eleanor Street Travellers All Residents Group

Mrs Marian Mahoney appeared as Agent

17355. **Chairman:** If this is your first time here, however worried you may be about this it is probably nothing compared with the dread that Mr Mould felt on his first day here! Just take your time.

17356. **Ms Mahoney:** Greetings, ladies and gentlemen of the Committee. My name is Marian Mahoney. I am a resident of Eleanor Street Gypsy and Traveller Residential Site, and I am also the secretary of the Eleanor Street Residents Group. For the past two years I have represented our site at all meetings and negotiations with Crossrail and the London Borough of Tower Hamlets.

17357. I am here today to speak on behalf of all the residents on the Eleanor Street site to explain to the select committee how Crossrail's proposals will affect our community. I would like to explain the agreement we have come to with Crossrail and the London Borough of Tower Hamlets since our Petition was lodged, and to ask the select committee to consider the Additional Provisions 2.

17358. Our existing gypsy and traveller residential site, which is run by the London Borough of Tower Hamlets, has been home to 20 families for the last 24 years. Three generations of our children have attended the same schools in the Bow area for the last 24 years. We have children of all ages from nursery upwards attending local schools. We feel that any disruption to their education at this time would be devastating. We have built up very good relations with the local community.

17359. We also have residents with health problems, such as heart problems and mental and neurological problems, and residents who are terminally ill. These residents need to be near to doctors, hospitals and clinics at all times.

17360. We are well established with our local services such as youth clubs, the local parish churches and other amenities. We have very strong relationships with our local neighbours, which have been built up through the years. Some of the younger travellers are now married to members of the local settled community.

17361. We have been in negotiations with Crossrail since 2004. Communication and consultation were very poor at the start. We were not informed officially by Crossrail of our homes being under threat by the building of the ventilation shaft for their railway. With much perseverance by myself and the residents group we have negotiated with Crossrail for many months, and have come to an agreement that we feel confident will save our homes and our community.

17362. We are in support of Crossrail's proposal to acquire the two pieces of land as outlined in the Additional Provisions statement paragraph 4.2.3. This is known as option 4B. This includes the Laundry Building (39-41 Eleanor Street) and Units 1-3 of Bow Triangle Business Centre.

17363. We are supporting Option 4B for the following reasons:

17364. Our caravan site will be relocated within the Bow Triangle and we will be able to remain as a community and continue with our traditional way of life. There will be less upheaval and stress for our community as our children will be able to remain in their primary and secondary schools, and their education will not be disrupted. We will be able to continue our strong links with the local community and local services, which has taken us many years to establish. We will not have to face an uncertain future.

17365. We will only have to face the upheaval of one phased move rather than a double move, as proposed by Crossrail in Option 4A.

17366. We do not consider Option 4A (which is acquiring the laundry building only) as a suitable option for our community. This will mean a double-phased move and living on a temporary basis for four years with uncertainty. We are concerned that half the residents would not have the same standard of amenities they have now. The site will be smaller and the conditions will be unacceptable. This will cause stress and conflict in the community.

17367. Acquiring the two pieces of land will provide enough space to accommodate all the residents.

17368. We are keen to support and work with Crossrail in the building of their railway, and we believe that this option will satisfy both parties. We also believe that this option will save Crossrail's resources. We believe that Option 4 is the only solution which we think is acceptable for the residents of Eleanor Street and provides Crossrail with a way forward to building their railway.

17369. Thank you for your time. We would appreciate if you would please consider all of the above in our favour when making your decision.

17370. **Chairman:** Thank you very much indeed.

17371. **Mr Mould:** Chairman, the principal point to make in relation to this Petition is plainly that the Petitioner is speaking on behalf of the proposed additional provision that I outlined to the Committee in my brief opening statement; and plainly we welcome that and we, for the reasons I have given, believe that what she calls Option 4B and what I have described as Option 2 are one and the same thing—the arrangements I outlined to you

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earlier—that, on balance, that is the appropriate way forward here and we commend that to the Committee.

17372. All I need to say beyond that is this: the Petitioner raised concerns about the quality of the consultation process earlier in the development of the Bill scheme. What I would say is, my instructions are that there was certainly a meeting with the occupiers of the travellers' site and the London Gypsy Travellers' unit on 10 November 2004, which was followed up with a further meeting between the Promoter and the borough council, the occupiers and the GLA on 25 April 2005. There was a consultative process in place. I can say no more about any concerns that have been raised today in relation to the quality of that; but it would not be right for the Committee to conclude that contact was not being made and matters not being explained to the occupiers as the scheme proposals progressed.

17373. Unless there is anything else, that is all I wanted to say in response to this Petition.

17374. **Ms Mahoney:** I am happy to the extent that at the start of the negotiations we had to go ourselves and find out what was happening to our site because I do not think Crossrail knew we existed in the caravan site—it just came up as Eleanor Street. We, in the Residents' Group, found information for ourselves and got in contact with Crossrail and informed Crossrail that 20 families were living on Eleanor Street. From then on we took up negotiations with Crossrail.

The Petition of Paperback Ltd

Mr Alan Goshchalk appeared as Agent

17382. **Mr Mould:** Yes, sir. Just to go back, if I may, to the area, I am told I keep consistently referring to the Bow Triangle as the Bow Street Triangle. It is the Bow Triangle, and people think it is an anachronism of the well-known magistrates' court which used to be at Bow Street, but there it is.

17383. The Petitioner's premises, Paperback, are number 2 in the middle unit in the Bow Business Unit.⁴ I did explain when I was opening the case in relation to the previous Petitioner that under the proposals for this location, which are in the additional provisions before the Committee, it would be necessary to displace the Petitioner in order to carry out the works and the relocation of the travellers' site within the Triangle area.

17384. All I should say now, I think, is just a little bit about the business, as I understand it. Paperback is a merchant of recycled paper, it uses the unit as a

17375. **Chairman:** Can I, on behalf of the Committee commend the Promoters for eventually communicating and reaching a sensible agreement. In so many of these cases that does not apply, particularly with traveller and gypsy groups who are left with very little communication. May I place on record the Committee's thanks for the work done in this respect.

17376. For the record, can I call the next Petitioner, Mr McIntyre.

17377. **Mr Mould:** Chairman, I have seen an e-mail exchange which certainly indicated to me that Mr McIntyre was content to leave his Petition in writing.

17378. **Chairman:** Could I also call Mr Alan Goshchalk on behalf of Paperback Limited if he is in attendance.

17379. **Ms Lieven:** Chairman, we know that Mr Goshchalk is coming because Mr Smith had a telephone conversation with him this morning, but we do not think he is here yet. Mr Smith spoke to him just before ten o'clock and at that stage he was in the Bow Business Unit so he is on his way.

17380. **Chairman:** I will suspend the Committee until 11 o'clock.

After a short break

17381. **Chairman:** We will move to the final Petition for today, the Petition of Paperback, who are represented by Mr Alan Goshchalk. Mr Goshchalk, would you come forward? Mr Mould will be outlining the case.

warehouse for the storage of paper and the unit has a floor area of some 390 square metres. The business offers customers a next-day deliver service within the M25 area and relocation of the business as a consequence of the Crossrail scheme would plainly take that into account.

17385. Sir, that is all I intend to say at this stage and I will respond after the Petitioner, as appropriate, in a moment.

17386. **Chairman:** Mr Goshchalk, you have not appeared in front of a Select Committee before. You will be a bit nervous, I know, but just take your time and you are under no pressure. However, could you speak up because we have stenographers who take a word-for-word note of everything you say. Go ahead.

17387. **Mr Goshchalk:** Good morning. I thought, first of all, if I did a bit more background to the company. I am the general manager at Paperback. The business has been trading for 20 plus years, 18

⁴ Crossrail Ref: P122, Eleanor Street Shaft—Current Site Plan, Aerial Photograph (TOWHLB-AP2-9—04-009).

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of which have been on this site. It is quite an unusual business; it is an environmental business set up specifically with an environmental objective of promoting recycled paper. In fact, when we started there was, really, no one else doing it, and even now there are not that many. It is also unusual in that it is an employee-owned business, so again that makes it quite unusual.

17388. I think I am coming to this Committee mainly to have the opportunity to express our concern that in the whole process that was involved, I feel we have had no consultation from Crossrail. The first that I heard that the unit was going to be compulsorily purchased was, I think, on the Friday before the Tuesday morning by which the Petition had to be put in. Having no experience of this whole procedure, that was quite daunting in itself.

17389. We are a relatively small company; we do not have the resources to employ expensive barristers or surveyors to counter the arguments that are put forward on whether this shaft should be here or it should not be, but I just think we feel that we have been extremely unfairly treated in respect of the amount of discussion there was considering the length of time we have been at the premises.

17390. I think the other key point is that I have been advised that this scenario whereby we are being forced to move is not because Crossrail specifically needs our premises, it is just a case that they want to relocate someone else. It appears that our concerns and our interests have been relegated behind someone else's, and I cannot see why that should be the case. Whether it is politically correct to bring it up at this sort of meeting I do not know, but I feel there is a political element with regard to the local authority and their relationship with the travellers and relocation, and so on, and again I think we are unfortunately caught in the middle of this. Again, it just seems unfair.

17391. We have had no consultation; we are being forced to move because someone else has been put ahead of us. We are, I think, an important business; we are still the only business doing what we do in the UK. I think that is the best way I can put our case.

17392. **Kelvin Hopkins:** Can I ask Mr Goshchalk to help me? I am sympathetic to your situation. Are you able to relocate somewhere else? Is it going to make your business more difficult, costly or is it the lack of consultation or failure to consult at an early stage that has mainly upset you?

17393. **Mr Goshchalk:** I do not know the answer because we have not relocated. I think there are certain difficulties but they are not—if truth be told—insurmountable, but there are certain requirements of the business regarding the height of the unit and access for container lorries, and this sort of thing, as well as with distances that people have to travel to work, and that sort of thing. I do not think it is impossible but it is going to be difficult, and the

last thing we want in an extremely competitive market. Although I have sold the case that we are an unique business and so on it is very hard to compete as a small player. Any additional costs that we incur will make life very difficult. So I am not sure about that, but I feel quite aggrieved that we had 48 hours' notice to put a Petition into a process that I know absolutely nothing about. I reiterate that.

17394. **Chairman:** One question, Mr Goshchalk. You said a “political” motivation re the council's plans for resettlement of the travelling community. Would you care to elaborate a little bit on that?

17395. **Mr Goshchalk:** Well, I do not know any facts, it is just impression. Some people perceive that travellers are not ideal neighbours, so I suspect there is a certain sensitivity around the decision to relocate them, and if it could be done by moving them, effectively, 150 metres at our expense then that would avoid that sort of issue.

17396. **Chairman:** Just on the travellers: are you aware that other neighbours have also been contacted and, in fact, some of their concerns were about the travelling community themselves? You have given us a view which is a little bit different.

17397. **Mr Goshchalk:** I do not know about that.

17398. **Chairman:** As I understand it, we have received a Petition from the travelling residents' community and within that the Promoters have actually talked to other neighbours in the area about their concerns over the relationship with the settled travellers' community. You have not been contacted on that?

17399. **Mr Goshchalk:** No.

17400. **Chairman:** Just on the other point: you say you only had 48 hours' notice; you never had anything before that at all.

17401. **Mr Goshchalk:** We had various standard letters. There was one complete document which I think is the full, amended Bill in detail. I looked through that—I have not got a date in front of me—a good few weeks before, and I spent an evening looking through that. From what I could see there were no concerns from our point of view. I then got a letter from Crossrail earlier—a week on Friday—in which they came down to the site. I sat down with three gentlemen from Crossrail and they informed me that they thought it was going to be compulsorily purchased, which completely dumbfounded me. So I did ask them to go through the document and point out where, in the document, it indicated that that was the case. Quite frankly, after ten minutes they agreed it was impossible to point that out.

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17402. **Chairman:** When you had the other pieces of communication some weeks earlier and the document which you said you received, did you not contact Crossrail and ask “What does this mean for us?”

17403. **Mr Goshchalk:** I did not because reading through it there was clearly nothing to indicate that I should be concerned about anything. I had, in the meantime, actually been trying to contact our landlords, as it happens, to see what their view was, but they were not any clearer either.

17404. **Chairman:** So a lack of clarity.

17405. **Mr Goshchalk:** There was nothing to give me any cause for concern on this.

17406. **Chairman:** Mr Mould?

17407. **Mr Mould:** Sir, what I can say in relation to consultation is that a notice to owners, lessees and occupiers in relation to the additional provisions was dispatched to the Secretary of the Petitioner company on 9 May 2006. That was the day I think on which the notice was published in the newspapers. It was dispatched to the business address at Bow Triangle. Amongst other things, that notice drew attention to the fact that those affected by the proposed additional provisions for the Bow Triangle, which obviously included Paperback (and those three occupiers of one of the business units) had a period of, effectively, five weeks from that date within which to lodge their Petitions with this House. That was spelt out on the third page of that document. The schedule of properties to which those proposals related included the Paperback premises. They were noted in the schedule as one of the occupiers. So it was clear from that notice that (a) these were proposals that directly affected Paperback’s occupation of their premises and (b) they had a period of five weeks from that point in which to make formal Petitions to this House.

17408. I can also say that in early June, June 7, of this year the head of operational property, as I understand it, wrote to the occupiers of the three business units individually indicating that he was proposing to visit the area with members of his team with a view to dealing with any concerns, questions and issues arising in relation to the relocation needs should the additional provisions find their way into the Bill. He mentioned he was proposing to have a visit to the site on 9 June, so a letter went to him on the 7th and he visited, as I understand it, two days later.

17409. So those are two points that I should bring before the Committee to indicate that matters were formally drawn to the Petitioner’s attention and at that stage efforts were being made, as I understand it, to engage in relation to relocation requirements.

Now, it is true to say that since that time responsible officers within the Promoter’s organisation have been in correspondence with Messrs Montagu Evans, who are the chartered surveyors instructed to act on behalf of Paperback, and that correspondence is dealing with land compensation and relocation issues which have been raised by the company arising out of the additional provision proposals. That correspondence has been continued, as I understand it, and the issues have narrowed considerably to two or three points, important points, but nevertheless it is an indication that it was a fruitful and very constructive process and I think it is fair to say that we would expect that process to continue. As I understand it, Montagu Evans and those responsible within the Promoter’s organisation are continuing to address those points. I note that the concerns raised by the Petitioner for which members of the Committee raised questions did not actually focus on those points, but they were concerned with the consultation process and also the perceived relegation of Paperback’s interest to those of the travellers. Because I think Mr Hopkins did raise that concern and also yourself, I thought I should mention that that is going on. I can certainly ask Mr Smith to come and just explain what his understanding is of any difficulties in principle that might present themselves in relocating and assisting in relocating this occupier in conjunction with the Bill.

17410. **Chairman:** It has caused difficulties for us because it is not the first time that we are getting this lack of clarity. It is not really acceptable for someone to get a legal notice a couple of days before or an understanding of what that actually means a couple of days before.

17411. **Mr Mould:** What I cannot tell you is in detail about any consultation or attempts to notify the Petitioner before that, so I simply cannot say whether that was done or what was done, so I have to proceed on the basis that I rely on the notice and I cannot say any more than I have in relation to that. As I say, the notice is there and we have been in discussion with property advisers since then. I should make it clear that the notice makes it clear that the business end of the additional provisions is the acquisition of Paperback’s property for the purpose of the scheme, so disposition and displacement of the business was clearly foreshadowed in that notice.

17412. **Chairman:** Mr Goshchalk, you have the last word.

17413. **Mr Goshchalk:** It is sort of just my word, that someone came in from Crossrail and spent ten minutes looking through the document and this gentleman said that it was clear that we were going to have to move and he said to me, “No, you are absolutely right, there is nothing in here to indicate that is the case”, which is what aggrieved me so much so as to follow this whole procedure through as much as anything. I think that is unfair and I would

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reiterate that it just seems again unfair that there is a major development project that we are having to move to accommodate not because of the project itself, but because someone else is moving along and you sort of think to yourself, "Well, where does that end? Perhaps we have got a case and maybe someone else can move along a bit". It just feels that you are being treated second-rate compared to other people really.

17414. **Chairman:** Well, thank you very much indeed.

17415. **Mr Mould:** I think I ought to put this notice before the Committee.

17416. **Chairman:** I was just going to conclude by saying that we will accept Mr Goshchalk's evidence and take it all into consideration, but could you provide the Committee with a copy of the legal notice so that we can examine that in due course.

17417. **Mr Mould:** We can certainly do that.

17418. **Chairman:** The Committee will now adjourn until tomorrow morning at 10 am.

Wednesday 18 October 2006

Before:

Mr Alan Meale, in the Chair

Mr Brian Binley
Kelvin Hopkins

Mrs Siân C James

Ordered that Counsel and Parties be called in.

17419. **Chairman:** Could I remind everybody that coffee will be available at round about quarter to 12 today, when the Committee has been suspended to

enable Members who wish to do so to get to Prime Minister's Question Time. May I take the opportunity to announce that the Committee will visit Woolwich tomorrow and any Petitioner is welcome to attend. If they would like details on the visit, perhaps they would see the clerk.

The Petition of the Fairfield Conservation Area

Mr Andy Lyon and Ms Jacqueline Bradshaw-Price appeared as Agent.

17420. The first petition we are dealing with today is the Fairfield Conservation Area Residents Association, and the representative is Mr Andy Lyon.

Area Residents Association are situated around the residential area there and they also have members within the Manhattan Building itself.

17421. **Mr Lyon:** It is a dual presentation from myself and my colleague Jacqueline Bradshaw-Price.

17425. The Crossrail alignment—you can see the dotted line—has to contend with a number of existing constraints, in particular the River Lea, which is to be seen just to the east of the Blackwall Tunnel and also the northern outfall sewer. The effect of that is that it is necessary for the tunnels in this location to pass at a level which brings them into conflict with both the H.A.M. and the Wick Lane sewers.

17422. **Chairman:** I will come back to you in a second but first I am going to ask the Promoter to outline the case.

17423. **Mr Mould:** You are going to hear today not only from these Petitioners but from three or four other Petitioners who have a common cause. They are interested in the additional provisions you are considering in this session in relation to the so-called H.A.M. and Wick sewer in East London and the environmental impacts of that. It seems to me sensible if I spend a little more time than I would ordinarily to outline that background to you, so that the Committee sees the context in which these Petitioners appear before you.

17426. That was a matter that was dealt with in the original bill. Could we put up page 32, please.² The original bill scheme was that both sewers should be diverted along this alignment to outfall at the Abbey Mills Pumping Station. The discharge would be pumped at this location because it was not possible along this alignment to provide a gravity-based sewer. That was the arrangement in the bill scheme. It would have been a single 2.4 metre tunnel, diverted along the line which you see there. It would have involved the operation of a number of work sites—and they are shaded beige—and it would have involved works beneath this area, the Sortex site (the old Sortex factory), Bow Generating Power Station, and also coming into close proximity with a residential development scheme operated by Bellway Homes Development.

17424. We are concerned with the H.A.M. and Wick Lane sewers. "H.A.M." is an acronym for Hackney to Abbey Mills sewer. On slide 031 we can see the location.¹ The H.A.M. sewer is running in a south-easterly alignment just to the west of the Blackwall Tunnel Northern Approach Road. That is shown as a red line and the Wick Lane sewer is in green adjacent to it. Both of the sewers connect to the low level 1 and 2 sewers running east-west and you can see that those sewers get to the Abbey Mills Pumping Station, run by Thames Water as the statutory undertaker. We can see the Manhattan Building, a listed building, and Wrexham Road and Baldock Street. The members of the Fairfield Conservation

17427. As a result of further detailed works, it became clear that the volumes of flow, particularly after storm conditions, in relation to this proposed diversion would be substantially higher than had been originally predicted and that it would be necessary to increase the capacity of the pumping station at Abbey Mills in order to cope with that. The pumping capacity that would be required would

¹ Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion—Sketch 1, existing sewers with Crossrail tunnels superimposed (TOWHLB-29104-031).

² Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion—Sketch 2, Plan Bill Scheme (TOWHLB-29104-032).

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be equivalent to pumping the volume of an Olympic-sized swimming pool approximately every five and a half minutes and a power supply equivalent to that used by 1,000 houses. You can see from those simple facts that it would involve considerable operation and energy costs associated with the lifetime of the sewer and the pumping station..

17428. It was in the light of that factor, principally, that firstly Thames Water petitioned against the bill scheme, their argument being that it was unsustainable and environmentally unfriendly in terms of the energy cost and energy loss. In the light of that, the Promoter decided that he should investigate alternative options, particularly those that would involve the need for companies to rely on a gravity solution.

17429. That led to the investigation of alternatives and that was dealt with as part of an option exercise. Could we put up, please, 29104B-001.³ An options report was undertaken in order to investigate the possible options as alternatives to the bill scheme. At page 002, the penultimate paragraph in the Executive Summary page, you will see that the upshot of that report was that five options were investigated, and the fifth of those options, extended southern gravity sewer, was identified as “the preferred solution which should be promoted as an Additional Provision to the Bill.” It continues: “This option diverts the sewer from a site close to the Manhattan building to a site currently occupied by a McDonald’s restaurant near Payne Road. The route of the tunnel between these two points takes it under Grove Hall Park in which an intermediate shaft will be located.”⁴

17430. If we can turn on to 29104-035, we see the line of that option.⁵ That is the option that is now before the Committee as a proposed additional provision. We can see the Manhattan building and the beginning of the diversion. There is a curve in the line. We can see Grove Hall Park and the proposed intermediate safety access shaft and the Payne Road site of the McDonald’s restaurant, the end of the proposed diversion. Members of the Committee who were here yesterday will recall that this was the option about which the London Borough of Tower Hamlets made a number of detailed submissions, but they made clear that they accepted that this was the most environmentally sustainable and acceptable option for the necessary diversion of the H.A.M. and Wick sewers. They accept the need to divert those sewers in order to enable the Crossrail scheme to proceed and they have accepted as a

matter of principle a number of undertakings from the Promoter in relation to the construction and environmental impact associated with building out that option as an acceptable basis for going forward.

17431. **Chairman:** What size is the pipe?

17432. **Mr Mould:** It is 2.7 metres. You can see a number of work sites associated with these sites: the Manhattan site, where the tunnel driver will pass south-north from the Payne Road site here and along this alignment to the Manhattan site; the Tumbling Bay site; the Wick Lane work site; and a number of sites associated with this utility diversion scheme. In due course, Mr Berryman will explain in more detail, as necessary, the operations that are going to be undertaken in relation to those sites.

17433. Could we turn, please, to page 036.⁶ We have produced three plans to give you a sense of the construction sequence. It is a 22-month construction sequence in all. We have broken it down into three phases. We have set out in boxes, in summary, the works that will be associated with each of the work sites during this time. The one thing that I would point out to you is that during the first nine months of the construction phase there is no work associated with Grove Hall Park.

17434. Would you turn, please, to page 037.⁷ This is the second phase, months 10-15, and shows that during this time works do take place within Grove Hall Park to construct the intermediate safety shaft. We have set out, where you see the access road through the park, the proposed work site area: a relatively small area within the park for that purpose. We have set out in these boxes the various works and time periods for construction within the park. We estimate that with a fair wind that should be achieved within four to five months, but we have allowed six months in order to be robust in relation to the time that we need within Grove Hall Park.

17435. The upshot is that, once the works to create the intermediate shaft to serve the diversion have been undertaken, all that will remain at the surface within the park will be a manhole. The precise location, as you know from yesterday, we have agreed with Tower Hamlets is to be the subject of further detailed discussion, but we have sought to avoid any conflict with designated play areas and sports pitches and so forth within the park throughout the construction works.

17436. If we turn on to page 38, this is the third and final phase of the construction phase.⁸ We can see that the manhole is in place in the park and we have

³ Crossrail Ref: P126, Crossrail Enabling Works, Pudding Mill Lane Portal—Hackney to Abbey Mills and Wick Lane Sewers Diversions Options Report (TOWHLB-29104B-001).

⁴ Crossrail Ref: P126, Crossrail Enabling Works, Pudding Mill Lane Portal—Hackney to Abbey Mills and Wick Lane Sewers Diversions Options Report, Executive Summary (TOWHLB-29104B-002).

⁵ Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion—Sketch 5, Option 5—Additional Provision Plan and Construction Sites (TOWHLB-29104-035).

⁶ Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion—Sketch 6, Construction Sequence Months 1 to 9 (TOWHLB-29104-036).

⁷ Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion—Sketch 7, Construction Sequence Months 10 to 15 (TOWHLB-29104-038).

⁸ Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion—Sketch 8, Construction Sequence Months 16 to 22 (TOWHLB-29104-039).

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set out the remaining works. They will consist, broadly, of the connection of the now constructed sewer into the existing water and sewerage network. We can come back to that later as necessary.

17437. Looking at page 28, I just ought to touch on why the intermediate shaft is required within Grove Hall Park, because that is a matter that is going to be touched on during the course of hearing submissions today.⁹ Thames Water, as the undertaker, have set out, in a letter of 11 October to Cross London Rail Links Limited, a brief summary of the reasons why the intermediate shaft is required. “The justification for the intermediate shaft is based on two dominating factors: the first is compliance with the law and the second is operational necessity.” There is a document which we have, if necessary, which deals with this in more detail.

17438. The third paragraph reads: “As the proposed Sewer Diversion will be both a place of work and a confined space Thames Water has legal duties to comply with the Health and Safety at Work Act, 1974, Construction (Design and Management) Regulations 1994, Confined Space Regulations, the Management of Health and Safety at Work Regulations 1999. There are specific high level risks of fatality (such as encountering reduced oxygen, or flammable or toxic gases produced by the sewage) which make it imperative that escape routes for employees are set at a distance that reduce the risk associated with working in the sewer to an acceptable level.”

17439. Over the page: “The Sewer Diversion, being approximately 450 m long, requires an intermediate shaft to provide an escape route for employees at an acceptable distance. If Thames Water were proposing to construct the Sewer Diversion as a consequence of its duties under the Water Industry Act (1991) (rather than Crossrail/the Promoter proposing to construct it as a consequence of the Crossrail tunnels), Thames Water would not construct the Sewer Diversion without the intermediate shaft. To the best of our knowledge, comparable sewers with shaft spacing of 450 m do not exist within TW’s sewerage system.”

17440. That makes clear their position, and they make the point that if the intermediate safety shaft is not there, then they would not be able to satisfy their obligations as a designer, operator and employer under the Health and Safety legislation. “The Sewer Diversion would not be acceptable without the intermediate shaft.”

17441. They conclude that “the intermediate shaft is an integral and essential part of the proposed Sewer Diversion.” That is the statutory undertaker’s position in relation to the need for the intermediate shaft and the reasons why that need arises.

⁹ Crossrail Ref: P126, Correspondence from Thames Water to CLRL, Thames Water Proposed Sewer Diversions, Requirement for an Intermediate Shaft in Grove Hall Park, 11 October 2006 (TOWHLB-29104-028 and -029).

17442. Could we turn then to page 39, a larger scale plan showing the proposed work site within Grove Hall Park itself and the access road.¹⁰ We can see the various bits of equipment and other associate facilities that would be required for the six-month period during which the construction of the shaft would be taking place within the park. I will ask Mr Berryman in due course to explain in more detail the arrangements for operating that work site when he gives evidence.

Finally, I should show you page 30, so that you can get a sense of the Petitioners.¹¹ As I said the first Petitioners represent a number of residents from the Wrexham Road and Baldock Street area and in the Manhattan building, which is just off the picture, beyond the railway line to the north. You will also be hearing from Mr and Mrs Wheeler, who reside at 1 Baldock Street, over one of the running tunnels for the Crossrail Railway, and from Mr Chambers, whose property is over one of the running tunnels. I understand that the other Petitioner who is to appear today is Paddington Churches Housing Association. They have a development site which we are going to hear a little bit more about during in relation to an alternative proposal which the current Petitioners are going to be putting forward.

17443. At page 30 we have shown the line of the diversion that we are now proposing for the H.A.M. Wick sewer, so you get a sense in terms of the geography between the Petitioners and the proposals under the bill and the amended provision.

17444. That is by way of a very swift introduction and overview. Unless there are any questions arising at this stage, I will hand over to the Petitioners.

17445. **Chairman:** Mr Lyon, you have not appeared before this Committee before, have you?

17446. **Mr Lyon:** I have, once previously. My colleague has not.

17447. **Chairman:** Take your time. It is a bit of a frightening experience for people, but take your time.

17448. **Mr Lyon:** Thank you very much. Might I start by saying that the Fairfield Conservation Area Residents Association has petitioned twice. We are here to present in relation to both our petitions, not merely in relation to our petition against the additional provisions.

17449. I would like to start by setting the scene. Could I ask for our slide 4 to be shown, please.¹² That area in yellow is the conservation area. It is predominantly residential in nature with some

¹⁰ Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion, Locality of Petitioners (TOWHLB-29104-030).

¹¹ Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion—Sketch 9, Grove Hall Park Worksite Layout (TOWHLB-29104-039).

¹² Committee Ref: A193 Fairfield Conservation Area Residents Association, Conservation Area and Listed Structures (TOWHLB-29105-004).

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limited commercial developments, small, medium and large. You have already heard that there are a number of new developments in the area and the previous slide indicated two of those, substantial developments. Therefore, the local population is expected to increase substantially. The Mayor of London's figures propose that the increase in domestic properties, and therefore the increase in the local population, will be in the region of about 52%.

17450. The area consists predominantly of narrow streets, and those narrow streets are associated with residential-type use, and small vehicles. The largest vehicle that we typically see down one of these roads is a refuse freighter. As you can see, the area is bisected by the Great Eastern railway line and has the A12 Blackwell Tunnel approach running immediately to its east and the A11 running underneath it. We are very close to the 2012 Olympic site which will be immediately the other side of the road to the east. You can imagine, with these busy roads, the A12 and A11, two access and egress points to the A12, that there is a great deal of congestion, particularly in the evenings, and there is a certain amount of rat-running that takes place at the moment. The area does occasionally gridlock and we will be suggesting that any increase in traffic flow associated with these works will be inclined to increase both congestion and the likelihood of gridlock. I am sure you also appreciate that with all this activity in the area the area is already heavily polluted. Unfortunately we do not have any figures.

17451. What I would like to do now is pass to Jacqueline Bradshaw-Price, who will give you some information on the history of the area.

17452. **Ms Bradshaw-Price:** Hello. I will just introduce myself. I am very grateful for this opportunity to speak before you today. I am an arts therapist; I work and live in Tower Hamlets and I work with drug addicts, alcoholics, excluded children and I work in hospice. So I am very well placed to see what happens to people when they come under stress and to see the consequences of bad planning, poverty and a lack of facilities. I would like to make it clear I am not against progress; I just think that Grove Hall Park has a 200-year old history, it has been looked after for 200 years and I would see it looked after for the next 200 years. I feel very, very strongly about this, and I would encourage the Committee to come down and have a look at the area, if they have the time.

17453. Could I have image number one, please?¹³ This is a couple of pictures showing typical houses in the area. These date from 1907 but some are a lot older, but it is a very—when I say “close community” I do not mean it is close in the sense that it is difficult to access; a lot of people know one another. We know a lot of one another by sight.

¹³ Committee Ref: A193, Fairfield Conservation Area Residents Association, Grove Hall Park (TOWHLB-29105-001).

17454. Could I have image two, please?¹⁴ This is an A-Z. It shows how little green there is in the immediate area. Could I have a pointer stick? That is Grove Hall Park there. That is Victoria Park which was set up in the mid-1800s because there was absolutely no green at all in the area. This is Tower Hamlets Cemetery which is a park but it is not really a park in the sense that people can use it. You can walk around there; it is an area of nature conservation.

17455. The name “Bow” is a corruption of the French word “beau” and it was a very beautiful area. That was up until the mid-1800s. Grove Hall Estate was built round the 1700s and it was this area here. There was a big building across there and all of this was part of the Grove Hall Estate. You have already seen one conservation area, so I will not repeat that. In the early 1900s there was a LCC councillor who decided there was very little greenery in this area. It was a very densely populated residential and manufacturing area and there was no public recreation ground. At the time the average green space in London was one acre to 750 people; in this area it was one acre to 17,000, and I think it is now one acre to more than that.

17456. In 1907 the Grove Hall Park Estate was sold and it was delivered into the hands of a developer who decided he was going to build all over here. A decision was made by the council to save (and I will quote): “. . . a small bit of natural beauty amongst a vast wilderness of bricks and mortar, for the local people and for lasting benefit to the neighbourhood.” All this can be checked; it is all in the local archives. It thereafter became known as the people's park, and it is still the people's park because they are the ones who bought it—we bought this. The sum needed at the time was £8,800 of which 25% was paid for by the local council and the rest was paid for by the people: by thousands of local people and hundreds of local businesses. Two of the main businesses were the Bryant & May factory, which is here, and also Thomas Cook. That is Thomas Cook of Thomas Cook & Sons. They donated £500 each. They were the entrepreneurs of their time and they thought it was important enough to protect open spaces, and it seems to me that they took far greater interest in local people than entrepreneurs do today. I think that applies to the council as well.

17457. Could I have view number five, please?¹⁵ This is the old park just before demolition of the house. This is a plane tree and this one still stands today in the park. So these trees are well over 100 years old. This was demolished and there is nothing left of that today.

¹⁴ Committee Ref: A193, Fairfield Conservation Area Residents Association, A-Z Map of Tower Hamlets (TOWHLB-29105-002).

¹⁵ Committee Ref: A193, Fairfield Conservation Area Residents Association, Historic photograph of Grove Hall Park (TOWHLB-29105-005).

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17458. Could I have the next one, please—six?¹⁶ These show views of the park in the 1970s and it was in a much better state than it is now. There is a fence all the way along, these trees are growing well and this was a plane tree that was cut down by the local council in the 1980s. The local children, who know full well this is the people's park, were very upset—hence that picture.

17459. The next image, please. I do not know if you can read this but this is the letter from Thomas Cook.¹⁷ “It was with great pleasure that I sent you on the correspondence with regard to Grove Hall Park and children's playground. It has been one of my greatest satisfactions with regard to the year 1908 that the undertaking which seemed so hopeless when first entered upon has, thanks to the enthusiastic work of so many, notably Mr Bartholomew, achieved success.” It did seem hopeless at the time; they did not think they were going to be able to buy it from the developer.

17460. I would like now to show you what happens in our area when developers are allowed to do exactly as they want. The A11 and A12 cut the community the half. Could I have image eight, please?¹⁸ You have the A12 running north to south and the A11 running east to west. The construction of the A11 flyover effectively cut the community in half. There is a great big flyover across there. That was finished in 1967. It is my opinion that a lack of courage on the part of the council has had fundamental consequences. This area has never recovered from that huge bisecting across there. There is a big council estate here, then there are big estates round here. All this is a very run-down area.

17461. I think traditionally the socio-economic situation here precluded any kind of cohesive force to stop developers doing what they wanted to do. St Mary's Church here is 1,000 years old. I believe this has happened but if they wanted to do it in either Richmond, Kew or H.A.M. instead it would not have happened; people never had a voice in this area.

17462. Can I have the next view, please?¹⁹ This was before they built the flyover. There was this old church here and there was this green around it. This is the 1930s—this is 1920.

¹⁶ Committee Ref: A193, Fairfield Conservation Area Residents Association, Photograph of Grove Hall Park c. 1970's (TOWHLB-29105-006).

¹⁷ Committee Ref: A193, Fairfield Conservation Area Residents Association, Correspondence from Thomas Cook, Grove Hall Park, Bow, 2 January 1909 (TOWHLB-29105-007).

¹⁸ Committee Ref: A193, Fairfield Conservation Area Residents Association, Aerial view of A11 flyover (TOWHLB-29105-008).

¹⁹ Committee Ref: A193, Fairfield Conservation Area Residents Association, Historic views of Bow (TOWHLB-29105-009).

17463. Can I have the next one, please?²⁰ That was painted in about 1740, 1800, 1905 and this is a bit later. You can see, essentially, it did not change. Now a lot of people use the area, it was known as part of Bow; but all that has changed completely. There is no longer any heart to Bow. What did become the new heart of Bow was the park. People started to use it a great deal. In my opinion, the developers have ruined it over-ground and they now want to ruin it underground. All the bisection that takes place over-ground means it will be a shadow underneath. I feel that open spaces are about open spaces and about respecting the integrity and spirit of the place. I think if this was Kew Gardens, St James', Hyde Park or Regent's Park nobody would even consider defacing it in this way. It is because it is small and it is in the way of the developers, and they think “It is an open space, we can just dig it up”. I think all of us know that what is happening to planning is because of a lack of due care and attention.

17464. I feel that we are being consulted today and not very often listened to, and I wonder why as communities we have such a hard job making our voices heard. I think if ordinary people can serve on juries and have done for hundreds of years we are perfectly able to be listened—not just consulted but listened to—because this is going to be huge for us. It is a defacing of the only green space in the area. I think people take pride and ownership of public places because we use them, and in many cases they are our back gardens. Crossrail is effectively proposing to dig up the back garden. There are a lot of council estates which have nowhere else to go.

17465. I am going to show you a few pictures of people that use the park.²¹ It is very, very safe; there is never any mugging there; it is quiet and it is very well used. The next set of photographs just shows people who use the park. I did not choose a special day, I swear on that. I took them over four or five days in the summer; they were just people who use the park. That child's party is set up in the exact area that Crossrail wants to dig up.

17466. Could you go on to the next one, please? These are some of the kids that use the park. It is used by local community police officers who walk from there further north, east, south and west, and the reason it is fuzzy is because they did not want me to show their faces. Next one, please.

17467. **Mr Binley:** How did you manage to get so many policemen in the same area?

²⁰ Committee Ref: A193, Fairfield Conservation Area Residents Association, Further historic views of Bow (TOWHLB-29105-010).

²¹ Committee Ref: A193, Fairfield Conservation Area Residents Association, Views of Grove Hall Park (TOWHLB-29105-011 to -017).

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17468. **Ms Bradshaw-Price:** This is a young man who was on his way to Bow Boys' School, so he is kind of striding ahead and he did not mind me taking his 'photo.

17469. Next one, please. This was a group of people from the Bow Bridge Estate which is the other side of the road. They spent about three or four hours there. I remember when I went up to them and I said: "Do you mind me taking me a photo?" they said: "Are you going to send us away?" I said: "No" and they said: "Because there's nowhere else for us to go. This is the only place in the area that is safe." Children can just run around. That kid was just running round all over the park.

17470. The next one, please. Again, kids playing. It is very well used all day. Obviously in the winter you would not see them picnicking quite so much but it is still very well used, for football games.

17471. Next one, please. This is also the area that Crossrail is proposing to dig up. You see these are young men of 17 or 18 just lying there. It is a quiet space. I do not know what else to say. I do not think an open space has to be used by 5,000 people every hour of every day; people just sit here and they take time.

17472. The next one, please. This I took just a few days ago. You can see the low shadows; this is an autumnal one. He is a bus driver, on the right, and he was taking time off. This guy works for the railways. They were just sitting there.

17473. Could I have image 18, please?²² I am just going to mention some of the inhabitants that live around here. In this area here there are 30 flats which are sheltered accommodation. There is a profoundly deaf woman, there are people with mental health issues, there are some quite elderly residents who must be in their 80s or 90s. I do not know if they have actually engaged in this consultation process, by the way. They are disabled and I know the law has been changed in December, but I do not know if they were actively engaged in this. I have not spoken to them, I just know that they are there because I speak to them individually on a daily basis.

17474. Along here are three nuns. They have a little kind of convent set up there. They work in the community very long hours. They sometimes go into the park. There are at least four black cab drivers who live along there. I do not what you think about black cab drivers but they are safe and they work long hours. I live here. My neighbour hurt his leg whilst studying to be a black cab driver a couple of years ago. He walks on crutches and he goes into the park. He may lose his leg; they still do not know if they will be able to save it.

17475. In this area here there are four key workers: two nurses, a doctor and I think a physiotherapist. I am going to mention myself. I was not going to, but recently I have had to start chemo and I sometimes get very tired and I feel very sick, and I just go and sit in the park. That is just as another person who lives in this area.

17476. There is just one more inhabitant: the wild otter that was killed the other day, which was the first wild otter they had seen in the river. It came from the River Lea and it is the first wild otter they have seen for many, many years. With that I complete my presentation. Thank you very much.

17477. **Mr Lyons:** What Crossrail propose is an engineering solution which presents its own justification. I would suggest the alternatives have not genuinely been explored. They say that they have looked at a number of different options for some of the elements, but certainly the route that they are proposing has been largely presented to us as a given. They have made all sorts of sweeping assumptions based on little or no information. They have told us a great deal in some of their documents about the different soil types and the strata and the nature of the land, but they have not got the first idea who uses this area, who travels some of the routes that they are proposing to impact, or even the population of the area.

17478. Some of the language they use is absolutely fascinating. The main document they have got about the sewer diversion opens by describing the area as "predominantly commercial". Complete rubbish. The amount of development that is going on at the moment means that in the course of about 18 months to two years there will be 3,000 domestic properties in this area. There will be very little commercial development in this area. So how they can be allowed to get away with describing something as predominantly commercial is beyond belief.

17479. There has been a lot of talk about consultation and I am sure they have presented to you how many times they say they have consulted with people. I have not experienced anything that I would describe as consultation. I have had presentation of information; I have tried to comment; I have tried to make suggestions; I have tried to ask questions and I know a lot of my neighbours have. The vast majority of that has completely fallen on deaf ears and their proposals have remained unchanged. That is not consultation.

17480. The information that they have presented us with, I would say, has been biased in favour of their proposals. We are also now having to deal with documents that I would say should have been available to us before the Bill was presented. Nearly every week we get something else that we need to wade through and work out whether it has implications for us. All this should have been available well before, and I am sure you will

²² Committee Ref: A193, Fairfield Conservation Area Residents Association, Crossrail— Months 7½ to 9 (TOWHLB-29105-018).

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appreciate that whilst Crossrail and our local council and others have lots and lots of technical support available to them and a good deal of money, we have to do this in our own time and take time out of our lives and time off work in order to appear before you.

17481. I mentioned earlier some of the language that they have been using. They talk about temporary impacts and they describe the permanent impacts as “residual”. I do not know about you but “permanent” sounds a lot more serious than “residual”. They also talk about significant impacts being somewhat limited but they have not described how they define what a “significant impact” is versus a not significant impact. You also heard from counsel earlier what it was “necessary” to do. I would like to suggest it is for the Select Committee to determine what is “necessary” and that what Crossrail is telling you is what they propose. Also, of course, their proposals impose huge negative impacts on existing sites, owners and users for a projected benefit that is as yet uncertain and unfunded.

17482. I also ought to mention that counsel talked about who the Fairfield Conservation Area represent; we represent all the residents living in the conservation area, and, as I have said, in due course that is expected to be 3,000 properties.

17483. There has been talk about how long we will have to put up with Crossrail. The sewer diversion, as proposed, is expected to last 22 months, then seven years for the Crossrail development itself and then Crossrail itself for ever more. The Crossrail tunnels, the route was largely presented to us as a given and if you look at the area and think, “Why have they chosen the route they have chosen? Why haven’t they tended to have a lesser effect on domestic properties and a greater effect on commercial properties?”, it is almost as if they have targeted domestic properties over commercial properties.

17484. There is this obsession with being at the surface at Pudding Mill Lane Station. Quite honestly, no one knew anything about Pudding Mill Lane Station until its association with Crossrail. Crossrail have not been able to tell us how many people actually use Pudding Mill Lane Station at the moment, but it is very few. What I would like to do is put up a view of the Pudding Mill Lane portal.²³ This slide is not, for some reason, running north to south. The A12 which runs roughly north to south runs along there and the proposed Crossrail tunnels are running this way, west to east, and this is Pudding Mill Lane Station here. Because, they say, the track of Crossrail needs to be at the surface at Pudding Mill Lane, therefore, that is the justification

²³ Committee Ref: A193, Fairfield Conservation Area Residents Association, Pudding Mill Lane Portal—Crossrail proposals (TOWHLB-29105-018).

for the depth of tunnels that they propose in this area and they are proposing tunnels as shallow as 11 metres in this area here.

17485. In the next slide, this is a mock-up of what the tunnel will look like underneath 1 Baldock Street underneath which it is proposed to travel and that is to scale.²⁴ That house is 5.84 metres wide and the internal diameter Crossrail propose is 6 metres. Now, that is the internal diameter. The external diameter is wider than that and I understand that even today Crossrail cannot tell us precisely what the external diameter will be. They are certainly indicating a further 0.7 of a metre and it may be wider than that, and obviously it may vary according to site circumstances.

17486. Clearly there will also be dust and dirt from the portals as the development gets under way. There will be noise, vibration and the risk of subsidence and inevitably there will be impacts on the quality of life.

17487. Now, all of this has been presented to us as an absolute, but I seem to recall only recently that end-to-end tunnelling was non-negotiable, that they could not possibly do it, yet now they are doing it, so I would suggest that reasonable and responsible variations here too are also legitimate.

17488. The extent of the impact on Fairfield Conservation Area is in direct proportion to the depth of the tunnels and the area. As I said, I believe it targets domestic properties over commercial properties. It pays scant regard to the ground conditions and levels. You will recall the plan of the Conservation Area which you saw earlier. There is a fall of a number of metres from north to south and another fall of a number of metres from east to west in the Conservation Area and the land immediately behind this property which backs on to the A12 falls by 2 metres, so there is a substantial change in levels in the area and yet the tunnels will be rising at their maximum gradient, so Crossrail propose.

17489. It is also difficult to establish what the full extent of the impact will be because the designs are still under way.²⁵ Crossrail, in their proposals, have used pre-existing guidelines, such as noise levels as a justification. It is okay to make a load of noise in the Conservation Area because it is already subject to considerable noise from the A11 and the A12. Well, that sort of argument suggests that a brass band makes no more noise than a single trombone. What is fundamentally reasonable and responsible just has not been considered. That is astonishing, that difference in height between somebody’s domestic property and the newly built tunnel. It would be

²⁴ Committee Ref: A193, Fairfield Conservation Area Residents Association, Baldock Street (TOWHLB-29105-025).

²⁵ Committee Ref: A193, Fairfield Conservation Area Residents Association, Pudding Mill Lane Portal—H.A.M. and Wick Sewers Diversion, Amendment of Provisions—Revised Scheme (TOWHLB-29105-026).

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different if a new developer decided, “Okay, we’ll take the risk of building over a pre-existing tunnel and we’ll build accordingly”, but that simply is not the case here because these domestic properties, circa 1900, they have negligible foundations. All the more recent developments in the area, including the ones at the bottom of Baldock Street which are circa 1993/94, they have very substantial foundations. Numbers 27 to 69 Baldock Street have 25-metre pile foundations. Their pile foundations would progress through the whole of that tunnel to double that height elevation and that is why Crossrail have avoided those sorts of development in favour of circa 1900 domestic properties.

17490. Then of course Crossrail’s proposals go on to create further engineering problems which themselves have to be resolved and that is how we get to the proposed sewer diversion. Crossrail say they have looked at a number of options and the proposal they have come up with is the least worse. What they are proposing is a further tunnel travelling under the same area as is already substantially affected by Crossrail at a depth of 8 to 12 metres. Now, somehow or other they are going to have to make sure that the Crossrail tunnels just manage to skim underneath the sewer diversion that they propose will be pre-existing by this point, but if they were going at a reasonable and responsible depth, it would simply not be necessary to divert the sewer at all and all of the negative impacts of the sewer diversion would go and the majority of the negative impacts associated with Crossrail’s own tunnels and operations would also go. The sewer diversion over and above the Crossrail proposals impose multiple worksites, and you have seen all the worksites.

17491. Then security provisions—they are proposing that some of the sites will have 24-hour security, of necessity, they will have telecommunications connections, they will have lighting, and the other sites will be patrolled so that there will be access and egress. The area is going to look like it is part of the night-time economy. From what we understand from their proposals, the majority of the noise mitigation is associated with daytime, not night-time, works and yet they propose six months of night-time working for which they propose little, or no, noise mitigation. There will be associated lorry movements and there will be loss of parking so that substantial vehicles can get along the narrow streets which you have seen, and there will be temporary use and permanent loss of a proportion of the park, and you have already heard about the value of the park. There will be a permanent impact on the park and some of that impact just cannot be quantified because it is about the statement of worth that digging up the people’s park makes to people who use the park and to people who know of the park.

17492. In relation to the park, Tower Hamlets has an Open Space Strategy. It has recently introduced it and it has identified that there is already a substantial under-provision of public open space.

Let’s face it, were it not for Victoria Park, which you saw, and Mile End Park, another large park slightly off the map to the west, then the relationship of residents to park space would be even less. There are also EU guidelines which aim to safeguard, and increase, the existing provision, and the Mayor of London has defined as one of his 100 public spaces Grove Hall Park. For many, the park is in lieu of usable back gardens, which you have already heard. What you have not heard is that we have been in discussion with the Council and with Leaside Regeneration about improving the park and dealing with some of the balancing act that needs to take place about the level of use and how different types of use need to be accommodated. That funding of, and proceeding with, those improvements is now in question.

17493. Crossrail have made great play in our discussions a week or so ago with them about the lack of availability of a worked-up design for the park. Well, there is not a completed design for the park, but there has been substantial consultation, although a lot of that work has been put on the back burner because of Crossrail’s proposals and, let’s be honest, Crossrail have not got a completed design for anything either. Clearly there will be safety implications because what Crossrail are currently proposing is that they have shared use of the park while the works are under way.

17494. If we can have the next slide please, you have seen this one before, what they are proposing is that they will bring vehicles in and out, but they do not know how many vehicles yet, they are not entirely sure, and that will be under way while the park is in use.²⁶ Clearly that little child we saw earlier will not be able to run around willy-nilly with lorries coming in and out of the park. I suspect that his parents will not even be inclined to visit the park because it will essentially be a worksite. What Crossrail say is that they will have a banksman who will undertake traffic control, I suppose. We cannot even understand why there has not even been an effective dialogue between Crossrail, Tower Hamlets and Leaside Regeneration about all these issues and how, we would say, if the other proposals proceed, never mind the sewer diversion, there should be some benefit to the local area and that benefit could best be vested in the park.

17495. Crossrail have presented to you their worksites, and perhaps I could have slide 23 please.²⁷ We have also been in discussion with Crossrail about the impact of this worksite on a regularly used pedestrian and cycle access along here which will take you into the park and down to Tesco’s, which is just off the map, and again it seems a

²⁶ Committee Ref: A193, H.A.M. and Wick Lane Sewers Diversion—Sketch 9, Grove Hall Park Worksite Layout (TOWHLB-29105-027).

²⁷ Committee Ref: A193, Fairfield Conservation Area Residents Association, Crossrail—Months 17 to 18½ (TOWHLB-29105-023).

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comparatively safe route, a predominantly traffic-free route. Crossrail's original proposals were that they would simply block it off for 22 months and pedestrians and cyclists could use what they call 'an alternative route', an alternative route over here, a pre-existing route which they would otherwise choose not to use. We have been in discussion with Crossrail and they have modified their proposals. They are now saying that there will be occasions, they believe, when pedestrian and cycle access has to be completely prevented, but for much less than 22 months and they are now suggesting a month or so. They say, "We cannot commit that such closures will not happen. However, we will use all reasonable endeavours to keep Brick Lane open to pedestrians. In reality, we believe there will be a requirement to close this road to pedestrians for approximately one month". We consider that it should be possible in this day and age to avoid any closure whatsoever.

17496. I should have mentioned, in relation to the park, Tower Hamlets' presentation yesterday which members of the Committee may recall, but I think it is useful to emphasise exactly the point that Tower Hamlets were making in relation to a shaft in the park. Tower Hamlets accepted that very considerable weight will, of necessity, be given to health and safety issues, but they also recognise that the proposals for the sewer do not just relate to safety access, but they also relate to repair and maintenance and that there is concern about settlement associated with the sewer diversion as a consequence of constructing the Crossrail tunnels themselves.

17497. If we could go to slide 28 please, Crossrail have presented to you what they think is the least worse or the best option, depending on what language you prefer to use, but if the Committee determines that there should be a sewer diversion, then a better alternative that myself and colleagues just worked out by looking at a map would have no negative impact on the park at all.²⁸ Gone would be the worksite in the park and any necessity for the access and mitigation and all the rest of it. Instead, there would be an access shaft at the bottom of what is currently a vacant, derelict site, 212 Bow Road, and a further access, also currently a derelict site, but one of the sites that is subject to planning permission which Crossrail tell us they are already in discussion with about these deep pile foundations which either they propose the developer would deal with, depending on timing, or Crossrail would need access to the land to deal with themselves. Now, that proposal with two access shafts gives you a shorter maximum length between tunnels, it gives you two interim access points instead of one and it does away with the need for any negative impact on the park. If it was determined that it was necessary, depending on how this site was subsequently developed, that

there needed to be a gate access from the park to the access point for the purposes of safety, I can see no difficulty in that.

17498. You have also heard talk of the impact on the Manhattan Building and that impact is in fact very, very substantial to the extent that Crossrail are proposing that 28 of the properties may well qualify for temporary rehousing for a period of 15 weeks. The residents will also lose total access to the car park for three nights as well as suffer serious inconvenience throughout the construction period. I have brought with me a petition signed by a number of residents of the Manhattan Building which I would like to make available to the Committee.

17499. I am sure that, previous to this, there has been a great deal of discussion about noise and vibration. Crossrail have indicated that residents living above the tunnels will hear the trains as they travel through and I bet that somebody living above a tunnel that is only 11 metres below their property will be substantially disrupted. It is also worth noting that when representatives of Metronet appeared before the GLA Transport Committee, Keith Clark of Metronet said, "Anyone who has been to the theatre in London knows that you can hear the Tube in most London theatres", and then went on to say, "and also feel it". Now, Crossrail have not quantified the extent to which the tunnelling or the use of the tunnels will be heard and felt by residents in the area, but I would suggest that it is substantial and it is in direct proportion not just to the depth of the tunnels, but to the extent of their subsequent use. Below-ground noise and vibration may also be expected to affect residents neighbouring the terraced properties, but Crossrail seems to have been fixated on only those residents who live directly above the proposed tunnels. Now, I am not a technical expert, but I know that if you drop a stone in a pond, the ripples radiate outwards right to the edge and if it is a substantial splash, then the ripples work their way backwards as well. The terraced properties in this area are bound together; their support is not by virtue of substantial foundations, but by virtue of the fact that they are leaning against each other.

17500. Crossrail also indicate that there will be two lots of track-laying as part of the construction and one lot of track removal as part of the construction because they will lay first a temporary track and then they will remove that and later replace it with permanent track. I would suggest to the Committee that it is unreasonable for Crossrail, one, not to know what the full impacts are, but at the same time recognise that there will be substantial impacts on residents and, two, not to ensure that they are entirely avoidable. We are back to the scenario of who came first. It is a known risk if you develop above a pre-existing tunnel; you are stuck with it and all of the consequences if a tunnel goes ahead underneath a pre-existing property.

²⁸ Committee Ref: A193, Fairfield Conservation Area Residents Association, H.A.M. and Wick Lane Sewers Diversion (TOWHLB-29105-028).

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17501. In relation to subsidence, Crossrail tell us that they have allowed 1.7% in their calculations. Well, 1.7% over 17.75 metres, that would be the depth from the base of their tunnel through to immediately underneath 1 Baldock Street. Well, they are allowing for subsidence of a foot. We were also told, very proudly, that the subsidence in relation to the Channel Tunnel Rail Link was only $\frac{1}{2}\%$. That sounds very impressive, but I recall catastrophic failure in Lavender Street, Stratford where people's back gardens collapsed and people had to be rehoused as a consequence. Now, in the example you have seen here, it is not going to be someone's back garden which collapses, but it could conceivably be 1 Baldock Street disappearing into the tunnel.

17502. Residents are also concerned with all this development, a Promoter, an operator, sub-contractors and so on, if anything happens at any stage, who is going to take responsibility for it. It seems most likely that individual residents will get caught up in having to deal with all those parties involved and taking action themselves. The methods of operation and the codes of practice should be such that this simply cannot occur, that there are absolute assurances against catastrophic failure or substantial subsidence and that if people do need to take proceedings, then they are supported in doing so and are not left to their own devices. There also need to be systems in place to ensure full compliance and I understand that there is a specific local monitoring group being set up or being proposed for the Spitalfields area and we would suggest that a similar group would benefit our local area.

17503. In relation to flooding and flood control, if we can go to the next slide, this is a diagram Crossrail have shown us in relation to subsidence and it seems to indicate that there is a substantial subsidence potential both in relation to the Crossrail tunnels and the sewer diversion and the two in combination.²⁹ If we look at the next slide, you can see that there is a lot of water in this area.³⁰ I mentioned the falls in two directions, we have the Old and New River Leas, we have canals, there is water seepage onto the A12 and tradition has it that there is a local spring in the area. There are concerns both about flooding and about negative effects on groundwater levels and the implications for the old trees in the park and the potential for instability of properties and the tunnels in relation to the water that will be in the area. Crossrail, in one of their publications, have described a perched water table and they have also indicated that they can predict how water will move in the area, but it is clear that this is the main reason why all recent developers in

the area have had deep pile foundations, and I remind the Committee of the 25-metre deep pile foundations at 27 to 69 Baldock Street.

17504. In relation to hours of work, the hours of work Crossrail propose conflict with local usage in the area and in particular the use of the local school, Bow Boys School, which lies there. The park and the local streets are regularly used by young people to travel to and from school and they use the park recreationally before school, at lunchtime and after school. We understand that there are special measures in relation to Swanley School in Spitalfields and we would ask the Committee for the same sort of consideration for our area here.

17505. Also in relation to hours of work, Crossrail propose 24-hour tunnelling and potentially there will be 24-hour use of the Crossrail tunnels when they are completed. There are expected to be night-time train movements in relation to disposal of spoil from elsewhere, the extent of which is not now known because most of that is related to interim shafts. Clearly there will be daytime lorry movements and works. The night-time works specifically associated with the sewer diversion that Crossrail describe are seven weeks on the Blackwall Tunnel northern approach and there will be traffic diversions in association with that, Manhattan shaft three weeks, the retaining wall 15 weeks and then, over and above that, Payne Road "significant night noise", whatever that means. Now, I sleep at night and even though my property backs on to the Blackwall Tunnel approach, I manage to filter out that sort of noise which I do not find significant, but the sort of noise that Crossrail are proposing will wake me up and will wake up neighbours and other residents in the area because it is unusual and it is a different sort of noise.

17506. That, therefore, and the extent of the proposals must inevitably have negative health impacts on residents living in the area. Short, medium and long-term day and night tunnelling, worksites, lorry and train movements, security issues, lighting, noise, vibration, potential subsidence, stress, dust and dirt, progressive and cumulative impacts, these surely warrant a more thorough assessment than has so far been undertaken. What I suggest would be responsible is the avoidance, amelioration and compensation or restitution where necessary.

17507. I have already talked about residents' concerns about liability and responsibility. It does seem to fall very much on the individual and were individuals to make a claim, it seems likely that they would have to be dealing with action after experiencing detriment and, in all probability, only to the extent that such detriment might be mitigated or compensated for and they would still have to live with the consequences. I would suggest that compensation should be extended to all properties that may be affected, not merely those that are unlucky enough to be directly above a tunnel and

²⁹ Committee Ref: A193, Fairfield Conservation Area Residents Association, Generic Phase 2 H.A.M. and Wick Sewer Diversion—Lozenges of Potential Damage (TOWHLB-29105-029).

³⁰ Committee Ref: A193, Fairfield Conservation Area Residents Association, Pudding Mill Lane Portal—H.A.M. and Wick Sewers Diversion, Amendment of Provisions—Revised Scheme (TOWHLB-29105-030).

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should not be time-limited because who can say precisely when detriment might occur and precisely what might be the cause or the combination of causes. Property valuations should be based on equivalent properties which are completely unaffected by such development and I believe the Committee should also consider compensation for property blight.

17508. Clearly there are going to be some legacy issues and they are likely to be several, but also cumulative in association with not just Crossrail's proposals, but also the other developments and consequences in the area and uses of the area.

17509. I mentioned the Olympics. My neighbours support the Olympics, but we do have concerns about the impact on us and we certainly have concerns about the impact in conjunction with the impacts from Crossrail. I suspect there are likely to be issues about community cohesion.

17510. I mentioned the statement of work in relation to the park area and Committee members need to understand that the extreme local impacts that we are talking about are in contrast to the absence of local benefit. By their very nature, these are people who are already living in London. They are already using public transport to get to and from work and the like and the benefit of Crossrail to them is likely to be small. But in relation to the legacy, as Jacqueline mentioned earlier, there really ought to be the same recognition of needs shown here as in more the prosperous and influential parts of London.

17511. In relation to controls, I would like to suggest that groundborne noise and vibration during and following construction be kept to an absolute minimum by the use of the most advanced technology and machinery, and the best possible methods and equipment subject to stringent design standards; that highest standards are met in terms of lifespan and maintenance of this equipment. Nominated undertakers should be required themselves to consult and be subject to compensation where designated noise and vibration standards are breached. The best available measures to ensure against subsidence, to control noise and vibration and to minimise impact should be the ones that are adopted—we should be looking at best possible practice here. The scheme should not proceed until the highest standards of subsidence, noise and vibration reduction and control are also in place.

17512. In Crossrail's proposals, they indicate the setting aside of their existing regulatory framework and I would like to suggest that that existing regulatory framework only be set aside either where it is superseded by something superior or otherwise only when absolutely necessary.

17513. Crossrail has stated that mitigating measures are disruptive and inconvenient for the occupants of affected buildings and may not be wholly effective in eliminating the relevant impacts. Compensation should be paid where the relevant standards and policies are breached and/or where detriment can be established. What groundborne noise and vibration is reasonable and responsible in this day and age should dictate the hours and extent of operation of the tunnels whilst they are in use.

17514. In conclusion, it feels to me that the area we are talking about is the equivalent of a person hanging from a cliff. If a person was hanging from a cliff, I am sure all of us here would go and help. We clearly would not walk up to the edge and stand on their fingers. The community expects the same level of consideration. We would like to see the Crossrail tunnels go deeper and therefore have little or no negative impact on the area. That would mean, presumably, not surfacing at Pudding Mill Lane, but clearly surfacing at Pudding Mill Lane is no more of a given than end-to-end tunnelling was non-negotiable, and we would like to see no sewer diversion.

17515. If the Select Committee is persuaded otherwise, we would like to see no negative impact on the park by virtue of alternative access to the sewers. We would like to see less practice for controls, construction, mitigation, compensation and operation. We would like to see the trees properly safeguarded and we would like to see a suitable monitoring body set up.

17516. Thank you.

17517. **Chairman:** Thank you for your comprehensive restatement and elaboration of your petition. Could I deal with the matter of the Petition you handed to us. We have studied the guidelines and we cannot accept the Petition like that. It should have been logged in a different place in a different way. However, we will make a note of receiving it and pass it on to the Promoter and to the local Member of Parliament who will be the most appropriate people for dealing with it.

17518. **Mr Mould:** In a sense, compressed into an hour and a bit we have had points which the Committee has heard raised repeatedly in relation to a number of sites. That is not a criticism. I am going to take it as read that matters of general approach in terms of environmental controls and mitigation of environmental impact during the construction phase, about which the Committee has heard a good deal of evidence and received a good deal of material from the Promoters, we do not need to rehearse again. I do not mean any disrespect to this Petitioner, but those matters have been dealt with. At that level of generality, nothing in this Petition causes me to amend the evidence and submissions we have already made.

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17519. Sir, with that point made, I would like to call Mr Berryman to deal with the site-specific concerns which have been raised by the Petitioner.

Mr Keith Berryman, Recalled

Examined by **Mr Mould**

17520. Mr Berryman, you are well known to the Committee. Your role is effectively chief executive of the project in presenting the Promoter's case to Parliament.

(Mr Berryman) That is correct.

17521. The first point raised in the helpful summary was that the Petitioners challenge the need for a sewer diversion in this location at all. That point is predicated on the argument that Crossrail have chosen to come to the surface in the vicinity of Pudding Mill Lane when in fact it is unnecessary to do so, and that it would be possible, with no disbenefit to the project as a whole, to come to the surface in a more easterly location. Can you comment on that?

(Mr Berryman) We are not aiming to come to the surface at Pudding Mill Lane; the target is Stratford Station. Pudding Mill Lane happens to be the point at which the track level is level with the surface of the ground, because, as you will be aware, Stratford Station is on an embankment, on a raised structure. The reasons for getting to Stratford are because of the importance of Stratford as a regional centre. It is an important rail interchange with the North London Line, the Jubilee Line and DLR, as well as with inter-city services out of London. It is quite an important point to get to. That is why we aim to come out to the surface at that point.

17522. What about the Channel Tunnel Rail Link.

(Mr Berryman) I am sorry, I had temporarily forgotten that. Yes, the Channel Tunnel Rail Link is also at Stratford. Of course the development of the Stratford City and what will follow on from the development in the Olympic Village all make this an important regeneration area and it is certainly one of the Mayor's targets that we should serve Stratford.

17523. Is missing Stratford Station an option which you think is acceptable in terms of the scheme?

(Mr Berryman) Missing it completely would very significantly reduce the benefits of the scheme, both in terms of transport, usage and also in terms of the regeneration impacts.

17524. If we are going to hit it, what is the impact of that in relation to works in the area of the H.A.M. and Wick Sewer?

(Mr Berryman) If we are going to hit Stratford, closer to the west of Stratford Station is a stretch called the Northern Interceptor Sewer, which is a high level structure which carries most of the sewage from North London down to the works at Beckton. We need to get over that, because we cannot get under it and still serve Stratford, and then we need to get under the River Lea. The vertical alignment,

if you like, the gradient on which the railway runs, is pretty much fixed by those points which we cannot avoid.

17525. The suggestion was that we have disregarded or failed to take account of the residential nature of this particular area as opposed to the wider location of this part of Bow. Do you remember that?

(Mr Berryman) Yes, I do.

17526. I just remind you: this is the main Environmental Statement, volume 2, just focusing on paragraph 8.16.38 there.³¹ You see it says: "Further to the southwest, beyond the Blackwall Tunnel Approach Road, a core of Victorian terraces, dating from the late 18th Century or early 19th Century, is encompassed within the Fairfield Road Conservation Area. The listed Bryant and May match factory is located on Fairfield Road. Originally opened in 1861, this prominent structure was rebuilt in 1911 and is today used for residential apartments". So I think that is the area we are concerned with today.

(Mr Berryman) That is exactly the area we are concerned with, and that I think describes it reasonably well.

17527. Has the Environmental Statement assessed the visual and townscape impacts and the community impacts of the proposed sewer diversion, both under the Bill scheme and under the proposals for the additional provisions?

(Mr Berryman) Yes, it has, as you have explained.

17528. So that is the position in relation to the need for the sewer diversion. I explained to the Committee in opening how the Bill scheme had been proposed and the reasons why, as a result of the option exercise the additional provisions before the committee were developed and came to be proposed by the Promoter. First of all, did I get it right?

(Mr Berryman) Pretty well, yes.

17529. Is there anything you want to add in relation to the history and how the current proposals were arrived at? We are going to come to Grove Hall Park in a moment.

(Mr Berryman) I do not think there is much I need to add to what you said. I am just trying to rack my brains to see if there is anything you did not say.

17530. Let us turn, please, to the next topic, which is the question of the need for the access shaft in Grove Hall Park itself. Perhaps we can put up, please, our document 039.³² Whilst we are waiting for that, I referred to the letter from Thames Water when I opened the case for the Promoter. Have we enquired of Thames Water as to whether, from their operational perspective, there is any substantial

³¹ Crossrail Environmental Statement, Volume 2, Route Window C13: Pudding Mill Lane portal, billdocuments.crossrail.co.uk

³² Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion—Sketch 9, Grove Hall Park Worksite Layout (TOWHLB-29104-039).

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distinction to be drawn between our proposals for a shaft in Grove Hall Park and the alternative two intermediate shaft arrangements which have been put forward by the Petitioner?

(Mr Berryman) We have enquired. There does not appear to be any particular advantage in the two-shaft solution because the distance between the two shafts is almost exactly the same. I think it is about 20 metres shorter than the distance between the shafts that we are currently proposing. It does not make much difference.

17531. **Chairman:** Before you move on, Mr Berryman, in the earlier drawing which showed the second preferred route, which shows this alignment, it was mentioned by the Petitioners that there were vacant derelict properties just down from there. Can you just explain why you could not move this further down?

17532. **Mr Mould:** It is the Petitioners' bundle page 28.³³

(Mr Berryman) Could I just explain on this drawing where the other shaft is, being the shaft that was described as being a derelict piece of land, it is here. You see our shaft is there; it is about 40 metres further to the south. The distance between that shaft and that shaft would be unacceptable to Thames Water. I think the position we have got from there to there is really on the borderline of what is acceptable to them. To go a further 50 metres would not be acceptable.

17533. **Chairman:** Could you not have moved the northern shaft closer?

(Mr Berryman) This northern shaft is fixed by the need to connect into the existing sewer, which runs just here. Works around here are extremely complicated. I have a great deal of difficulty getting my own mind around these. This thing up here is what we call the "tumbling bay". That is where the two sewers will need to be connected together. At the moment they run one above the other, and that work there will be modified so that the two sewers run into one tunnel. So this end of the tunnel needs to be fairly close to it, so we can tap in to make that connection. So we do not have much flexibility about where this should be, in terms of it being within that block of land. We may be able to move it slightly that way to reduce some of the impacts, but we are still working on that. It is going to be somewhere in this piece of land here.

17534. What about if you put another entrance to the shaft just to the south, across to the other side, and you move that frame towards the tunnel?

(Mr Berryman) This site here has an extant planning condition and the developer, which is a housing association, is about to start construction. I think demolition is going to start in November of this year. By the time Crossrail is built that

development will be in existence. We do have a drawing of the site, actually, which perhaps we could put up.

17535. **Mr Mould:** Do you want the elevation?

(Mr Berryman) The plan. I think it is 001 on the appropriate section.³⁴ Basically, the development there envisages a series of courtyards. This thing is a courtyard, this is a courtyard and this is a courtyard, and in the middle is a car park. The site for the shaft—here is our sewer tunnel running underneath—would be in this courtyard, and the position here would be that there would be five or six floors of flats directly overlooking and very proximate to the site of the shaft. So although this particular shaft is on nowhere near the same scale as the Hanbury Street shaft, it is in the middle of a construction. Nevertheless, in terms of closeness to the site and its impact on the people who will, by that time, be living there, it will be similar to those on the Princelet Street flats which we discussed at some length at Hanbury Street.

17536. On that alternative scenario, for how long would those who would be living immediately to the west and north of that site be experiencing the operation of the worksite for the construction shaft?

(Mr Berryman) The duration of the works would be about the same as if the shaft was in the park—that is to say about six months.

17537. What about access?

(Mr Berryman) I have to say they are modest works. I do not want to overstate how complicated they are. Access would be down this road here and that would, I expect (although we received this proposal fairly late in the day), lead to access to the car park in this area.

17538. It was said by the Petitioner that under the additional provisions scheme in relation to cars parked by residents of the Manhattan Building there would be a three-day period when they would not be able to get their cars into the car park.

(Mr Berryman) That is correct.

17539. What is the position in relation to car parking for this development scheme, assuming it is built and occupied, if the shaft were to be constructed in this alternative way?

(Mr Berryman) There would be obstruction for a period of several weeks—months even. Out of the six-month total construction period there would be some periods when they would not be able to get into the car park.

17540. So three days with the Bill scheme and several weeks, possibly months, with this scheme?

(Mr Berryman) That is right, yes. I ought to emphasise that even if this was to be done we would still need a shaft here to take the tunnel boring machine out, in any event. So it would not be swapping one impact for another, it would be both.

³³ Committee Ref: A193, Fairfield Conservation Area Residents Association, H.A.M. and Wick Lane Sewers Diversion (TOWHLB-29105-028).

³⁴ Crossrail Ref: P126, Plan of Fairfield Road Development (TOWHLB-29104D-001).

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17541. This would function as one of the two intermediate shafts.

(Mr Berryman) Yes, indeed.

17542. Can we see the image?³⁵ This is an elevation drawing of the permitted development scheme on that site. At the top there we have shown the shaft. Within that area there, the worksite would be on that—

(Mr Berryman) Yes.

17543. We see the scale of the densely residential area on three of the four parts of the compass.

(Mr Berryman) Yes.

17544. **Chairman:** Mr Mould, how much longer?

17545. **Mr Mould:** I have certainly got more than I can deal with in three or four minutes. I am happy to go on.

17546. **Chairman:** I think we will press on a little bit longer.

17547. **Mr Mould:** Mr Berryman, did you say we expect this development to be in existence? It has got planning permission so they can go ahead straightaway.

(Mr Berryman) It has got planning permission. We are in discussion with them about the arrangement of the piles in this particular area. We understand that they are intending to start demolition of the existing building and removal of the existing piles in November this year, so, in other words, within the next six to eight weeks, and to be on site for the main construction next April. That would mean that the development would be occupied by the time the tunnel would be built.

17548. It is fair to say that the planning permission does anticipate the Crossrail diversion scheme going subsurface.

(Mr Berryman) It does indeed.

17549. With the condition of not emerging at the surface within the development site.

(Mr Berryman) That is correct, yes.

17550. Can we put up the Petitioners' drawing, plan 28, please?³⁶ Just complete your evidence in relation to the Petitioners' alternative. Just look at the southern of the two alternative shafts. What would be the position in relation to the Bill powers? Under the Bill powers and the additional provisions that we now propose would we be able to construct an alternative shaft?

(Mr Berryman) No, we would not. There is no surface interest taken in this particular site. We have a subsoil interest for the construction of the tunnel but not a surface interest. That would need an

additional provision. Moreover, the whole point of doing this is that the access would not be through the park, so the access would have to be from this road here, which would mean acquisition and demolition of the existing property. It is derelict, I believe, but it certainly belongs to somebody and certainly worth quite a bit of money. We would have to buy that.

17551. **Mr Mould:** Can we turn away from commenting on the alternative to our own proposals, and can we go, please to our document 39.³⁷

17552. **Chairman:** I think we had better stop now and resume at 2.30.

After a short adjournment

17553. **Mr Mould:** Mr Berryman, we were working through the issues that had been raised by Petitioners this morning and we had come to Grove Hall Park. Could you identify, on the plan on page 035, the full extent of the park.³⁸

(Mr Berryman) The purple line is a pretty good approximation of the area of the park.

17554. What is the shaded area?

(Mr Berryman) The shaded area is the proposed area which we would have as a compound for carrying out our works.

17555. That gives us the spatial relationship of the park to the work site. Document 39 shows on a larger scale the work site and the kit that is going to be required.³⁹ We also see the temporary access going from Baldock Street running to the north-east.

(Mr Berryman) Yes, that is right.

17556. Can you take us through the works within the park in the context of the access shaft. *(Mr Berryman)* The purpose of this site is to construct an access shaft which is about three metres in diameter and 12 metres deep. It is not a very big piece of work by the standards of even the utility works. It will take about six months to do. The compound contains the shaft itself, with a crane to hoist materials up and down from the shaft and a position for lorries to be loaded to take way the material arising from excavation. Also on there are things like a Portakabin for the miners, toilets and that sort of thing—fairly basic stuff. We expect this whole compound would be there for about six months. It would take only about a month to sink the shaft and it would take perhaps a couple more weeks to drive the heading across into the tunnel. The rest of the time we will just be assembling the staircases and ladders inside the shaft. At the head of the shaft will

³⁷ Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion—Sketch 9, Grove Hall Park Worksite Layout (TOWHLB-29104-039).

³⁸ Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion—Sketch 5, Option 5—Additional Provision Plan and Construction Sites (SCN-20061018-001).

³⁹ Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion—Sketch 9, Grove Hall Park Worksite Layout (TOWHLB-29104-039).

³⁵ Crossrail Ref: P126, Elevation of Fairfield Road Development (TOWHLB-29104D-002).

³⁶ Committee Ref: A193, Fairfield Conservation Area Residents Association, H.A.M. and Wick Lane Sewers Diversion (TOWHLB-29105-028).

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be covered with a concrete slab and there will be an ordinary manhole with an ordinary manhole cover on top of it, such as you might see all around town. That will be the only visible sign that the works are there. It will be a pressure manhole, so there will be no question of disagreeable smells coming through or anything like that.

17557. Thank you. Can you help us with the question of the degree to which there is flexibility on the exact location of the shaft within the park, first of all, in relation to the existing formal and informal facilities within the park.

(Mr Berryman) We have tried to steer clear of the areas which are used mainly as play areas. There is a court here, which was in some of the Petitioners' photographs. This area is used to some extent for play, but it is part of quite a large area and the proportion of it we will take is relatively small.

17558. Tower Hamlets indicated to the Committee yesterday that we have entered into a commitment to consult them on the exact position of the shaft in the park.

(Mr Berryman) Indeed. As has been mentioned both by Tower Hamlets and the Petitioner this morning, there are plans to revamp this park. I am not sure that this particular area is much affected by those plans, but, in any event, we will fit in with their plans so that what we do is consistent with the modifications or changes that are made to the park.

17559. We have said we would have regard to their proposals and those of the Lee Side Regeneration. *(Mr Berryman)* Indeed. We have been in contact with Lee Side Regeneration, which is funding this.

17560. Yesterday I made the point indicating that the undertaking which we have given to Tower Hamlets on a borough-wide basis, in relation to limiting the physical area of each proposed worksite to that reasonably required for the construction works and releasing such sites for reinstatement as soon as reasonably practical after the construction works are completed, applies to this site.

(Mr Berryman) Indeed it does. There is another point worth making about this access road: the number of vehicles we expect to be taking spoil away from the site is about three per day.

17561. **Mr Binley:** Mr Mould, it does seem to me that the road is taking up quite a bit of the area and secondly it is going to need to be restored. It does seem to me that there is a real opportunity there, at very little cost to yourself, to be immensely kind in terms of the restoration. I see you nodding, which suggests that is in your mind.

(Mr Berryman) It is, indeed.

17562. Can you explain what you might be kind enough to do to enhance this facility?

(Mr Berryman) You will see there is an existing path, and I understand from some plans we have recently received from the borough that part of their

plan is to make this into a wider, more prominent path. It may be possible that we would be able to use the construction of our road as a sub-base for that wider path. It may be possible. We would need to do design work. We have not had their drawings yet but just a verbal indication that is what they are planning to do. In any event, even if we do have to use this as a road, we will probably be using something like the aluminium planks which people put down when there is a village fete or something of that sort, and moving vehicles in that way. Naturally, we would restore any grass which is damaged, by re-turfing or what is appropriate.

17563. Will you be a little more adventurous? Will you talk to the local people and ask them what they might ideally like as an addition in that park, as a way of saying thank you for the disruption you have caused?

(Mr Berryman) To some extent we can do that.

17564. The answer is yes, Mr Berryman, is it?

(Mr Berryman) The answer is yes.

17565. **Mrs James:** Working in conjunction with local people about what they would like.

(Mr Berryman) Indeed. Although I think you need to bear in mind that it is not just us: the local authority have a voice, Lee Side Regeneration have a voice. It is something which would have to be done between us; it is not something we can unilaterally do.

17566. **Mrs James:** Local people are losing a place of quiet contemplation for quite a while. It is not just somewhere to play.

17567. **Chairman:** The trees are going to be safeguarded.

(Mr Berryman) Yes. We have one small cherry tree here but we will obviously replace that.

17568. **Mr Mould:** It may help to remind members of the Committee what was said yesterday in relation to reinstatement: "The council has secure substantial capital funding for improvements that were programmed to be spent during the next two or three years. The council has commissioned a landscape proposal for Grove Hall Park and a master plan is being prepared. This is still work in progress but it would seem that the scheme as it currently exists would not be significantly prejudiced by the Crossrail proposals. The council is anxious to ensure that Crossrail undertake to reinstate both parts of the park affected by the proposals and the specification within the emerging master plan. The letter of 11 October does contain an undertaking that the site will be reinstated having regard to the reasonable requirements of the master plan."

17569. The other point I would make in relation to what was said yesterday is that we dealt with the question of consultation which I think Mrs James was driving at. They said: "The council, as we have made clear throughout, supports the Crossrail

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project but is extremely anxious to ensure that it is carried through with all available mitigation measures and on the basis of the fullest possible consultation with those who will inevitably be affected by its construction. The letter of 11 October indicates that the Promoter is committed to working constructively with the council on an ongoing consultation on Crossrail proposals in the Tower Hamlet area. For its part, the council is committed to attempting to ensure that full consultation machinery is set up by the Promoter and operated across the borough as a whole.” This was in the context of a document that the council said in substance reflected agreement between the council and Crossrail in relation to the H.A.M. and Wick issues and was only subject to further discussion on the detailed wording.

17570. **Chairman:** Is the money coming from government or from Crossrail?

17571. **Mr Mould:** That is from the government. It is certainly not from Crossrail funds.

(Mr Berryman) That is correct.

17572. **Mr Binley:** But he is going to be very kind.

17573. **Mr Mould:** I do not want to take any more time on this. I just wanted to remind you on this point. While we are on the question of environmental impact, the question of the impact on trees was touched on this morning. I would like the Committee to understand what the position is in relation to the impact on existing trees in the park. **(Mr Berryman)** The object of the exercise is not to disturb any mature trees at all in any way. There are some young trees which may have to be disturbed but they are of a size which can be replanted as they are now.

17574. In relation to the substantial London plane trees, are we anticipating any need to disturb them? **(Mr Berryman)** We certainly are not. Indeed, part of the planning of the works is predicated on the idea that you do not disturb any of these substantial and extremely attractive trees.

17575. Finally, on this aspect of the case, the question of the risk of de-watering was raised this morning in relation to the trees. Is that something which is of any significance?

(Mr Berryman) No, basically. I am not quite sure what the geology is. I think it is clay just here, and we may not need to do very much dewatering at all, but, even if we do, it is the deep groundwater which will be affected rather than the water which feeds the trees, if you like.

17576. Can we move away from Grove Hall Park and touch on a point raised this morning about the footpath in the vicinity of Wrexham Road and Wick Lane. Could we put up slide 040 and could you help us with this, please.⁴⁰

(Mr Berryman) I can do that. I was hoping not to have to get into this because it is extremely complicated.

17577. Just the broad location.

(Mr Berryman) This is the A12, the Blackwall Tunnel Northern Approach Road, and you can see the existing sewer, the Wick Lane sewer, which runs under the road there. That sewer, in addition to being a trunk sewer also picks up a number of local services. In order to re-provide for those sewage services, we have to make some alterations here. We propose to construct a new sewer, a small diameter sewer, constructed in trench from the road, to connect up with an existing sewer which runs along this road. In order to do that we have to have a works area, which is similar to any other works area which a water utility company might require in the ordinary course of their business. This is not exceptional work for them. The interesting thing is that this sewer, as you probably realise, falls down that way to go towards the pumping station and our new sewer is up here, so we have to reverse the flow in this sewer—which means that people have to get in there and put concrete in the bottom of it and make it flow up hill, so to speak.

17578. **Chairman:** Not you.

(Mr Berryman) Not me, I am afraid. That is something I would be happy to leave to someone else to do. That is why we need this works area. The accommodation here is just to provide for the workforce there. We had originally assumed that we could close this footpath and people would find another route around—there is another route around—but as a result of consultation we looked at that again and we realised that you can keep the footpath open most of the time. Unfortunately, when we make this connection here—which is probably self-evident from the plan—whilst that particular bit of work is being done, it is not really possible to keep the footpath open, so, for that period, which I think is about a month, that footpath would need to close.

17579. If we turn to page 26, this is a letter sent to the Secretary of the Fairfield Conservation Area Residents Association of 13 October.⁴¹ If we look at the italicised passage in the middle of the page, we see there the commitment we have made in that respect. **(Mr Berryman)** “. . . we will use all reasonable endeavours to keep Wick Lane open to pedestrians.”

⁴⁰ Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion—Sketch 10, Wick Lane and Wrexham Road Worksite Layout (TOWHLB-29104-040).

⁴¹ Crossrail Ref: P126, Correspondence from CLRL to Fairfield Conservation Area Residents Association, 13 October 2006 (TOWHLB-29104-026).

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17580. There is mention there of the need to close for about a month. We have communicated that to the Petitioner. Is there anything more on that?

(Mr Berryman) No, I do not think so, unless the Committee have any questions on that.

17581. Let us turn, please, from that point to the question of settlement. Again trying to take this fairly quickly—just a series of points really: have we assessed the combined impacts, in respect of settlement, of the Crossrail tunnels and the sewer proposals?

(Mr Berryman) Yes, we have.

17582. Have we prepared a report in relation to that?

(Mr Berryman) We have.

17583. The Petitioners have been provided with a copy.

(Mr Berryman) That is correct.

17584. Does that also embrace an assessment of the sewer shafts?

(Mr Berryman) Yes, it does, although all the sewer shafts are quite remote from buildings.

17585. What are the principal protective measures that we anticipate will be required in relation to this facility of work.

(Mr Berryman) We do not think there will be any protective measures at all required to the sewer tunnel. The issue is more with the running tunnels, which, as you are aware, are very shallow at this point. There we are doing our usual assessment of the impacts on properties and offering a settlement deed for all the people who are affected.

17586. Turning to the particular point of the Petitioners' document, page 25, would you comment on the accuracy of this image.⁴²

(Mr Berryman) This is not to scale, contrary to what was said. We have a drawing which is to scale, substantially to scale.

17587. That is 001.⁴³

(Mr Berryman) The diameter of the tunnel is, of course, as it says here, internally six metres and externally about 6.6 metres. The design of the tunnel lining is something undertaken normally by the contractor, so the exact thickness, whether 300 mm or 375 mm or whatever, we do not know at this stage, but it is in that area. Page 001 is a section which is to scale. It shows the house at the top and at the same scale the tunnel underneath. I believe this was prepared for Mrs Wheeler, one of the Petitioners we will be hearing from later. You can see the relative scale of this is substantially different from the other sketch.

⁴² Committee Ref: A193, Fairfield Conservation Area Residents Association, Baldock Street (TOWHLB-29105-025).

⁴³ Crossrail Ref: P126, Tunnel Gradient and Long Section—Mrs Barbara Wheeler, 1 Baldock Street, Bow E3 2TP (TOWHLB-31204-001).

17588. There was mention, I think, this morning of a figure of 1.7%. Can you explain the significance of that?

(Mr Berryman) If you recall all the way back to the beginning when Professor Mair gave a talk on certain petitions generally, the 1.7% refers to the ground loss or relaxation which would occur when the tunnel is driven, and it is a reference to the percentage of the volume of the tunnel which will be lost. If you remember, that is spread over a very wide zone of settlement. I think Professor Mair may have given quite a long talk about that. The 1.7% does not relate to the compression of the ground between the top of the tunnel and the ground surface; it relates to the volume which is lost to tunnel. The 1.7% we have used, we know from other tunnelling projects, is very conservative and normally on the Channel tunnel Rail Link they have been achieving about 1.5% as a general rule. So we know they make very, very conservative assumptions. It is also worth mentioning the difference between settlement, which is what we expect to happen over a tunnel in any event, to a greater or lesser degree, and the kind of catastrophic collapse which the Petitioner mentioned this morning. Obviously, there are ways of avoiding that by effective management of the proposals, but it is not something that we would expect to happen.

Mr Binley: Just to get 11 metres in my mind, would this ceiling be 11 metres?

(Mr Berryman) Eleven metres would be six people standing on top of each other. It may be 9 metres, I do not know.

17589. Probably a bit more.

(Mr Berryman) It is very hard to estimate in here.

17590. I am just trying to get a feel. Thank you.

(Mr Berryman) That, of course, is to the top of the tunnel.

17591. **Chairman:** Just on the ground in the tunnel, what kind of ground is in this particular area? It is not the same—or is it the same—as we discussed in the City: London clay and so forth?

(Mr Berryman) I think at this point we are out of the London clay. I think it is reasonable ground. I can get an answer to that very quickly.

17592. **Mr Mould:** I am told it is mainly London clay with gravel overlaying.

17593. **Chairman:** Could you give us that note anyway?

(Mr Berryman) I will give you a note, sir.

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17594. **Mr Mould:** Can we move away from settlement and just touch on another matter, which was the question of night-time working. I have put up an extract from the additional provisions which sets out, in 5.3.5, the reference to 24-hour working.⁴⁴ Can you summarise for the Committee the position in relation to night-time working in relation to this part of the project?

(Mr Berryman) The significant impacts of night-time working are at the existing McDonald's site near the junction of the A12 and the A11, down near the flyover which the Petitioner pointed out earlier. That would be a 24-hour-a-day site. The other sites will generally be daytime only, except for specific items of work. If you could put slide 38 up, just to illustrate the point. The shaft at Grove Hall Park will, generally speaking, be a daytime only site. There might be a very small amount, a couple of nights, of night work when we join on to the new tunnel. This site here will be a 24-hour-a-day site, although, as you will appreciate, this is a very noisy location anyway with the Blackwall Tunnel Road. This site will be generally a daytime site except for the restriction of a retaining wall here, which may have to be done at night. When I say "may have to be done at night" it may have to be done, and if it is done it is done at night. There is a possibility we may be able to get away without doing it at all. Then there will be some night-time working when we withdraw the tunnel boring machines from here. At these two sites there will be night work because what we are doing here is filling the disused sewer with foam concrete, and that is just a question of bringing a truck mixer in and literally pouring concrete down a manhole. Of course, this road will be kept open; it is very busy. The noise of that work will be not detectable above the background levels there, and similarly for this site here. Again, for very short durations, I think from memory about six nights and this one is about four nights.

17595. Finally, sir, if I can make this point, the question of the potential impact of a lorry route past the local school was mentioned this morning. I am bound to say that was news to me. I can say that if it is right that lorries would be routed past a local school—we will check that—then I am told that the arrangements that we have already told the Committee we will commit to in relation to schools in Whitechapel and going in and coming out times will be applied in relation to that school as well.

(Mr Berryman) That is correct.

17596. **Chairman:** All lorries used will be sheeted over?

(Mr Berryman) Yes, throughout the project that will be the case.

17597. On the top sites, which is concrete mixing, is the mixing on site?

(Mr Berryman) No, that will come from a ready-mix concrete plant and, as I say, just literally poured down the manhole. It is not quite as simple as that, but that is the general gist of it.

17598. The final thing is in relation to the request for similar arrangements as Whitechapel on the one-stop kind of shop for all inquiries, and to liaise.

(Mr Berryman) In principle the answer is yes. We will be producing a community relations strategy in due course.

17599. When will that be available?

(Mr Berryman) It is available in draft already. It is going round for discussion with local authorities. It is not going to be ready in the next few weeks but it should be ready by the end of the year.

17600. **Mr Binley:** Can I ask if you will be discussing that with the residents' association as well, as they seem to have ownership of a sizeable piece of this?

(Mr Berryman) We will certainly keep them informed, yes.

17601. **Mr Mould:** Just before I sit down, I have got the relevant page from the combined settlement report to set out the accurate position on geology—you can see it is under section 3 there—so that we do not mislead you unintentionally in relation to that.⁴⁵ I will give a moment for you to read that.

17602. **Mr Binley:** Does "Made ground" mean disturbed ground over the years? Is that what that means?

(Mr Berryman) In actual fact, it looks as if it would be London clay at that particular point.

17603. There is only 11 metres of London clay.

(Mr Berryman) Yes.

17604. And that is rather shallow in terms of—

(Mr Berryman) this particular house is the shallowest of running tunnels under anybody's house, anywhere on the network, but it is 11 metres of—London clay is pretty solid stuff.

17605. That is one of the reasons why you cannot go any deeper?

(Mr Berryman) No, I am not saying that. The reason we cannot go deeper is because of the geometry of getting under the river and getting over the Northampton Interceptor Sewer.

17606. **Mr Mould:** I do not want to go into any more detail about this particular property now because I think Mr and Mrs Wheeler are coming along a little later. Thank you very much.

⁴⁴ Amendment of Provisions Environmental Statement—May 2006, Chapter 5, Route Windows C13 and C13A: Pudding Mill Lane Portal and Abbey Mills Duration of the Works, billdocuments.crossrail.co.uk (SCN-20061018-002).

⁴⁵ Crossrail Ref: P126, Generic Phase 2, Settlement Assessment, Geology (TOWLB-29104C-012).

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Cross-examined by **Ms Bradshaw-Price**

17607. **Ms Bradshaw-Price:** Mr Berryman, can we go back to your drawing 001?⁴⁶ I am going to go backwards because this is fresh in people's minds. It is the one of the two tunnels underneath. That house is 5.8 metres wide. You said the tunnel underneath is 6.6 metres wide. There is no way that tunnel underneath, in comparison, is 6.6 metres wide. It has actually been drawn a great deal smaller. I know that Mr and Mrs Wheeler will be talking to the Committee about the scale of perception that they have asked for but I put it to you, do you think that is an accurate, to-scale drawing of what you are doing to do?

(Mr Berryman) This was drawn by our surveyors—

17608. No, no, I asked you if you think it is accurate. **(Mr Berryman)** I was just about to tell you that it was drawn by our surveyors and they are usually pretty accurate.

17609. Does it look accurate to you, given that the house is 5.8 metres wide?

(Mr Berryman) I do not know the dimensions of the house.

17610. **Ms Bradshaw-Price:** I am telling you what it is. We have measured it.

*The Committee suspended from 3.00 pm to 3.26 pm
for a division in the House*

17611. **Ms Bradshaw-Price:** The point I wanted to make here, and it is a very simple one really, is that if that house is 5.10 metres, which it is, the Wheelers have measured it several times, and that tunnel underneath is supposed to be 6.6, then that is not an accurate-scale drawing and that is what concerns me. If Crossrail is letting us know that that is an accurate-scale drawing, it is incorrect and I think they should be producing accurate-scale drawings at this juncture.

(Mr Berryman) During the break, I had a chance to scale off the drawing and it seems that the 6-metre-diameter tunnel and the 11-metre-diameter distance from ground level to the tunnel are in scale. I am not sure that the house is in scale. I think the house may have been drawn too big, or it may have been drawn because the house is at an angle to the tunnel. It may have been drawn to take in both the front and the back of the house, but, without checking with my surveyors, I would not know what the answer to that question is and I would have to check with them overnight. There is a possibility that the house is drawn too big. If that was the case, it would have a smaller appearance.

17612. **Chairman:** The point has been made and perhaps you could have a look at that.

(Mr Berryman) I will certainly get the surveyors to check that. It is extremely unusual for them to make a mistake, but I will check.

17613. **Ms Bradshaw-Price:** I also have another question, Mr Berryman, about the footpath. Perhaps I could have our slide 23, or whichever one, which shows the works on Wick Lane and Wrexham Road.⁴⁷ I am very concerned that it is going to be closed at any point, and I speak for the Residents' Association, not just me, because a lot of kids come down here, through here, through the park to Bow Boys here. They also come from Bridge Estate and down here and along there. That would cause a major obstruction for them. They come from across the way as well. The pictures which I showed this morning of the community policemen, they walk down there and around here for security reasons. There are also mounted police that use that route very often, both ways. Then there are all the people from here who walk down to Tesco's. It is going to cause major problems. That is a very well-used route.

(Mr Berryman) I think the section of the footpath from here south can be kept open. There should not be any particular problem with that. As I said earlier in my evidence, it will be necessary for a short closure of perhaps a few weeks of this section just here. This would happen with any scheme for the alteration of these sewers simply because it is required to pick up the existing sewer that runs down this street here. There really is not a way round it completely. We can minimise it and we will certainly make the best endeavours to minimise it, but we cannot make it go away completely.

17614. **Ms Bradshaw-Price:** You also mentioned consulting Leaside Regeneration and the local authority. I would like to remind you that they are actually consulting us and that is why it has taken so long to come up with a master plan, that they are not consulting us and telling us what to do, but they are actually coming into the community and they have had plans there. On 18 March of this year there was quite a big exhibition, asking us what we wanted, where we wanted to go, what we needed and what we wanted it to look like. That is why the plans have not been finished, so when you say you are consulting them, I would like to remind you that it is a people's park as well and you are not just dealing with the local authority and Leaside Regeneration because they are not doing it on their own. I think it is symptomatic of Crossrail's approach to we, the public, that—

17615. **Chairman:** I think you have reminded me of the fact that he liaises with the statutory authority on what Crossrail do and you also made the point that he should be liaising more frequently with yourself.

⁴⁶ Crossrail Ref: P126, Tunnel Gradient and Long Section—Mrs Barbara Wheeler, 1 Baldock Street, Bow E3 2TP (TOWHLB-31204-001).

⁴⁷ Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion—Sketch 10, Wick Lane and Wrexham Road Worksite Layout (TOWHLB-29104-040).

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17616. **Ms Bradshaw-Price:** I would like to return to your plan, Mr Berryman. You showed an outline of the park. It was a sketch. You put it up to show how big the park was and how little the worksite was.⁴⁸ South of the work area, that is a memorial garden and children cannot play in there. It is a flower garden. Also the worksite is right across the middle of that path which you see running through and that is a well-used path as well. I just want to point out that actually the area there is not as big as it looks on the plan. The area that people use to run around in is just on that top right-hand side because there is a football pitch there and there is a playground at the top part, so effectively that is already used, and then there is a grassy bit just to the west, so it is not actually what it seems from that plan. I wondered what the costs of the sewer diversion were over going deeper at Stratford. I think you will find that Mr Mould said something about us wanting to miss out Stratford completely. We never, ever even considered that. We were considering that Crossrail could go deeper and we just wondered what the cost of the sewer diversion and all the attendant works would be as against going deeper at Stratford. That is what we wondered about, whether you had any figures.

(Mr Berryman) Well, I do not have exact figures, but it would be of the order of £3.5-4 million for the sewer diversion to £300-400 million or more actually, £500-odd million, for going deeper at Stratford because you would have to have an underground station at Stratford. You may recall that we discussed this when we were taking evidence from the people from Shenfield as to how complicated an underground station at Stratford would be and how much it would cost, so we are really talking about very, very substantial differences, thousands of a%.

17617. I have one more point and could we have image 28 please.⁴⁹ Crossrail are already acquiring all of this, so I was wondering why it would be such a problem to acquire this. Even if you do not have the powers, I am sure Thames Water have powers. It just occurs to me that maybe it might not be so insurmountable as you seem to think. The other point is that if you already know your route so well and you have all these clear and scaled drawings, surely when they build this complex here, could they not build that shaft at the same time? Since Crossrail know exactly what they are doing and the way things are being planned, I would not have thought that would be a major expense to build that shaft while they are constructing the foundations of that new development there.

(Mr Berryman) Well, it would depend on the funding of the scheme as a whole and the decisions to be made by the Secretary of State in due course as to whether the scheme goes forward in its current

form or not. As regards using the powers of Thames Water, I think that is a legal question. Our advice is that that would not be possible as a general rule and that it would need someone other than myself to explain why that officially is, but we have been given that steer on many, many occasions.

17618. It would be nice, Mr Berryman, if you just looked at me once during our discourse.

(Mr Berryman) I am sorry, but the convention of this place is that I have to face the Committee when I respond.

17619. **Chairman:** That is correct, I am afraid. Mr Mould?

Re-examined by **Mr Mould**

17620. **Mr Mould:** Mr Berryman, the point was raised about the existing diagonal route across the path—you will recall that the question was put—towards the memorial garden?

(Mr Berryman) Yes.

17621. Do you want to say anything about the arrangements to review that?

(Mr Berryman) We have adjusted the boundary of our site compound slightly, which you can see there, so that that footpath can be kept open and access to the memorial gardens can be maintained as now.

17622. Thank you, Mr Berryman.

The witness withdrew

17623. **Mr Mould:** Now, sir, there were points raised about noise impacts and Mr Reuben Taylor is ready to call Mr Thornley-Taylor to deal with those.

17624. **Chairman:** We are in tune with all of the arguments on noise actually.

17625. **Mr Mould:** Then just to sum up very briefly, and I will not take that long because you have heard the issues dealt with in some detail, firstly, there is the question of the need for the diversion of the H.A.M. and Wick sewer. Our submission is that the case for that diversion being required and justified in the context of the Crossrail scheme is clear in the light of the evidence you have heard from Mr Berryman. Certainly the case against it, which has just been explored a little further in cross-examination, is, as a point of money, a choice between £3-4 million for the diversion and upwards, I think the figure was given, of £500 million by Mr Berryman for the inevitable deepening of Stratford station. One only has to mention those figures to see that is a clear-cut proposition. Certainly we would submit that the approach we have taken in relation to strategic issues means that the sewer diversion is clear and supported and Mr Berryman has explained the more localised question of the existing sub-surface constraints of the sewer, the River Lea and the need to find a way of resolving that clash, as I pointed out to you in opening this morning, between

⁴⁸ Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion—Sketch 5, Option 5—Additional Provision Plan and Construction Sites (SCN-20061018-001).

⁴⁹ Committee Ref: A???, Fairfield Conservation Area Residents Association, H.A.M. and Wick Lane Sewers Diversion (TOWHLB-29105-028).

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the existing H.A.M. and Wick sewer lines in the ground and the Crossrail tunnels as they begin to merge up towards Pudding Mill Lane. That case of course has been accepted, as you were told yesterday by the local planning authority, Tower Hamlets, in their presentation to the Committee.

17626. Moving then from that to the case for the additional provisions now put to you, we have explained the reasons why we have moved from the Hybrid Bill to the additional provisions and we have explained that the need for the intermediate shaft in Grove Hall Park is one which has its basis firmly in the health and safety operational requirements of the statutory undertaker who would take on responsibility for the diversion of the sewer following completion of the works. I do not need to say more than to remind you of what was set out very clearly and unequivocally in the letter from Thames Water in that respect.

17627. The Petitioners put forward the two shaft alternatives which are on the screen before you. You have heard Mr Berryman say that we have spoken to Thames Water about that and there is no significant operational requirement to be gained by that alternative. Our proposal is satisfactory and it meets their operational requirements.

17628. So far as the environmental impacts are concerned, Mr Berryman has explained that in fact the two-shaft alternative is one which has significant environmental disbenefit over the Crossrail additional provision proposals and, in particular, it would involve substantial conflict with an already committed residential development in relation to the northern of the two alternative intermediate shafts, a development which we expect to be completed and occupied by the time that shaft would come to be built, and you have seen the visual material. The effect of that would be a worksite which would be surrounded on three sides by substantial and dense residential occupation and the environmental impacts associated with that need no further elaboration. Insofar as there is also a problem with prolonged interference with access to that new development and for those who would be in occupation of it, we expect (inaudible).

17629. So far as the southern shaft of the site is concerned, Mr Berryman has explained the problems of getting access to that in the absence of Bill powers and the need for additional provisions if that package is to be a package of two. That shaft in isolation is not sufficient to meet Thames Water's requirements because it does not meet sufficient spatial distance in order to meet their health and safety criteria. Therefore, the alternative solution is not one which has operational advantages and it is one which has clear environmental and construction disbenefits.

17630. The additional provisions scheme, on the other hand, is one which, whilst it will plainly have an environmental impact during the construction

phase of some six months, as has been mentioned, in terms of its permanent impact, it would be, we would respectfully submit, negligible, a narrow hole in the ground, and we have explained that we have entered into, and will pursue, in close co-operation with Tower Hamlets and the community, all reasonable measures to minimise the impact of that site both in terms of duration and in terms of the extent and effect of the works.

17631. I have mentioned to you earlier the undertakings referred to by Tower Hamlets yesterday. The upshot is that Tower Hamlets have told you that they are content for that proposal to go forward, subject to the those undertakings and arrangements we have agreed, and that embraces the reinstatement provisions that Mr Binley and Mrs James asked about earlier and about which I gave extra information in the light of yesterday's proceedings.

17632. Touching briefly on other matters, we have addressed in general terms the question of settlement. We have assessed the combined impact of the sewer and the running tunnels in this location. That assessment has been shared with the Petitioners. We have explained the limited amount of night-time working and you know about our general approach to noise matters, both groundborne and surface noise, so I do not need to address that any further now.

17633. In relation to general matters of enforceability and environmental control, as I said earlier, we have dealt with those already in a number of sessions and I do not need to take further time on that, as indeed have we dealt with the question of entitlement to land compensation. You have our compensation note which bears to a certain degree on the Petitioners' circumstances before you today.

17634. Sir, the upshot then is that, along with the Borough Council, we would respectfully submit that the proposals which are now set out in the additional provisions for the diversion of the sewer are proposals that the Committee can recommend to the House. Thank you.

17635. **Chairman:** Ms Bradshaw-Price, you have the last word.

17636. **Ms Bradshaw-Price:** Well, I am not a barrister, but I feel, when I speak on behalf of the Residents' Association and all the people in the area, that it is defacing the park permanently. I think it is not respecting open spaces and whilst I understand that monetary considerations are really important, there is a big difference between £4 million and £400 million. It was not £500 million and I think he said between £3 million and £4 million. I just do not think it is always a question of money and I am not being naïve. It is a little park, it is a protected area, it is unique and there are not any other areas like it. There is lots more building going on. You saw from the Crossrail presentation that there is that big area

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there which is going to be another, I do not know how many, hundreds of houses and people coming into the area with no provision for open space. It has been taken away and not given back. I think that is all and there is nothing I can add to what I have said. Thank you very much.

17637. **Chairman:** Thank you. Can I just say that even though you are not a barrister, as is no one on this top table, you have put your case very, very well.

I know you have been through a bit of pressure today and it has been very arduous, but it is much appreciated.

17638. That ends that Petition and we now move on to the second Petition which is Barbara and Tony Wheeler.

The Petition of Mrs Barbara Wheeler and Mr Tony Wheeler.

Mrs Barbara Wheeler and Mr Tony Wheeler appeared in person.

17639. **Chairman:** Could we have the case outlined, Mr Mould?

17640. **Mr Mould:** I wonder if we can put up our document 30 please.⁵⁰ Sir, Mr and Mrs Wheeler are the owners and occupiers of the house about which there was some debate as to the accuracy of the drawings and so forth and that property is to be found there, number 1 Baldock Street. You can see that it is located beneath one of the proposed running tunnels of the railway line. I think you have already been told about the depth of the sub-surface tunnels at that point, so I need not repeat that again. Mr and Mrs Wheeler have various concerns, but we understand that they are concerned principally with settlement and the impacts of noise. I will hand over to them.

17641. **Chairman:** Mr and Mrs Wheeler, you have never been in front of a Committee like this before?

17642. **Mrs Wheeler:** No.

17643. **Chairman:** Do not worry; we are as nervous as you are! The normal procedure is that one of you takes the lead and we have a discourse, a chat, and proceed along. We are fairly tolerant.

17644. **Mrs Wheeler:** We are the owners of 1 Baldock Street and that is the house on the end of the terrace and the Crossrail line, the westbound tunnel, goes directly underneath our house from one back corner to the front opposite corner.

17645. The first thing that I wanted to talk about was the consultation. It is a question I have asked Crossrail before and never got a straight answer to, but when we saw Crossrail on Monday, I asked the question again, "Are we the property closest to the top of the tunnel?", and we got the straight answer this time that we were with the tunnel only 11 metres underneath us. As such, I cannot understand how we are so affected by their plans that we were not told by them how we were affected by their plans.

17646. The second round of consultation closed on 27 October 2004 and a neighbour put a note through our door on 22 October to tell us about Crossrail. She knew because her house sale fell through because the prospective buyer discovered on the search that the Crossrail tunnel was going to go underneath her house, but at a deeper level, so that was the first she was alerted of it and then she came and put a note through our door when she got the map and saw that we would be even more affected.

17647. **Chairman:** Can you just remind me of what the date was when this occurred, when your neighbour put a note through your door?

17648. **Mrs Wheeler:** It was 22 October.

17649. **Chairman:** 2004?

17650. **Mrs Wheeler:** 2004, five days before the second round of consultation ended. The day after the neighbour dropped the note through the door, we got the Land Aspects land referencing letter. I imagine you know the letter, well, it is a form, wanting to know what your interest in the house is, who the house belongs to, what floors you own, how many floors there are in the house. Had I not been alerted just by one day by the neighbour that our house was going to be affected at all by the plans, this would have been the first I knew of Crossrail's plans. When I say "the first I knew", we had had the general leaflet put through the door, and perhaps we could have that up on the screen please. "Info leaflet", it says. That is as detailed as it got from Crossrail. That is the map that appears in all their general literature that gets dropped through people's doors and it says that Crossrail is this new, fast line that is going to run from Shenfield to Maidenhead and it gives that map.⁵¹ Yes, I will absolutely admit that we have had probably at least one, maybe two, of those leaflets put through the door, but that is as detailed as it gets to let us know that the tunnel is going under our house, what you see there, Whitechapel to Stratford, with what we later discovered is the portal symbol. I think we must have looked at that leaflet and thought, "That's nice for London", and put it in the paper recycling box.

⁵⁰ Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion, Locality of Petitioners (TOWHLB-29104-030).

⁵¹ Committee Ref: A195, Crossrail Info leaflet (TOWHLB-31205-003).

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17651. The next we know, as I say and I have given the dates, is that on 22 October the neighbour lets us know. Then on 23 October we get the Land Aspects land referencing letter. This was still entirely new because we still did not know what Crossrail meant to us because we did not get a detailed map from the neighbour to say how we would be affected, just that we were going to be affected, she knew. When we got the Land Aspects land referencing form, I just thought, and it is a natural reaction, "How nosy. Why should we tell anybody who owns the house, how many floors we own." It is a sort of invasion of privacy. Let's say, there had been no introduction, so why did these people need to know our business, and I did not actually send the form back until they sent a reminder some time later.

17652. As a result of knowing that we were going to be affected, I wanted to know how much we were going to be affected. On 30 October, so this is still a very short number of days later, within a week, I phoned the Crossrail helpline number and asked how we would be affected. On 19 November, we got a letter in the reply from Crossrail and perhaps we could have that up on the screen please.⁵² It is the Crossrail letter, page one. Maybe people would like to read it. This is our first direct communication from Crossrail. This is the first personalised letter that we received. It begins, "Thank you for your enquiry of 30 October", and that was my telephone call, "regarding the effect on your property." Then it goes on generally as to where the line is going to run, and then, "I enclose a copy of the consultation drawing as used in the round 2 consultation". I remember that drawing and it is a map, but that was the first time we had it. That was the first time we had a map to alert us to the fact that the dotted line was going from one corner of our house to the other and that the tunnel would be located at a depth of approximately 11 metres.

17653. Well, we were shocked, absolutely shocked. I could not believe it, that the second round of consultation had closed and not only that, but they did not seem to feel the need to have let us know personally. They had known for all of that time, the plans had been drawn up, but we were not alerted at all. They had lots and lots of facts and figures about how much consultation they had done and how many leaflets they had distributed, which we have since read in answer to a point in the Petition, and how many exhibitions they had at libraries. They have just given us so much information and facts and figures about what consultation they have done, but we on the ground have a very different view of that. To think back to the first generalised leaflet, we just thought, "Nice for London", and moved on because we have other things to think about, other letters to open, but it is up to us. Crossrail, in their literature, leave it up to you to ask them, "How am I affected?", but on that, if you think of that Tube map,

Whitechapel to Stratford, that is so vague that how are we supposed to deduce from that that we are affected?

17654. Of course since then we have formed a Residents' Association mainly because of Crossrail. Yes, that was the spur. We were not the only people not to know about it and in fact by that time, by the time we had formed it, we were even telling people about the Crossrail plans, so other people who will have the tunnel running underneath them were in exactly the same position as us, so okay, Crossrail did not happen to overlook us; they overlooked everyone.

17655. **Mr Wheeler:** That was the first letter and we showed that to neighbours because some neighbours did not even get the little, tiny leaflet and did not know, so for us to receive this first, it was, as you can imagine, quite a shock to suddenly realise that there is a major railway tunnel, in fact two because the other one is only 11 metres away from the house, going underneath our house, so it was quite a wake-up call and of course you then try and find out more about what it is and what it is about.

17656. **Mr Binley:** I understand your deep concern, but I just wanted to say, though I am not sure it helps you, that we have had many discussions about the quality of the consultation and I am particularly interested because it has been my business for a long time in marketing. I think that there ought to be two levels of consultation in this respect and I am going to ask about the second level because those people directly affected ought specifically to be consulted in a different way from the general consultation. I just want to put my mind at rest that we have that point on board, Mr Chairman.

17657. **Mr Wheeler:** Obviously Crossrail knew we were directly affected before we ever did, but up until very recently we have not actually spoken to them directly and it has only happened relatively recently to have, as you put it, a direct link, otherwise it has just been that we have visited libraries and other places to try and source information, so it is only relatively recently that we have had that direct link.

17658. **Mrs Wheeler:** We waded through information at the library, just huge A3 booklets which cover the whole of London. Half the time you are trying to get to grips with the way their classification goes and half the time you realise you are looking at a leaflet that is for the completely wrong area.

17659. **Chairman:** I think you will have an opportunity, when Mr Mould responds to your presentation, to raise some questions on the consultation side. Perhaps we can move on to the other parts of your Petition.

17660. **Mrs Wheeler:** Well, linked to that, or do you want me to leave the consultation altogether?

⁵² Committee Ref: A195, Correspondence from CLRL to Ms Barbara Clarke, 19 October 2004 (TOWHLB-31205-001).

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17661. **Chairman:** All I would say is repeat what Brian has said, that we have had quite a lot of dialogue on this during the course of the hearings and we have raised it before. What I want to do in respect of the consultation is to listen to Mr Mould's response to your presentation and maybe ask him some questions then. Certainly it will give you an opportunity at the end to come back in your summing up on what he has actually said on the matter.

17662. **Mrs Wheeler:** Well, we do have some other letters.

17663. **Chairman:** You can stick with the matter of the consultation or the lack of it, if you like, but I think you have made the point about the lack of consultation. It has already been made very, very clear to members of the Committee that there has not been a great deal of it and what we will be doing is listening to Mr Mould's response to that and then making a judgment along those lines. If there are other letters that you would like us to see, we would be more than willing to have them copied for ourselves and also to give them to Mr Mould in order to further make your point because we will not be making any decisions today, but we meet as a committee and we discuss all the Petitions and then take a general view on each one.

17664. **Mrs Wheeler:** There would be just two other letters that I would like you to see.

17665. **Chairman:** Okay, proceed.

17666. **Mrs Wheeler:** It probably will not take long. We formulated a number of questions after going through the literature and we thought that the most important questions that we needed answering were ones that we wrote down in 17 questions. On 4 July, we sent a letter to Crossrail and it is a very straightforward letter asking 17 very basic questions.⁵³

17667. **Chairman:** Could I just ask, whose letter is it? Is it your letter or is it from the group?

17668. **Mrs Wheeler:** It is our letter, purely our letter.

17669. **Chairman:** There is a rather long gap between November and July.

17670. **Mrs Wheeler:** Yes.

17671. **Chairman:** So you took that length of time to respond?

17672. **Mr Wheeler:** No, we did not. We did not get any more information out of Crossrail at the time. The rounds of consultation had finished. We do not actually know what it was because we did not actually see it, but we understand that—

17673. **Chairman:** So you spent that time trying to find out?

17674. **Mr Wheeler:** During that time we went to the library, we went to the local town hall. We saw the fact that the original document was an A2 document which we waded through to try and find information, so from visiting the library and the town hall and places like that, we came to this letter. It takes a while to try and get information because it is no longer there until you dig it out.

17675. **Chairman:** You have satisfied my curiosity.

17676. **Mr Wheeler:** So we then write this letter.

17677. **Mrs Wheeler:** And we got a reply on 27 July, so we wrote the letter on 4 July and we got a reply on 27 July, which perhaps could be put up.⁵⁴

17678. **Mr Wheeler:** As you can see for 17 questions, it is a very short reply.

17679. **Mr Binley:** Is that the sum total of the letter?

17680. **Mrs Wheeler:** There is another page, page 2.

17681. **Mr Wheeler:** As you see, it talks about certain things, including on the page which is up at the moment, "Result of settlement, slight" at the top of the page, that the maximum sound would be 40 decibels and that where trains run across continuous welded track, it would be on a resilient basis. Having found things out later, we know more about this welded track and the other things which you all know about, so it sounds as though everything is okay from this letter.

17682. **Mrs Wheeler:** The main point about the letter is that it does not answer any of our questions at all. They are just stock phrases that are lifted from many of the phrases we heard in the first letters they sent us. We got no further forward with our 17 questions. We went back to Tower Hamlets and asked if they had had any information.

17683. **Chairman:** I note the lack of consultation, but is there another section to your Petition which you wish to make?

(Mrs Wheeler) Yes. The main thing is the tunnel underneath our house—the one tunnel, in particular, directly underneath our house. We wanted to talk about the work sites which are directly alongside the house and on the Blackwall Tunnel Approach Road behind us. That is basically it.

17684. Are they questions for Crossrail or are they opinions which you have on moving the tunnel?

⁵³ Committee Ref: A195, Correspondence from Ms Barbara Clarke and Mr Tony Wheeler to CLRL, 4 July 2005 (TOWHLB-31205-004).

⁵⁴ Committee Ref: A195, Correspondence from CLRL to Ms Barbara Clarke and Mr Tony Wheeler, 27 July 2005 (TOWHLB-31205-006 and -007).

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(Mrs Wheeler) Worries. Am I supposed to be asking questions of Crossrail? Do I make statements or ask questions. I would rather have Crossrail answering questions as I go through.

17685. **Chairman:** I think the best way forward is to pause your Petition, ask Mr Mould to do a response and then get Mr Berryman to answer a few queries.

17686. **Mr Mould:** We will be as flexible as we can. I understand the concerns about the consultation and I will say what I can in relation to that, but, as I understand it, the real concerns that the Committee will want to grapple with are what it is that the Petitioner wants the Committee to do in relation to the scheme that is before the House. Is there some positive action that the Petitioner wants of the Committee in relation to settlement matters, for example? Is there some particular mitigation that is required in relation to groundborne noise? I think it would be helpful to have a short summary of what it is the Petitioner wants the Committee to require of us, so that we can then deal with that.

17687. **Chairman:** Mrs Wheeler, have you put your worries and your concerns to Crossrail already at any point?

(Mrs Wheeler) We met with Crossrail on Monday and asked them about the tunnelling and they told us more about the tunnelling.

17688. Do a quick summary of your worries and concerns, then we will move to Mr Mould and then we will get Mr Berryman in. Mr Mould might be able to deal with some of those concerns himself and then we can pick up and respond to that. Perhaps you would do a summary on your major concerns.

(Mrs Wheeler) The foundations of our house, we feel, cannot withstand having a tunnel just 11 metres underneath us. It has simple brick foundations. We went to the borough planning office, because we hoped to find out more about the structure of our house, and we spoke to a planning officer who said they were likely to be just simple brick foundations. On Monday we spoke to a tunnelling engineer who did not know what the foundations of our house would be and yet they have planned their tunnel to go 11 metres underneath us and it seems the house will have to put up with the consequences. We do not feel as if our house has been assessed at all really for this damage. It is sort of after the event: after the route is planned, after the route is drawn up, after all the depths have been decided on, then they will come and look at the house.

17689. **Mr Binley:** Mr Chairman, might I ask, through you, a question. We have a Petition from Mr and Mrs Wheeler that lists their concerns, quite clearly, and it lists the response from Crossrail, quite clearly. Are there specific points in that response you disagree with, so that we can specifically understand the points you accept and recognise are wrong or whatever and the points you feel you disagree with and that there is real argument there?

(Mrs Wheeler) We have not been given any details about how our house is going to be monitored at all.

(Mr Wheeler) We know that the tunnel is going to be 11 metres. We know that the diameter of the tunnel is wider than our house. We received information which says that as such. I do not know what 11 metres is. It could be the width of this chamber.

17690. **Chairman:** As I understand it, this chamber is about 7.5 metres in height, so it is this height and half again.

(Mr Wheeler) Yes. It is very close to us and that is a major concern of ours. We also feel in relation to the noise—as it says here: “a maximum sound noise of 40 dB”—you can hear 40 dB. We have been told that a sound studio is 30, 32 or 35 dB or something, but you can hear that noise. With it being so close, that is a major concern. We were told but the tunnelling engineer that the diameter of the tunnel is such that, where it starts in Pudding Mill Lane, they do not know how it is going to operate until it goes into the ground in what it is going to hit, so there is a certain amount of deviation. If that machine hits softer ground, then we have been told they would stop and investigate, and, if our property starts to move, we have been told they would start and investigate. If the monitoring equipment—because we categorise for monitoring equipment—detects movement or the house has started moving, then it has already started moving. It is like detecting something after something has happened or is happening. So we are very worried. We are very worried. We have also been told that, at 11 metres, it is the least distance below any house on this route or the cross-Channel tunnel route. It is the least distance that any residential property is on the London Crossrail Link route. We feel that we are in direct threat from the tunnel and everything. I cannot talk about the noise, because I am not a noise person. I cannot talk about the vibrations, because I am not a vibrations person. But everything that probably has been mentioned to you before now, we feel concerned about. So we cannot go through our petition, as you have said, and raise everything. They have answered all the questions but we are still concerned and we still believe that with something so close there will be absolutely no doubt that we will know it is there. We feel that we will know it is there, even if we cannot . . .

17691. **Mr Binley:** I get the feeling that what you really need to understand is that Crossrail understands the problems you face and needs to give you comfort, reassurance and guarantees all through, in terms of the areas you are talking about. You feel they need to do that because you did not invite them in; they invited themselves in. That is the situation, is it?

(Mrs Wheeler) Yes.

17692. **Mr Binley:** Then it might be useful if we hear from them.

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17693. **Chairman:** Do you have a specific request, as well as finding out information, for extra foundations, monitoring equipment, noise—

(Mrs Wheeler) Yes.

(Mr Wheeler) When we spoke to Crossrail on Monday, they said that they cannot do anything for us because their bill does not cover it. Is that right?

17694. I suspect what we do now is move to Mr Mould to sum up, and then, hopefully, we will get an opportunity where we can ask some questions and we can make judgments. The only alternative to that is that I ask you to go away and meet with Crossrail and come back at a later stage. I am not quite sure that is going to help very much because you have already met them and discussed things. I think it is probably best to proceed today. Are you happy with that?

(Mr Wheeler) Yes.

(Mrs Wheeler) All right.

17695. Mr Mould has the right to represent the Promoters. Mr Mould, would you like to respond?

17696. **Mr Mould:** Yes. I will come back to consultation and deal with substantive issues. There are two main points: settlement and noise. This is picking up on points that have been made in the Petition response document—which Mr Binley had in front of him, I think. As the Committee knows, we have a process in relation to settlement which involves a continuing risk assessment exercise in stages, and, in relation to the Petitioner's property, we have reached the stage 2 settlement assessment process.⁵⁵ If we turn to page 2 of this document—this is familiar territory—you will see that set out. At 2.32, you will see that that involves: "A generic area-wide assessment of settlement . . ." and so on and so forth.

17697. To cut to the quick, the upshot of that stage 2 assessment in relation to the Petitioner's property is that their property has been identified as falling within risk category 3. The risk categories are set out on page 10 of the information paper D12. Risk category 3 means that there is a moderate risk of damage resulting from the tunnelling works and that is characterised as: "Cracks may require cutting out and patching. Recurrent cracks can be masked by suitable linings. Repointing and possibly replacement of a small amount of exterior brickwork may be required. Doors and windows sticking. Utility services may be interrupted. Weather tightness often impaired." Then the width of the crack is set out. There is purely a risk here, on the basis of our current assessment of significant damage being caused. We therefore move to stage 3. This property automatically goes into the third stage.

17698. The third stage, if we go back to page 3 of the document, paragraph 2.41: ". . . each building is considered individually in contrast to the first 2

stages . . ." and it consists of a number of sub-steps. Effectively, this is a comprehensive risk assessment of the individual building concern. If you turn to page 4, we can see that it involves, amongst other things, monitoring during the currency of the works, protective measures being identified in order to address the risks which have been identified in relation to the building, provision for defect surveys in order to identify the physical state of the building before the works begin, so that a fair assessment can be made of any damage there has been caused during the course of the works which then requires remediation at our cost.

17699. **Mr Binley:** Forgive me, Chairman. May I interrupt you, Mr Mould. Has that been fully and properly explained to Mr and Mrs Wheeler, who are clearly very worried about their house, and rightly so?

17700. **Mr Mould:** I understand that it has. There is always a problem, of course, when one thinks one has explained, whether one has done so effectively. Please do not misunderstand me. We very much understand the genuine concerns which these Petitioners have. We know about the sensitive location of their property in relation to the running tunnels. It has been explained to the Committee just now. I can point out to the Committee how the process works to their advantage and to protect their position. This has been set out in a little detail in the Petition response document, but it is helpful just to remind the Committee of how it works. The stage 3 assessment process, in the case of this building, has not yet been undertaken, so that is work to come, but it will be done, because that is what our policy and our commitment under this information paper requires. Plainly, we will fully involve and embrace the Petitioners in that process, so that they are aware of and are participating in the exercise and have that reassurance which you just mentioned to me.

17701. **Mr Binley:** Can I come back to you, again through the Chairman. It seems to me that there is work to do here. It seems to me that Mr and Mrs Wheeler need to be totally reassured. I believe that what you have pointed out to us will, if properly explained to them, be understood and accepted by them. But it needs to be properly and carefully explained, because evidently Mr and Mrs Wheeler are simply lay people and, with respect, most of what you have read out is couched in specific language. It would seem to me that there is a need to get together. If you did that and talked together, then Mr and Mrs Wheeler still have time to come back to us if they still have concerns which are not dealt with. Does that sound sensible?

17702. **Mr Mould:** You have taken the very words out of my mouth.

⁵⁵ Crossrail Information Paper D12—Ground Settlement, billdocuments.crossrail.co.uk

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17703. **Mr Binley:** I am delighted.

17704. **Mr Mould:** As always in these matters, you anticipate what I have to say. We have had meetings with the Wheelers; we need to have another meeting. We will arrange for Mr Black, our settlement expert, to meet with them. It seems to me that the sensible thing is for this to take place in the context of explaining to them and offering them the benefit of the deed in the past. They are the freehold owners of their property, as I understand it. The property is plainly one that falls within the qualifying criteria. It is right over the running tunnel, so there is no question of any distance criteria and the difficulties there. The risk category that it is in now, the fact that it is going forward to this phase 3 assessment on the basis of a moderate risk having been identified under the stage 2 process means that it falls within the embrace of the criteria where a deed is available.

17705. Let us deal with it that way. Let us offer them the deed, explain how that picks up formally, and in a contractually binding scenario, the provisions for monitoring, review, preventative measures and so forth that we have explained to you in the past.

17706. **Chairman:** That is helpful.

17707. **Kelvin Hopkins:** I want to be reassured that Mr and Mrs Wheeler would have the opportunity to come back to us if they wish.

17708. **Chairman:** From the Chair, yes.

17709. **Mr Mould:** I think that is a matter for the Committee.

17710. **Kelvin Hopkins:** On the second point, I was hoping to ask Mr Berryman about noise mitigation. He referred to slab track and the maximum possible noise displacement for those sections which go under houses very close to the surface.

17711. **Chairman:** I expect it is Mr Thornely-Taylor.

17712. **Mr Mould:** It is Mr Thornely-Taylor. I will say a little about that. If you would like me to I can certainly call Mr Thornely-Taylor to explain this.

17713. **Chairman:** If we are doing one suggestion, which is wholly appropriate, which is to go away and have a bit more conversation, it might also similarly be done with noise abatement in that respect. That could also be brought back at a point in the future. What I would like to deal with, however, is the lack of consultation, in the remaining minutes that we have left.

17714. **Mr Mould:** Can I have a minute on noise and then two minutes on consultation? On the question of noise, the position is that we carried out our predictions, as you know, in relation to all properties on groundborne noise. The predictions in relation to this property are that of 32 dBA max. As you know,

we are designing to a standard of 40, so we are well within the design criteria. Mr Thornely-Taylor reminds me that is inside or close to the level for a studio. Our predictions are that this is going to be a satisfactory level.

17715. That does not involve any assumptions as to special track form; that is based on the standard track form that we have explained to you in the past. That is the position. In relation to noise from the construction sites, the construction sites which I think they are concerned about is the Wick Lane site, which Mr Berryman explained earlier on, which is just around the corner from their property. There we are proposing a 3.6 metre high noise barrier for the duration of that site, and our assessment is that that will provide sufficient mitigation to provide a satisfactory environment, so a mitigation of sorts will be satisfactory.

17716. **Chairman:** That is admirable, but I think we have got to agree the plan is very, very clear that Crossrail should go away with Mr and Mrs Wheeler and discuss with them both of the issues, both noise and also the liaison over their concern.

17717. **Mr Mould:** We will continue that discussion.

17718. **Chairman:** Can we now come to consultation.

17719. **Mr Mould:** What I can tell you in relation to this is this: that this part of the route was not actually fixed for consultation until the summer of 2004, so we were not in a position to know what we were proposing for the route until the summer of 2004. We then went out on the second round of public consultation, which we have told you about. Part of that exercise involved over 200,000 invitations to information centres and exchanges being distributed through letterboxes of residents and businesses near to the proposed routes, and all relevant railway stations. My understanding is that that involved a distribution to properties which lay over the line of the proposed route. That exercise would have been undertaken in relation to this property as it would have been any others in this part of the route the first time and at the second round of public consultation, because until then there was not anything to consult upon. So that coincides with what you were told about information coming to the notice of these Petitioners in the early autumn of 2004.

17720. **Chairman:** Can I stop you there? I think we have got to readily accept that there has been a certain degree of lack of consultation when somebody comes along and is asked by a neighbour on 22 October, which is a few days before the end of the consultation period, that something is amiss in relation to their property which you found out by accident when they were trying to sell their house which had fallen through, and subsequently proven by the first contacts which were made. I think we have an opportunity here actually of putting some consultation into the process. I think what we should do is readily accept that it was not the best; there

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were mistakes made and what we should do is pause on this hearing on this Petition and return to it at a later date where we can perhaps, if they still wish to persist with the lack of consultation, leave that open for them, but in the hope we can get some degree of agreement between the parties. Does that sound sensible?

17721. **Mr Mould:** It does. What I am anxious to do is focus on the substantial impacts of the proposal on them, and that is what I think you have asked us to do. We are of one mind. In relation to the consultation process, all I can put before you is what I am told we did. I will ask to follow that up.

17722. **Chairman:** What I am saying is: is there any point in us doing that now because we can return to it at a later stage anyway?

17723. **Mr Mould:** I am happy to leave it there, if you are content to leave it there.

17724. **Chairman:** Mr and Mrs Wheeler, just so you understand what has occurred, we have accepted that you had difficulties in the process of the consultation and we are going to restart. We are not going to reopen the whole proceedings but what we are going to do is try and get some consultation in now. We are going to set up for Crossrail to meet with you to discuss your worries and concerns over things like the tunnel, the noise, the ongoing noise mitigation—factors which might or might not be reduced—about blight and about all the stage 1, 2, 3 processes, and beyond if necessary. So we are going to ask Crossrail to have meetings with you now and to go away and discuss all of your concerns and for you to come back to this Committee at a later date.

17725. We think that is sensible because, clearly, you are really asking questions rather than petitioning. You are raising concerns to which you have not been able to elicit any answers so far that you understand. What we are going to do is pause the process and come back later. Do you understand that?

17726. **Mr Wheeler:** The gentleman at the end raised questions earlier on about the works. The 3.6 metre hoarding is on Wick Lane and outside our house is also the decommissioning of the sewer line which was shown to you earlier.

17727. **Chairman:** Can I just come in and say that all of your concerns and matters can be raised in the process of this consultation which will occur. We have paused it because, quite frankly, we see little point in pursuing at this present time because of the lack of clarity and because we accept there has been a degree of a lack of consultation. Mistakes have been made, so we are giving the opportunity for you to talk and either worsen your fears or clear them up. Do you understand that? Then I am going to pause your Petition. It will be rearranged at a later date and you will be contacted in that respect. We are going to move on to the next Petition. The next Petition is

Anthony Chambers. This is going to be the final Petition today. The other ones for later today have been rescheduled along with Mr and Mrs Wheeler.

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The Petitioner appeared in person.

17728. **Chairman:** Mr Chambers, you have seen part of the process certainly. Before you make your case Mr Mould is going to outline to the Committee the background.

17729. **Mr Mould:** Mr Chambers' property, I believe, is this property here at 37 Ridgdale Street.⁵⁶ His Petition is that he has concerns about land compensation, and I will hand over to him to make that point.

17730. **Mr Chambers:** I have to say that in terms of the public part of it, having Crossrail, is a terrific idea—I have no concerns about that—it is really the fact that it is going underneath my house, basically. When I talked to them about what I would get in terms of value for the purchase of the subsoil, they came back and they said that it would be a nominal value in the region of £50. There was a possibility that there would be something called “injurious affection” but they thought it highly unlikely and pretty much at every single meeting they stated that, so I get the impression they would not, unless forced into that position by a land tribunal or something, be offering anything like that.

17731. I also had a quick look at the sort of compulsory purchase things from the Deputy Prime Minister, and the first thing that it says in section 3.1 is that they are under a duty to try to, first, purchase the property, which they are obviously not planning to do, and I am left to approach them to do the same. They have not done anything about that. I went and tried to find out some values, and I talked to estate agents. They basically said that it is their experience that in the market at the moment if you are planning to sell your house with the plan for a Crossrail tunnel underneath you are likely to have a loss of sale value of about £10,000. That was just one estate agent, but to me if you think about the couple who were here before, there are probably many people that would have concerns about purchasing a house with such plans under.

17732. The other way that I looked at it was looking at what the cost of and cost savings on energy use would be to have what is called a heat exchange bore hole, which is basically a geo-thermal heating system, which would provide all my subsoil down to about 60 or 70 metres into the ground, and over about 50 years the saving in electricity would be in the region of £12,000. So there is a value there that, in my thoughts, is not £50 at least.

⁵⁶ Crossrail Ref: P126, H.A.M. and Wick Lane Sewers Diversion, Locality of Petitioners (TOWHLB-29104-030).

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17733. I do not really want to go through the process of having to go to a land tribunal with complicated things involved to try and work out a fair price or not, because it is lawyers involved and potential dangers. They should come and talk to me and work out something sensible as opposed to just waiting. I do not see why that cannot happen now; it does not mean that they have to purchase now but an agreement could easily be made. That should happen for everyone, it should not be something that has to be waited for for years.

17734. I guess the other thing that is more specific was that I saw in these notes there are thoughts that the loss in value could be offset by the fact that it brings benefits; that you have access to Crossrail. Well, in my view, that is a benefit that everyone gets; it is not a specific benefit to me. So I just wanted to see that clearly stated; that is not something that could be taken into account in the valuation sense. That is it.

17735. **Mr Mould:** Sir, the Petitioner's property is some 13 metres above the running tunnel. First of all, insofar as his entitlement to land compensation is concerned, it is, in principle, indistinguishable from that which is set out on section 1 of this note, you remember we put in, on the illustration for land compensation. So it corresponds to that, of which Mrs Ingrid Meidal Johnsen is an example.⁵⁷ We will: ". . . compulsorily purchase the subsoil ie land beneath the surface, required for the purpose of constructing and operating the railway through the central and other underground sections of the line." As the freehold owner of the property he can claim the following items, the amount of which is determined by reference to the date on which we take possession of the subsoil which essentially corresponds to when the tunnel boring machine passes beneath: "The open market value of their underground land" and then "the amount of any reduction in the open market value of their property resulting from the construction or operation of the railway (eg due to noise and vibration). The assessment of the amount payable will include any reduction in the development value of the property in question as a result of the construction or operation of the railway."

17736. It also includes the cost of the damage which has to be made good, and (the point that has been made by the Petitioner) we do not expect as a rule the open market value of the subsoil taken for the tunnel, a little shaft of soil, will be significant. We make the point that we expect the procedures (which you are very familiar with now) for the assessment, control and remediation of the effects of ground settlement will avoid any significant physical damage to the property . . . and other matters as well. So that sets the basic framework under the existing law which is applied to the Crossrail Bill, for reasons that we have explained to you.

17737. If the Petitioner wishes to enter into a voluntary agreement to sell his subsoil at the appropriate time then, plainly, that is an arrangement that we can deal with against the framework of compulsory purchase powers that we will take to acquire that subsoil from him. So that is the position on the assumption that he retains his property other than the subsoil which we require for the running tunnel beneath his property.

17738. Turning to the next point, he then raises the issue of blight. If he wishes to sell his property and he is unable to do so except at a substantial under-value, and he is able to establish the reason why his property is substantially under-valued in the market is because of the shadow, the impact, of the Crossrail proposals, to run a tunnel beneath his house, then he is able to serve a blight notice under the statutory provisions of the Town & Country Planning Act. He is a residential owner-occupier, as I understand it; he qualifies in that respect and can serve a blight notice. I can see no reason why, provided he can show that the house has been substantially devalued in the market as a result of the shadow of the scheme, that blight notice should be resisted by the Promoter.

17739. I do not know if that is the position he wants to take but he did hint that that was something he was considering. If that is something he wants to pursue then the sensible thing for him to do is either to take his own legal advice in relation to that or to take advice from an estate agent or valuation surveyor to establish what the position is in relation to the current value of his property in the face of the Crossrail scheme and in the absence of that scheme. Alternatively, he can get in touch with the Promoter and we can take matters further forward from there. So if he wants to stay there the position is in principle as set out in the note before you, but if he feels that he wants to sell but feels he cannot sell because Crossrail has blighted, then in accordance with the procedures I have set out there is a remedy available to him under the current rules. I think that covers the two eventualities.

17740. **Chairman:** Mr Chambers, you have the last word.

17741. **Mr Chambers:** It sounds good but given that I have written to them and asked them to do just that, or at least possibly not in the exact phraseology but I was asking for a valuation based on the estate agent and then wrote a letter saying that that is what I think and that is what the monetary value should be, to me that is the beginning of that process of doing exactly that. The response was that the nominal value would be £50 and they did not think there was any injurious affection. So there is a disconnection between what he is saying—

17742. **Chairman:** What I am going to ask, Mr Chambers, is that a copy of the relevant passages is forwarded to you by the Promoter. Also, we will

⁵⁷ Crossrail Ref: P126, Illustrative Claims for Land Compensation (TOWHLB-29104D-004 and -005).

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forward to you a copy of today's minutes and contained within the minutes will be what Mr Mould has actually put on record.

17743. **Mr Mould:** Mr Smith has been sitting here patiently to deal with the Petitions that are now going to be heard at another date, but he has just said that he will happily spend 10 minutes with Mr Chambers.

17744. **Chairman:** That is a further offer on top of the two things we have said we will do anyway. Is that satisfactory?

17745. **Mr Chambers:** I think so.

17746. **Chairman:** On the matter of all these cases, we will review them all individually but the worries and concerns which you raised in the course of your address, I think, much of it has been addressed by Mr Mould. If you have further worries or concerns please take the opportunity—

17747. **Mr Chambers:** On a general note for everybody else in this situation, it seems a bit as if the aim of the game is basically to pay nothing if they

can get away with paying nothing and not being a little bit more proactive in trying to work out what a reasonable value would be and going to people and just sorting it out.

17748. **Chairman:** I think it is a valid view which you are putting forward, but the Committee has heard contrary to that. There is an established system on compensation. There is also a whole variety of different cases which have been made to us under land compensation—very different from your own—and they range from the commercial to individual homeowners. It is not all the same. It is very much we have proof and they are attempting to follow the guidelines, but there are lots of different instances and cases, and a lot of people have lots of different views about what has been occurring. Certainly you need to worry about your Petition today rather than everybody else's.

17749. That concludes today. Can I just inform everybody that if a Petitioner wishes to be with us tomorrow we will leave New Palace Yard by bus at 10.00 am tomorrow. We will visit Woolwich and the site at Woolwich, and we will then return and restart these proceedings at 2.30 tomorrow afternoon.

Thursday 19 October 2006

Before:

Mr Alan Meale, in the Chair

Ms Katy Clarke
Mr Philip Hollobone

Kelvin Hopkins
Mrs Siân C James

Ordered that Counsel and Parties be called in.

Committee Statement on Woolwich Station

17750. **Chairman:** Mr Mould, I suspect you are the one who has been dispatched here to hear our response. I will read it, for the record.

17751. Two weeks ago the Promoters gave their response to the interim decisions made by this Committee in July. We were extremely disappointed, actually amazed, to learn that the Government had decided to refuse the Committee's request to build a station at Woolwich.

17752. The Committee, having been charged by the House with the responsibility to decide this matter, heard many days of evidence regarding the station at Woolwich and we believe we are uniquely placed to decide whether the Bill should be amended to include provision for such a station. The House clearly instructed the Committee as to the issues it could and could not consider, including this particular matter. The Committee was instructed to listen to petitions, including those relating to Woolwich, and we believe it is unprecedented for a government to refuse to act on the Committee's decision at this stage of a hybrid Bill.

17753. The Committee has therefore revisited this issue. This morning, as you know, we travelled to the proposed site for the Woolwich Station and, indeed, surrounding areas. This has resulted in the

Committee meeting again and reiterating that we believe, more than ever, that the Crossrail Bill must include provision requiring the Promoter to build a station at Woolwich.

17754. We now urge the Government, in the strongest possible terms, to reconsider its position on this matter and to respect our views. The third set of additional provisions to the Bill must include provision for a Woolwich Station. We expect the Government to respond to this Committee at our next meeting on Tuesday 24 October. If the Government continues to maintain its current position, the Committee intends to make a special report to the House on this and other matters. That is the statement. The Committee will meet next Tuesday at 10am. Mr Mould, before I call order would you like to say anything for the record?

17755. **Mr Mould:** Only that obviously we hear what you say and I will make sure that next Tuesday we have something to say to you in relation to that.

17756. **Chairman:** Can you make it absolutely clear to the Government, in the strongest possible terms, our views that we insist that it is replaced.

17757. **Mr Mould:** I shall report that back.

17758. **Chairman:** Thank you very much.

Tuesday 24 October 2006

Before:

Mr Alan Meale, in the Chair

Mr Philip Hollobone
Kelvin Hopkins

Mr Ian Liddell-Grainger
Mrs Linda Riordan

Ordered that Counsel and Parties be called in.

Promoter's response to the Committee Statement on Woolwich Station

17759. **Chairman:** Can I remind everybody who is here this morning that we will be conveniently breaking at about 11.30 for people who wish to get a coffee, and then we will resume at about 11.50. We will give you an exact time nearer the time. Mr Elvin, it is very good to see you since the summer recess. Have you brought good or bad tidings to our statement last week?

17760. **Mr Elvin:** It is not a statement which I think the Committee will welcome. I have been asked by the Secretary of State to make a statement this morning in response to what you said last Thursday afternoon. Sir, I am asked to convey to the Committee that the Secretary of State has considered very carefully the views of the Committee as communicated to us last Thursday, and of course it goes without saying that he accepts that it is for the House to determine what goes into legislation and what does not. The Secretary of State regrets, however, that he is unable to accede to the Committee's request to include a station at Woolwich, within the Promoter's draft AP3 instruction to be placed before the House. He has already explained his reasons for this, namely the considerable extra cost which it would add when he is seeking to drive down the costs of the project.

17761. The Secretary of State, however, does wish to reassure the Committee that the question of Woolwich was looked at in some detail during the summer months, following the announcement of the Committee's interim conclusions. This included consideration of whether it would be possible to build a station at Woolwich without incurring similar significant costs in comparison to the type of station which was examined by the Committee.

17762. The Secretary of State's position was not a knee-jerk reaction to the Committee's conclusions. Indeed, I am asked to make it clear to the Committee that the new Secretary of State looked at the issue afresh and did not simply rubberstamp the view of the earlier Secretary of State.

17763. However, sir, I am asked to draw your attention, perhaps, you may think, to the obvious, that since AP3 requires an instruction from the House the content of AP3 will be something which has, in any event, to be determined by the House. The timing of the instruction to debate, of course, is not a matter for the Secretary of State, but it is understood it is likely to be in the near future. Given the clear and strong view of the Committee on the issue of a new station at Woolwich the Secretary of State anticipates that this issue will arise as part of the debate by the House on the instruction motion. In that connection the Secretary of State understands from what was said last week that the Committee may wish to lay a special report before the House; it therefore seems likely that the issue of Woolwich will be a matter for the decision of the House.

17764. Sir, that is the statement I am asked to give to the Committee.

17765. **Chairman:** Mr Elvin, I think what we had better do is to clear the Committee and give the Members who are present the opportunity to discuss it for a few short moments.

After a short break

17766. **Chairman:** Mr Elvin, can I tell you that the Committee Members who are here present have reflected on the statement you asked to be read out to the Members of the Committee. We are astonished, quite frankly, about the decision of the Secretary of State to, for the second time, dismiss the view of this Committee after many days of taking evidence to this Select Committee. It is unprecedented; it happened the first time and likewise the second time we are not willing to accept that. What we have decided is that we need time to reflect on that and we are not going to sit as a Committee for the remainder of this week. We are going to come back next Tuesday where we will have time to reflect and meet with one another and discuss this matter, and then we will decide whether or not we shall sit on. In the meantime, I will try to make contact with the Secretary of State to repeat the view which I have just given you now.

17767. **Mr Elvin:** Very well, sir.

Tuesday 16 January 2007

Before:

Mr Alan Meale, in the Chair

Ms Katy Clark
Mr Philip Hollobone

Mrs Linda Riordan

Ordered: That Counsel and Parties be called in.

17768. **Chairman:** Good morning, can I start proceedings and wish everybody a happy new year and the best of past gone seasonal greetings, and remind people that we may be adjourning the Committee later in the morning for a short break so that people may have some tea or coffee.

17769. I would like to begin by just saying that we are going to hear the remaining Petitions on the paper in this session which is going through but I would like to remind everybody that we do not intend to listen to Petitions that have gone before but rather concentrate on the circumstances on their new Petitions, and repetition will be dealt with fairly briskly. Mr Elvin, would you like to say something?

17770. **Mr Elvin:** Yes, sir, and a happy new year to the Committee as well. I believe it is our first anniversary, which may be a cause for celebration or not, depending on how you feel!

17771. Sir, I have a number of things I need to say for the record this morning before we get to the first Petition, if that is convenient. As the Committee will be aware, the third set of additional provisions, which deals largely with the interim decisions made by the Committee in the summer, was deposited on 7 November last with the Private Bill Office, together with an Environmental Statement for the additional provisions and a further supplementary Environmental Statement. I propose to deal with those in accordance with the timetable in greater detail on Thursday morning.

17772. In accordance with that timetable, I will present the Committee with a summary of the case on the various additional provisions there have been, 1, 2 and 3. I have been in communication with your Clerk over the content of that and that will be Thursday morning. I also need to raise, as I say, a number of matters for the record this morning and to update the Committee.

17773. The first matter on which I want to update the Committee is the issue regarding the recommendation for a station at Woolwich. Sir, since the Committee last sat in October I am pleased to say there have been positive and constructive discussions between the Department, the London Borough of Greenwich and third parties over the issue. The London Borough of Greenwich and Berkeley Homes met the Department and CLRL recently to discuss proposals for resolving the issues around the funding of the station. The London

Borough of Greenwich and Berkley Homes are now proposing these proposals in more detail for the Department to appraise.

17774. Clearly the Government would need to be convinced that any proposal was financially and operationally robust. The Department hopes to be able to say more once the current discussions are concluded, and we plan to bring the matter back to the Committee in good time before the scheduled end of the Committee hearings in line with the Secretary of State's statement to the House during the debate on 31 October.

17775. Sir, I also need to refer to the draft Register of Undertakings. The Promoter published the first draft of the Crossrail Undertakings and Assurances Register on 14 December and a copy of the Register was sent to all Petitioners along with a covering letter explaining the purpose of the Register and inviting comments from Petitioners. The purpose of the Register, of course, is to capture all the individual undertakings and assurances given to Petitioners into one single document. Whoever is given the role of implementing the project will be required to comply with the Register, and the Register will form part of the Crossrail and Environmental Minimum Requirements, and an undertaking has been given that any nominated undertaker will be contractually bound to comply with the controls set out in the EMRs, and the Register includes all formal signed undertakings between the Petitioners and the Secretary of State, assurances given during Select Committee proceedings, undertakings and assurances given to Petitioners in letters between CLRL and the Department or our Parliamentary Agents, and undertakings or assurances given in the information papers.

17776. The Promoter has sought to include in the first draft of the Register all undertakings and assurances that have been given thus far. However, in any process such as this, as I am sure the Committee will understand, with such a large quantity of documents and correspondence there is a potential for items to be overlooked. One of the reasons for publishing a first draft, of course, at this stage in the Bill process is to give Petitioners an opportunity to let us know if they feel that an undertaking or assurance which they believe has been given has been omitted from the draft. We have invited Petitioners to inform us if they feel an undertaking or assurance has not been captured by

Promoter's Statement on the third set of Amended Provisions to the Bill

the draft, and have set a deadline for comments of 15 February. There will be further opportunities for Petitioners to comment as it is intended that further drafts will be published at appropriate stages as the Bill progresses through Parliament, and the final Register will be published after Royal Assent.

17777. Of course, this in no way detracts from the promise we made to the Committee last year that we would write to all Petitioners after the Committee has finished to identify which of the generic assurances apply to individual Petitioners.

17778. Sir, lastly, the issue of the Barbican crossover. The Crossrail Bill currently makes provision for a crossover in the Farringdon area A crossover, as you may be aware, is an underground junction usually in the form of some large underground cavern to allow trains to pass from one tunnel to the other. That crossover was subsequently proposed to be amended by AP2. Following a detailed review the Promoter no longer proposes to construct either of the crossovers and intends to amend the Bill accordingly and invite the Committee in due course to delete the references to any crossover in that location.

17779. The crossover, sir, was originally included for two reasons: to help with recovery from operational service disruptions in the central area and to allow phased commissioning of all Crossrail trains. However, it would have been complex and expensive and is subject to a number of Petitions both in its original and in its second proposed form.

17780. In the light of major project changes that were made over the past year or so, particularly the proposals for a revised depot which is a matter I will be dealing with on Thursday, and a revision to the tunnelling strategy which the Committee is already aware of, CLRL undertook a review of the need of the case for the crossover, it examined the usefulness of the crossover in facilitating various commissioning options, and with the revised tunnelling strategy and the revised depot strategy they concluded the crossover would not offer any significant advantage in the phased commissioning of Crossrail. They also carefully examined the operational benefits of the crossover on the various rail traffic or incident scenarios, and with modern rolling stock, operating practices and safeguards they concluded in the light of the changes to the various strategies there would be a relatively small number of incidents that would require the use of the crossover. So in the light of those it was concluded by CLRL that the benefits of the crossover would now not be outweighed by the cost and construction risk of building the crossover cavern. This means, therefore, we do not need a construction work site in Aldersgate Street as proposed in the Hybrid Bill, or the work site in Moor Lane proposed under AP2. We will also not need to construct the temporary shaft in Finsbury Circus, and access tunnel from this shaft to the crossover location. The individual

Petitioners interested in the Barbican crossover have all been individually informed that we are inviting the Committee not to proceed with the crossover.

17781. For the avoidance of doubt there are no work sites planned now other than for minor utility diversions between that for the east end of Farringdon Station at Lindsey Street and the work site at the west end of Liverpool Street station in Moorfields. I should just state that, while we are removing the crossover and inviting the Committee to delete it from the Bill, from AP2, and hence not using Finsbury Circus work site for crossover construction, Finsbury Circus is still needed, as it was in the first place, as a work site for the construction of the Liverpool Street station tunnels. One of the revisions to the work site under AP2 is to make minor adjustments to the location of the entrance which the City asked us to make to ensure greater protection of the trees in Finsbury Circus. That proposed amendment in AP2 to protect the trees remains, and that will be explained as necessary in due course.

17782. Sir, other than that can I just, again for the record, note there has been one change in the team of counsel acting for the Department and Promoters? Ms Rachel Bateson has left the team and, indeed, has joined Department for Education—I am not sure if there is a lesson to be learned from that!—and can I express the team's thanks to her. Although the Committee may not have seen her in the front line she has carried out a huge amount of work to assist the process behind the scenes and we are very grateful for all the work she put in during the main part of the Committee proceedings. Her place is taken by Mr Gwion Lewis. He will be fulfilling that role during the remainder of the Committee process, and that is all I have to say by way of introduction.

17783. **Chairman:** Can I, first of all, for the record welcome Mr Lewis to the work of the Committee and also put on record our thanks to Ms Bateson for all the activities that she undertook on our behalf or with Crossrail during the last sittings.

17784. Can I first say that I am extremely grateful that you started to put together the draft provisions for the agreements on the undertakings, because I think it is essential that we get those out as early as possible to the people that we heard Petitions from.

17785. Can I also welcome the good news that at last the Department and the Secretary of State are taking very seriously the views of the Committee and the importance of having the station. What I have said there is not to pre judge what will occur when we end up hearing the matters connected with that, but it is welcome good news for this new year.

 Promoter's Statement on the third set of Amended Provisions to the Bill

17786. Mr Elvin, are you handling this next case?
17787. **Mr Elvin:** No.
17788. **Chairman:** So you will be disappearing --
17789. **Mr Elvin:** -- at some point during the course of the morning.
17790. **Chairman:** Thank you.
17791. **Ms Lieven:** Sir, the next Petitioner on the programme was to be Mr and Mrs Wheeler, and I am not sure if they are here.
17792. **Chairman:** They are not at the moment, I am advised, but I am prepared to go to the following Petition and then call them a second time, and if they are not here then they have had their opportunity.
17793. **Ms Lieven:** To be fair to the Wheelers we spoke to them yesterday and they were intending to come, and I do know that there were problems on the District Line this morning because Mr Mould could not get to work, so I would not want there to be any criticism of them.
17794. I am quite happy to start with Mr Jeffery's Petition. It is quite close to the Wheelers so there is a good deal of overlap but we can deal with that first if that is the sensible way to go forward. Perhaps I can have put up exhibit 030.¹ Now, the Committee may remember that it has been in this area before because, of course, the Wheelers attended before the Committee on Day 61 and the Committee adjourned
- their Petition. What we are concerned with here is the part of the route that goes under the Blackwall Tunnel Approach Road, so we are in tunnel here going from Whitechapel station which is well off to the west towards Stratford station to the east, and the Committee will remember that Crossrail comes up in tunnel west to east, goes under the Blackwall Tunnel Approach Road and under the River Lea and then comes out into portal a little way to the east, so the tunnel is rising here but still deep enough to get under the river. The reason this is an AP2 matter, and I expect the Committee knows all this, is that there is a need to divert the Ham and Wick sewers in this location in order to stop them clashing with the Crossrail tunnels. Originally we had a complicated scheme off to the east that involved the pumping station and in AP2 a new scheme was proposed which involves diverting the sewer, so the lines going left to right are the Crossrail tunnels and the line going down is the diverted sewer.
17795. Just to orientate the Committee, the Wheelers own and occupy No 1 Baldock Street, and Mr Jeffery is the owner of a property in Wrexham Road.
17796. The only other point I would make in opening is that I will call Mr Berryman to explain the impact, or, indeed, the lack of it, of Crossrail on this Jeffery property but the crucial point to understand is that at Mr Jeffery's property the tunnel is some 15 m underneath the property.
17797. I will leave it there, sir, and move to Mr Jeffery to explain his concerns.

The Petition of Ms Emma Jeffery.

Mr Graham Jeffery appeared on behalf of the Petitioner.

17798. **Chairman:** You have not appeared in front of the Committee. Have you ever been in front of a Select Committee before?
17799. **Mr Jeffery:** No.
17800. **Chairman:** Take your time; we are more worried than you are, and just make your case. I understand you are representing your daughter?
17801. **Mr Jeffery:** That is correct.
17802. **Chairman:** Please proceed.
17803. **Mr Jeffery:** Could I first apologise for my non attendance before the Committee on 18 October because of family health problems? It may have been passed on to you at the time. Those are far from resolved but I have made it here today. Because of
- those problems I do not think I have been as thorough in my preparation of my material as I would like to have been, but I will do my best.
17804. Could I say that in respect of our Petition we share wider concerns about the Crossrail project with, for instance, the Fairfield Conservation Area Residents' Association, who have appeared before you, but I on behalf of my daughter have tried to be fairly concise and specific about our concerns for No 48, Wrexham Road.
17805. Research before and after preparing the Petition has highlighted the fact for us that a construction of a tunnel will inevitably cause a measurable degree of subsidence and settlement, whichever term is most appropriate, at ground level. Research soon highlighted on the internet that settlement of the Jubilee Line Extension through the cities of Westminster and Southwark is well documented and has even been the subject of learned papers, which I think are referenced in Crossrail's response to our Petition.

¹ Crossrail Ref: P132, Ham and Wick Sewer Diversion—Locality of Petitioners (TOWHLB-29104-030).

The Petition of Ms Emma Jeffery

17806. Relative to London Underground's rolling stock, and having been a regular visitor to London I have a fair idea of what noise that can generate, our concern is that this Crossrail terminal will be occupied by full sized electrical multiple units, not lightweight stock, going at speeds of up to 60mph, and that must inevitably generate quite high noise levels at source. The wheel tracking interaction is well known and I have taken knowledgeable advice on noise level generation there. So the issue there is to what extent the noise and vibration will be attenuated by the track and tunnel structure with only 15m, or possibly at most 16m I am told in previous correspondence from Crossrail, of soil cover, which to use a sporting analogy is less than the distance from the edge of the penalty area to the goal line of the football pitch.

17807. Now, Crossrail in building this tunnel is effectively, as far as we are concerned, being given the right potentially to cause some degree of damage and long-term nuisance to No 48 Wrexham Road, and we do not have the option of saying "Not in, or rather under, our back yard", because if it is not under ours it will be under somebody else's, so let's be responsible about it. For instance, if we were effectively unaware of the existence of the Crossrail tunnel under our backyard then obviously that would be acceptable and if, as an ideal, Crossrail were able to guarantee negligible damage, noise levels for instance, that would never exceed 40 decibels then I think we would be quite content. It is a question of how certain can we be of those levels being achieved.

17808. I am trying to express genuine concerns on behalf of my daughter and in the past few days, because she is abroad, she has come back to me via email with a few specific points. She is concerned in terms of a statement in the response to our Petition in paragraph 1, page 5 of Crossrail's response, stating: "... at this point"—that is beneath 48 Wrexham Road—"track level would be approximately 20 metres below ground"—I think she is a little confused in terms of the 20 metres as the 15 metres is the tunnel ground, as previously quoted, 20 metres is to the tunnels railway. I think those two dimensions are consistent. She is concerned to know how far exactly the track level and/or the crown and the tunnel will be below ground in location of the property because my assumption is that is a significant variable that will have a bearing on both settlement and noise transmission. In paragraph 3 on page 5 of Crossrail's response it refers to their paper D12, which is one of the appendices to their response to us, which is entitled "Ground Settlement". In paragraph 1.2 of paper D12 there is a statement that: "the Promoter has already begun an assessment of the potential settlement along the route of the railway". We would be interested to know when the results of this assessment would be made available and how they may be communicated to us. Having posed this question, I understand from

a telephone conversation with Mr Jonathan Baggs of Crossrail as recently as yesterday that some initial data may be available.

17809. Moving on, there is also a statement in paper D12 which refers to differential settlement and that gives us cause for concern. The centreline of the tunnel passes at an angle under the back garden of No 48 which, as you can see from the plan, is one of a continuous row of Edwardian terraced houses and we are concerned that the position of the tunnel relative to the property and, as far as we are aware, the shallow foundations of terraced houses of that age are more substantial than we are led to believe. It is also relatively close to the River Lea, for whatever ground conditions there may be there, probably a high water table and the concern that would lead to quite significant and differential settlement. We would like to know what is being predicted there because the results of an initial assessment of the potential settlement are clearly of quite considerable importance to us and the effect on the property because presumably, having read the response, they would determine the need for a Stage Two assessment, the individual assessment of the property at Stage Three and even going on for a survey of the property which we understand from Crossrail in response to our Petition and its appendices. Can I say ideally—and I do stress the word "ideally"—if we would wish to have a statutory requirement for damage due to settlement to be restricted and negligible and proof of knowledge and with a preference obviously for protected works rather than remedial works. It is a natural inclination, sir, and I hope you would agree.

17810. In terms of noise and vibration, I want to state quite clearly in Crossrail's response to our Petition that there are no UK legislative standards or criteria that define when groundborne noise becomes significant. We are concerned that the defined noise and vibration levels in Crossrail paper D10, which is referenced in their response in the appendices and that is entitled "Groundborne Noise and Vibration". It points out that the defined noise and vibration levels merely constitute performance specifications and do not constitute any legislative undertaking on the part of Crossrail or the undertaker who will be performing the construction. My daughter's concern is that without legislative standards against whom and by what means would we be able to take recourse in the event noise and vibration levels were initially in excess of those performance specifications at the outset of the operations or were subsequently to increase to those levels in excess of those specifications during the course of the operation.

17811. Further on, in paragraph 11 on page 7 of Crossrail's response to our Petition there is a statement that: "the findings of the assessment show that the assessment reported in the ES", I think that is the Environmental Statement, "show that the adoption of these measures, that is the maintenance of rolling stock and conditioning of rails, is likely to

 The Petition of Ms Emma Jeffery

result in the criteria for the performance specification not being breached at any location during the operation of Crossrail". We are concerned that there appears to be no requirement or provision for the monitoring and measurement of those noise levels, so we ask how will noise and vibration be monitored during the operation of the railway by Crossrail to ensure that there is not an increase in the noise and vibration to unacceptable levels over time as a result of the degradation of the rails and/or rolling stock.

17812. Moving on, in paragraph 12 on page 9 of Crossrail's response to our Petition there is a statement that: "the Promoter will require the nominated undertaker to provide the local authorities through whose area Crossrail's tunnel passes, details of the types of rail and or tracks support system proposed and its predicted performance in respect of vibration or groundborne noise. We are concerned there appears to be no requirement or provision for communicating directly with property owners and other immediately interested parties". Specifically, will the details of the type of rail and or track support system be made available directly to us by Crossrail or its undertaker or will Tower Hamlets be able to provide us with such details and when will those details be available? Again, expressing the ideal, our ideal would be to have a statutory requirement for noise levels never to exceed 40 decibels. Putting it bluntly, the intention of ensuring Crossrail and its nominated undertaker utilise the highest standards of noise and vibration attenuating rail and track support systems in the tunnel in that vicinity. Thank you, sir.

17813. **Chairman:** Thank you very much. Mr Jeffery, have you any witnesses to call?

17814. **Mr Jeffery:** No, I have not.

17815. **Chairman:** I wonder if it would be possible to give a copy of your notes to the stenographer. It might be quite helpful and we will return the originals to you.

17816. **Mr Jeffery:** I have two copies with me.

17817. **Chairman:** Thank you very much.

17818. **Mr Jeffery:** I have not read them verbatim.

17819. **Chairman:** Stenographers are very professional. It is just the odd word they may want.

17820. **Ms Lieven:** Sir, I was going to call Mr Berryman first to deal with the settlement-related issues in general terms and then Mr Thornely-Taylor to deal noise if that is acceptable. Much of the material will be that the Committee is quite familiar with in general terms but it would be useful, I suspect, for Mr Jeffrey to hear it again. Mr Berryman?

Mr Keith Berryman, recalled

Further examined by **Ms Lieven**

17821. **Ms Lieven:** Mr Berryman, could you start by explaining to Mr Jeffrey what your position is with Crossrail, please?

(Mr Berryman) I am the Managing Director of CLRL Limited which is the company set up by Government and Transport for London to promote the scheme.

17822. Could you start by explaining what Crossrail works will be undertaken in the immediate area of Ms Jeffery's property?

(Mr Berryman) Yes. The main works, as you outlined in opening, are the construction of the running tunnels between the Pudding Mill Lane portal going down towards the junction at Stepney Green, which are these lines here, the dotted lines running east-west. The tunnels there have an internal dimension of about six metres, external dimension about 6.7. At the point at which they pass under Ms Jeffery's house they will be about 15 metres off cover above the tunnels, that is to say about two and a half tunnel diameters above the tunnels. There is another smaller tunnel to be constructed some way away from Ms Jeffery's house which is the sewer diversion, which you mentioned earlier. That is about a two and a half metre diameter tunnel. All of the tunnels will be constructed using what are known as "earth pressure balance machines" which is a tunnel-boring machine which maintains the pressure on the face of the tunnel all the time to reduce settlement to the absolute minimum.

17823. So far as the settlement is concerned, has Crossrail undertaken a settlement assessment in respect of the Crossrail tunnels?

(Mr Berryman) Yes, we have gone to stage two with the properties in this area. There was some concern about the combined impact of the two tunnels crossing each other; in fact when we did the analysis we found the effects were actually very small. We went to Stage Two and I think the study identified that the possible damage to this property would be in the negligible to slight area. I feel bound to say that in making our assessment we have used very pessimistic assumptions. Not to go into too much detail, we assumed about one per cent face loss which is what leads to settlement. In fact, on other projects, Channel Tunnel in particular, they have been achieving less than a third of that, so we are confident that the settlement impact on this property would be absolutely minimal.

17824. It may seem a very long time ago to the Committee, but in the distant past we had a session on settlement with Professor Mayer where he explained the basis of our protections. I would presume that applies here just as much in any other location.

The Petition of Ms Emma Jeffery

(*Mr Berryman*) Indeed.

17825. Just to try to put Mr Jeffery's mind at rest, assume that there is some damage. What steps would Crossrail take to make good that damage?

(*Mr Berryman*) As set out the relevant Information Paper, I think it is D12—

17826. It is.

(*Mr Berryman*)—which makes a commitment that any damage caused by tunneling would be repaired and that will be based on surveys before and after tunnelling is done. It is a procedure that has been well tried on many tunnelling projects and has worked quite well.

17827. **Ms Lieven:** I suppose really there are two key points here. First of all on the basis of our assessment how likely is it that there will be any settlement damage to this property?

(*Mr Berryman*) It is very unlikely that there will be any significant damage. There may be hairline cracks or something of that sort, but it is extremely unlikely that there will be anything beyond that and it is quite unlikely that there will be hairline cracks.

17828. **Chairman:** Does that mean you surveyed all the properties or are you just doing a general survey for the area?

(*Mr Berryman*) Normally we get surveyors to come around before tunnelling starts to check the condition of the properties because obviously there are some unscrupulous people who, after tunnelling is complete, will report structural damage to their buildings, so we have to do a survey before and after.

17829. **Ms Lieven:** Just to be absolutely clear, the work that we have done so far to drawing up the assessment does not involve going into individual properties, does it?

(*Mr Berryman*) No, indeed, those assessments are done just by inspections from the outside and obviously at the moment we are not particularly interested in the present condition of the properties. It is only immediately before we start tunnelling that becomes significant.

17830. The other key is point is if there is any damage, am I right in understanding that Crossrail will make it good?

(*Mr Berryman*) Yes, absolutely.

17831. **Ms Lieven:** Those are the only points I need to ask you, Mr Berryman. I am going to ask Mr Thornely-Taylor about the noise points.

17832. **Chairman:** Mr Jeffery, would you like to ask any questions?

17833. **Mr Jeffery:** Yes, Chairman. Through you, could I ask Mr Berryman whether he is saying that because the assessment has already been done it will move on to a specific survey of this property because it is almost over the line of the tunnel?

(*Mr Berryman*) Yes, prior to the tunneling commencing, it is intended a conditioned survey of the property will be carried out so that we can ascertain if there is any damage caused by tunneling activity.

17834. **Chairman:** Thank you very much indeed, Mr Berryman.

The witness withdrew

17835. **Ms Lieven:** Could I then proceed directly to calling Mr Rupert Thornely-Taylor.

Mr Rupert Thornely-Taylor, recalled

Further examined by Ms Lieven

17836. **Ms Lieven:** Mr Thornely-Taylor, you and the Committee know each other well but it is for Mr Jeffery's purposes if I could introduce you as somebody with extensive qualifications in the assessment of noise and vibration and very extensive experience particularly in the issues around noise and railways. Is that accurate?

(*Mr Thornely-Taylor*) Yes, I think it is.

17837. First of all, could we put up the noise contour map, which might need a bit of expanding.² Mr Thornely-Taylor, can you tell us what the criteria are for a property such as Ms Jeffery's and what is the assessed noise level?

(*Mr Thornely-Taylor*) The criterion is a maximum noise level due to the passage of trains of 40 LAMax slow, which is the maximum sound level using a sound level meter set to a slow response and I think Mr Jeffery indicated that his daughter would be quite content if she was sure that it would not exceed 40. We can see from these contours, which have been shown I think to the Committee before, and have been done from portal to portal for the generic case of a residential building with a single basement. It is probably true that Mr Jeffery's house has no basement, certainly some of the other houses nearby have no basements, in which case, this is a worse case because it does assume a single basement. The outer contour that is up on the screen represents 25 dBA LAMax slow, and that is slow and they go up in one dB increments. The position of the next thick contour up, which is 30, I think is about where No 48 is, if I am correct in remembering which is the house. It is not specifically identified.

17838. Yes, I have got two plans I can compare with each other and it falls almost exactly on the blue line.

(*Mr Thornely-Taylor*) In that case, the prediction is 30.

17839. The predicted level here is 30, is that right?

(*Mr Thornely-Taylor*) That is right.

² Crossrail Ref: P131, Noise Contour Map of Crossrail tunnels at Wrexham Road (SCN-20070116-001).

The Petition of Ms Emma Jeffery

17840. If that is accurate, what type of disturbance, if any, is Ms Jeffery likely to suffer from the presence of the trains in the tunnel?

(Mr Thornely-Taylor) If the Committee would cast their minds back to an exercise when we listened to 40, a 10 dB difference is a halving of loudness, so it would be a very small effect indeed.

17841. One of Mr Jeffery's specific concerns and one of his daughter's concerns was how will noise and vibration be monitored once the railway is up and running?

(Mr Thornely-Taylor): There are two ways of responding to that. The first is when the railway is first commissioned there will be extensive measurement from end to end by all manner of parties, not just the Promoters, the designers of the track, the local authorities, it will be heavily measured because a lot of people will be very interested to see how the predictions have turned out. More importantly, and probably underlying Mr Jeffery's concern, is how over the years monitoring will ensure that it does not deteriorate. In the previous days of evidence before the Committee the issue of maintenance of the track was raised and, in fact, the London Borough of Camden has requested improvements for the wordings in IPD10 about how the track will be maintained. It currently is being finalised as to what the ultimate new words will be to satisfy Camden's concerns, but generally speaking, there will be a continual process of monitoring not only the condition of the track, its components and the resilience support for the rail which achieves these low levels, but also, most importantly, the condition of the running surfaces, the rail surface and the wheel trades to ensure that if they deteriorate, which they will, they always do eventually, they will be subjected to routine maintenance, rail grinding, wheel turning, in time to prevent the predicted noise level from being exceeded.

17842. Finally, I suppose the question which Mr Jeffery really wants answered is what if it all goes wrong and the noise does exceed the criteria set? What steps can be taken?

(Mr Thornely-Taylor): If it were to go wrong, it would be for one of three reasons. One would be a construction error, in which case it would be something readily apparent, the contractor would have been at fault and it would be put right. Another less likely possibility is a design error. For example, the wrong type of rail base plates had been installed for some reason. That also would be rectified because it would be contrary to the contract. The third possibility would be that there were some completely unforeseen local conditions, some large boulder between the tunnel and the house, or the building had piles which nobody knew about that come down to the proximity of the tunnel. In general, one has to say, it is a finite possibility but in this particular location it is extremely unlikely to occur. I cannot foresee any realistic prospect of that

kind of cause of excess noise going on. Those are the three possibilities, apart from lack of maintenance, which I have spoken about already.

17843. Those are all the questions I have, sir.

17844. **Chairman**: Mr Jeffery, would you like to ask any questions?

Cross-examined by **Mr Jeffrey**

17845. **Mr Jeffrey**: If I may, please. May I ask what form of rail and/or track is assumed in generating these noise contours?

(Mr Thornely-Taylor): The contours assume from end to end that there is resilient base plate support for the rails. It is said in the Environmental Statement that in some places there will be a more effective form of track isolation where there are special requirements, but in order to produce contours which do not suddenly jump about all the contours in this exhibit are for resilient base plate support of the rail.

17846. It assumes resilient base plate support of the track but it does not assume resilient slack track as such?

(Mr Thornely-Taylor): It does not. I would say in the event that it is found when the detailed design is carried out that for some reason in this locality the predictions are higher because it is discovered that there is some feature which causes these contours to become out of date and some new ones will be produced on the predictions being produced, that if hypothetically they did show that the noise level would go over 40, then a higher degree of mitigation would be included in the track to prevent it. There will not be any residential property anywhere on the system that receives more than 40. If it is necessary to have any form of enhanced mitigation it will be provided during the design stage.

The witness withdrew

17847. **Chairman**: Ms Lieven, would you like to make a final statement?

17848. **Mr Elvin**: I will, sir, but I will make it extremely brief. Of course one utterly understands Ms Jeffery and her father's concern in that they find a rather large tunnel going underneath their property. I will submit to the Committee that once one looks at the evidence there is really no reason to be concerned about this property. First of all on settlement, it has been assessed, it falls into the negligible to slight category. If, despite that assessment, there is some movement then that would be remedied by Crossrail, and the detail of the process is set out in information paper D12 on noise. You have just heard the evidence. It is highly unlikely that there will be any disturbance from

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noise in this property from the operation of the railway. If the assessment was completely wrong for utterly unpredictable reasons then Mr Taylor has just been through the steps which could be taken. I would submit about this property that although one understands the Petitioner's concerns, there really is no reason to believe those concerns would be substantiated.

17849. **Chairman:** Mr Jeffery, would you like to say anything else?

17850. **Mr Jeffery:** I have not prepared anything else, but may I take this opportunity to thank you for allowing me to be able to appear in front of you and express our concerns.

17851. **Chairman:** Thank you very much indeed. Can we call the next Petitioners, Barbara and Tony Wheeler? Ms Lieven, would you like to make any comments?

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The Petitioners appeared in person.

17852. **Ms Lieven:** The Committee already knows where the Wheeler's property is. It is 1 Baldock Street, which I am indicating up there.³ This is the Blackwall Tunnel, Approach Road to its east. So far as the tunnel is concerned, the issue is very similar to that of Ms Jeffery. The tunnel is slightly higher because it is rising to get to the portal at the Wheeler's house. The top of the tunnel is some 11 to 12 metres below the Wheeler's house, so it is about a three metre difference between their house and the Jeffreys'. In terms of the impact, I think Mr Berryman would give the same evidence. The Wheelers are in a slightly different position overall in respect of the Crossrail project to Ms Jeffery's. If I can have put up 035.⁴ The Wheeler's property is there. I cannot describe it better for the shorthand writer, I am afraid. It is difficult to cross-refer between the two plans. In terms of the tunnel, there is no material difference from the position of the Ms Jeffery's but it is correct to say that during the construction phase the Wheelers will be impacted upon by the work site on Wick Lane and around the corner into Wrexham Road for a fairly limited period of time. I will call Mr Berryman very briefly to explain what will be going on but that is the only difference. They will have a construction impact which will be more direct than that on Ms Jeffery's property. Sir, I will leave it there at this stage, if I may.

17853. **Mrs Wheeler:** I would like to read a short statement, please.

17854. **Chairman:** Mrs Wheeler, I have got a very low voice but your voice is even lower, can you raise it slightly for the Stenographer?

17855. **Mrs Wheeler:** From our meetings with Crossrail, it is difficult to know what the exact impacts on our lives and our house are going to be. It is difficult for us to have confidence in predictions of noise, vibration and settlement effects. What we have wanted to hear is that we will have no noise, no

vibration and no problems with settlement, but Crossrail cannot offer us that assurance. On the question of noise and vibration, we have been told that noise levels inside our house should not exceed 32dBA. The explanation we have read and have been told is that at that level there is a low probability of adverse comment. Where exactly we will be on that low probability we will not know until after the tunnel is built. Thirty-two dBA is calculated as an average but does not tell us the peaks of the noise we may hear from trains running beneath us every two to three minutes at peak times. Crossrail believe they can achieve their noise and vibration targets by using standard continuous welded track beneath our home. We will not know if that turns out to be correct until after the tunnel has been built. If the noise and vibration levels are breached, the only recourse we will have would be financial compensation. If the choice of track turns out to be the wrong one it will not be re-laid. We would like to be assured that beneath our house, in view of the fact that we are only 11 to 12 metres from the tunnel, we would have the best available quality track to achieve the optimum reduction in noise and vibration. We are asking for floating slab track to be used and not continuous welded track. We would also like to know that the construction railway would be built to a sufficiently high standard to keep well within the desired noise and vibration limits. In view of the adverse impacts of the Crossrail scheme on our small neighbourhood it would be of benefit to all the residents of Baldock Street, Wrexham Road and Ridgale Street who have tunnels beneath or near their homes to have floating slab track. We would like to outline our concerns about settlement. We are only 11 to 12 metres above one tunnel and Crossrail have the option to reduce that further with a three metre vertical deviation if they find it necessary. Our house is also only 11 to 12 metres away from the second tunnel, and settlement is predicted for 30 metres either side of each track. At the overlap the effects from each of the tunnels are added together. When we met with Crossrail's tunnelling engineer, he explained that as the house was directly on top of one tunnel we may be lucky, the whole house may drop in one piece, but with the second tunnel in such close proximity we think the house is at great risk of differential settlement. We have reached Stage 2 of the settlement assessment

³ Crossrail Ref: P132, Ham and Wick Sewer Diversion—Locality of Petitioners (TOWHLB-29104-030).

⁴ Crossrail Ref: P132, Ham and Wick Sewers Diversion—Sketch 5, Option 5—Additional Provision Plan and Construction Sites (TOWHLB-29104-035).

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procedure. The house is in risk category 3. In the Promoter's response document, paper D12, this is described as, "buildings might be at risk of sustaining damage in excess of acceptable levels", so we will therefore be going on to Stage 3, a more detailed assessment consisting of a structural survey and successively refined modeling outlined in D12 of the Promoter's response document. That says, "to refine the analysis to see if a more accurate approach results in the risk of damage reducing to an acceptable level". We are not reassured by this. We would like an assurance that following the stage 3 assessment the basis on which the protective measures are decided will be on the basis of there being no risk damage, not an acceptable level of damage. Until the assessment is done, the risk of damage is unknown, but at this point we are asking for the highest degree of protective works to be done in terms of maximum and not minimum. As we understand it, the best way of stabilising the house which would reassure us would be to underpin it. We hope the Select Committee will be sympathetic when we request that the best mitigation measures are taken to lessen the impacts of the Crossrail scheme. The scheme has already caused immense disruption to our lives and caused us a great deal of stress at a time in particular when I am making every effort to avoid stress as in April I am expecting a baby. We have seriously considered selling our house as we are uncertain whether the house, with all the diversion works and work sites, the effect of construction, and operation of the railway, will be a suitable environment in which to bring up a young child. If the best mitigation measures for sound-proofing against the effects of work sites, noise, vibration and settlement are ensured it would make our lives more bearable, and should we feel it necessary to move house at some time, would safeguard the impacts on the house and enable us to sell it in a reasonable condition.

17856. **Chairman:** Thank you very much. Can we have a copy of your statement? Do you have any witnesses?

17857. **Mrs Wheeler:** No.

17858. **Chairman:** Ms Lieven?

17859. **Ms Lieven:** Sir, if I recall Mr Berryman I will try to keep the repetition to a minimum. I hope Mr and Mrs Wheeler were here when Mr Berryman gave evidence. I am not going to ask him all the same questions.

Mr Keith Berryman, recalled

Further examined by **Ms Lieven**

17860. **Ms Lieven:** Mr Berryman, can you explain, in terms of the assessment of a settlement first, how the Wheelers' property differs from Ms Jeffery's property?

(Mr Berryman): Principally because the tunnels underneath this property are shallower, under the other property there is about 15 metres of cover and under this one there is about 12 metres, so you are getting closer to the property with this. I believe I am right in saying this is the closest point at which tunnels go to residential property on the route, although there are a number of other locations where escalator tunnels amongst other things with stations go even closer than this. That is the reason why the settlement is different.

17861. What category has the Wheelers' property been assessed into?

(Mr Berryman): It is being brought up to Stage 2 at the moment and I think, as Mrs Wheeler just said, is eligible for Stage 3 assessments.

17862. I know we have been through this in the past but certainly it is rather faded in my memory, can you take us through what Stage 3 means?

(Mr Berryman): There are a number of differences. The principal one is that Stages 1 and 2 settlement are based on what is called "greenfield" so the assumption is there are no buildings there and how will the ground behave if there are no structures on the building. Going to Stage 3, we take into account the structural strength of the building and the way in which it will behave as the settlement occurs. Almost always when we do Stage 3 it reduces the impacts we have assessed.

17863. What is the process it goes through then? How does it work?

(Mr Berryman) We do a structural survey of a house and, as we get further and better particulars from the site investigation of the ground conditions in that area, we do more detailed calculations.

17864. It might be worth for Mr and Mrs Wheeler to hear you tell us what the protective measures are that the project can take to minimise the likelihood of settlement.

(Mr Berryman) There are a number of things that can be done. I suppose the one that has become most common in recent years is what is called compensation grouting, where we can actually inject grout underneath their house at the rate at which settlement is occurring to minimise or ... to minimise the amount of settlement that occurs. I was to going to say to eliminate but to be realistic it is a question of minimising it.

17865. One of the Wheelers' concerns was, I think, mentioned, that the Limits of Deviation might allow us to move the tunnel up or down. Is that possible in this location?

(Mr Berryman) In this location it is not. There is a general power for the Limits of Deviation to allow the tunnels to be raised, but in this location we have to get underneath the River Lea and we are very, very tight to the side of the river, and we have to get underneath the Blackwall Tunnel Approach Road,

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which is a motorway, effectively, and the geometry here is very, very tight. There is no prospect of raising the tunnel.

17866. Finally, Mrs Wheeler mentioned that a way of putting her mind at rest, as far as settlement was concerned would be to underpin the property. In your opinion, is that either necessary or sensible at this location?

(Mr Berryman) Certainly it would depend on the kind of underpinning that was to be done, but I would advise against it in most cases when trying to do tunnel settlement because it actually has the effect of making the foundation deeper and moving them closer to the position of the tunnel.

17867. Also, do you consider it necessary?

(Mr Berryman) On the basis of the information we have got to-date I certainly do not think it is necessary.

17868. **Ms Lieven:** That is all, Mr Berryman. Thank you.

17869. **Chairman:** Just before I bring Mr and Mrs Wheeler back, I have one or two questions for Mr Berryman. The distance on the ground which was 15 metres, it is 11 or 12, what distance is that where you come out of the ground? How many metres?

(Mr Berryman) At this point the railway is on a 1:30 gradient, so three metres would be taken over 90.

17870. **Chairman:** Ninety metres. How many properties, approximately, do you think that would take up?

(Mr Berryman) I do not know—what is the average width of a property? It would be about four or five metres.

17871. **Chairman:** So 18 to 20 properties, roughly. The other thing is the impact of the building works which are there, which Ms Lieven referred to earlier. How long a period would that be for?

(Mr Berryman) The site at the top, if you can see the words Wick Lane on the picture up there, that site would be required for a total of about 22 months, but for most of that time it would be acting as a site to service some of the other works that are going on in the area. The actual physical work adjacent to their house would take four to six months for the diversion of some sewers in Wrexham Road and connecting them to the existing sewer in Wick Lane.

17872. **Chairman:** It would be 22 months of barriers and a building site.

(Mr Berryman) You can see the little leg at the bottom of the site, just there. That hoarding would be in place for nearly four months or five months, I suppose, but the rest of it would be 22 months.

17873. **Chairman:** Thank you very much.
Cross-examined by **Mr and Mrs Wheeler**

17874. **Mrs Wheeler:** For those four to six months we will have a work site right next to our house with a 3.6 metre high hoarding, almost up against, our main bay window of the house.

17875. **Mr Wheeler:** Our bay window is on the side, facing the red thatched lines

17876. **Mrs Wheeler:** So natural daylight will be cut out to our main living room for those four to six months. In our meetings with Crossrail and all the documents we have read, there are surveys that have been carried out, and we always seem to come up with “no need for noise mitigation; no need for dust-proofing”. We just feel a little bit powerless, really, with all these things that are being done to our house before, during and after.

17877. **Chairman:** I wonder if you would mind asking Mr Berryman a question in relation to that.

17878. **Mr Wheeler:** There is one question I would like to ask, please. Most houses that have settlement, or in building works when there are cracks, a builder will come along and put a concrete slab under your house. From what Mr Berryman just said, when the concrete slab is put under our house it will increase the level of noise—is that right—if it is a two-metre block?

(Mr Berryman) No, I was talking about settlement, rather than noise.

17879. **Mr Wheeler:** If it was deemed to have to be underpinned because of settlement or there had to be this grouting level underneath, that would therefore put our house even closer to the tunnel. Is that right?

(Mr Berryman) No, the grouting, hopefully, would not be contiguous with your house. What we would do is find lower levels and the grout would be injected at lower levels. It is almost like pumping up an airbed or something like that. You actually pump grout into the existing interstices in the ground. This is not actually how it works but you can look at it this way. It sort of compensates for the settlement which is occurring.

17880. **Mr Wheeler:** Is the grout a solid block then?
(Mr Berryman) When it goes off it will be a solid block, yes.

17881. **Mr Wheeler:** Therefore, it has the effect of increasing the noise and actually increasing the vibration in the house, theoretically.

(Mr Berryman) No, because it would not be, as I said, touching the house; it would be at a separate level.

17882. **Mr Wheeler:** But ultimately it will be like a boulder.

(Mr Berryman) There are no boulders in the ground, we do not think, at that location, but if there were it would not make any particular difference to either settlement or noise transmission, but a direct link into the house may do . . . When I spoke about underpinning I was not talking so much about the

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noise impact but more in terms of the settlement impact. There are some kinds of underpinning that you could do, but conventional underpinning with mini piles or something like that would not be helpful.

17883. **Mr Wheeler:** So there is something you could do to help us?

(Mr Berryman) Yes. If after the Stage 3 calculation that becomes the case, as I think it is explained in the information paper, then if structural strengthening is required that can be done. On the basis of the information we have at the moment, we think that is very unlikely but we will be doing further analysis of this particular property, as you have already said in your opening statement.

17884. **Mr Wheeler:** We understand that. My concern is that a lot of the possible grouting, a lot of remedial work on the house should cracks occur, which can, I believe, under Stage 3, be up to 10 millimetres or 15 millimetres—they suggest that the damage might happen, it might not, and we understand that—but if it does happen, something has already happened to the house, so you are putting right something beforehand. We would like to be assured that, which we understand is impossible, the remedial works beforehand would help alleviate any of these problems rather than waiting until after they have happened and then put them up.

(Mr Berryman) Obviously, if we are aware of problems that will happen as a result of Stage 3 (and, as I say, from the information we have at the moment we see that is extremely unlikely), if we become aware of that as a result of further work we do then, as stated in several places in our published information, we will carry out such structural strengthening as is needed.

17885. **Chairman:** Ms Lieven, would you like to make a final statement?

17886. **Ms Lieven:** Does the Committee want to hear Mr Taylor again on noise, or perhaps that is not necessary?

The witness withdrew

17887. **Ms Lieven:** I want to say this, in case the Committee wants to hear the evidence from Mr Taylor. It is not right to describe 32dBA as an average; it does take into account peaks, so it does take into account moments when the train actually passes. It is quite an important point because Mrs Wheeler suggested it was an average and, therefore, would smooth out the peaks where the train passes, but I am told by Mr Taylor (the Committee will know I am no expert on noise) that it is wrong to describe the 32 dBA as an average. I do not want the Committee to think that we are somehow pulling the wool over your eyes in respect of the passing of trains.

17888. **Chairman:** I would like Mr Taylor to give evidence.

Mr Rupert Thornely Taylor, recalled

Further examined by **Ms Lieven**

17889. **Chairman:** Mr and Mrs Wheeler, just to say you will have the opportunity to cross-examine.

17890. **Ms Lieven:** Do you want to explain, Mr Taylor, more accurately the point about 32dBA not being an average?

(Mr Thornely Taylor) Yes. Unusually among noise assessments, which do—it is true—talk about averages, the way we assess the noise from underground trains is a much more onerous test, which is to look at the level we get as it rises as the train goes right underneath the house and before it falls; the “peak” is not technically quite the right word but it is the maximum sound level. One of the reasons why the maximum is used in this particular case, unlike ordinary highway noise or surface railway noise, is to give it particular weight to take into account the particular characteristics of noise from a train going under your house as opposed to a noise passing outside the window. So the numbers I have been talking about—with Mr Jeffrey I was saying it was 30 and for the Wheelers 32—those are the maximum levels that occur during the passage of trains.

17891. **Ms Lieven:** That is the only point, sir.

Cross-examined by Mr and Mrs Wheeler

17892. **Mr Wheeler:** One thing I was going to say is that at a meeting last week with Crossrail people, one of the more senior members there said that 32 was an average, so we understood it that 32 could not, therefore, be peaks. That is where our statement came from, so we have been misinformed. I am sorry.

(Mr Thornely Taylor) I have seen a minute of that meeting and I think it was inadvertently said that it was an average. I believe steps were taken to put that right in correspondence to the Wheelers.

17893. **Mr Wheeler:** We have not received any correspondence.

(Mr Thornely Taylor) I apologise if a misleading statement was inadvertently made, and I hope I have clarified the position now.

17894. **Chairman:** If they were promised it in writing, could you arrange for a written response to—

(Mr Thornely Taylor) I believe one is in the mill. If it has not been received it is only because of the time it takes.

17895. **Mrs Wheeler:** Really, the big question for us is the floating slab track. We are, as I say, the closest residential property to the tunnel and we thought that the least we deserved would be the best quality track available, but it seems that we are not earmarked for that, we are just going to have

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continuous welded track. There would be greater safeguards for us if floating slab track was to be used.

17896. **Mr Wheeler:** In the case of any settlement or any issues on the plans, we feel that it would be more beneficial to try and stop things before they actually happen, because our lives are going to be disrupted enough without having to go through other parties to try and find out whether the crack is in the house previous or after. For us this is going to be continuous; it is not only the fact of the tunnels and that the worksites are there for two years, it is going to continue; during the construction of the tunnels themselves after the sewer and then after because we might have the case that if, as the gentleman mentioned, the noise level did increase above 32 they would then change track, or they would do something else, but we figure that it would be nice if all these safeguards were in place before things actually happen rather than reacting to them happening.

(*Mr Thornely Taylor*) I think it would be helpful if I could assure the Petitioners that it is not the case that they will definitely not have floating slab track; if it should be necessary they will have whatever enhanced form of mitigation was required. Suppose, totally hypothetically, it was necessary to do ground treatment to completely fill the gravel between the tunnel and the house with grout and made it much more solid than was assumed for the contours—I am not saying that will happen but suppose the contractors decided that that was the simplest way for us to build this tunnel and do a large amount of ground treatment—it would be necessary to re-compute the noise contours. If, as a result of that, it was predicted the noise level would go above 40, they would have to put an enhanced form of track support in there. The reason it is not going in willy-nilly, because it would be nice to have the best, is because—as I hope the Committee have understood from the demonstrations of previous evidence—levels in the low-30s are very low and there is no need to spend money when the outturn is predicted to be very good in any event.

17897. **Mr Wheeler:** You have just said “when the levels are very low” but they are still levels. From what I read, it sounds as if what you base it on is 32 decibels and it is like someone whispering to you, but it does not matter what level it is, if you can actually hear a whisper then you can actually hear it, and we will have these whispers during peak times every two to three minutes continuously for the rest of the life of the house.

(*Mr Thornely Taylor*) I think, sir, if I could put it in context, if hypothetically we were planning the Blackwall Tunnel Approach Road and not Crossrail, we would be quite usually talking about noise from surface transport which was very much greater than the levels we are talking about. The effects of underground railways are, in fact, treated much more strictly than any other form of transportation development. If we were talking about an airport or a surface railway or a new

highway we would be talking about external noise levels of around about the 70s, and internal noise levels of around 45 to 50, and those would be averages. So we are treating noise from underground railways in a much stricter way, and I do hope the Committee did find that the levels they heard from underground railways in the demonstration show that when you get down into the low-30s it is a very low level of noise. I can assure the Petitioners that we are not talking about a significant effect at all. Perhaps I should mention that the reference to “low probability of adverse comment” is a slightly different issue. It comes from the British Standard for assessing feelable vibration as opposed to audible effects of vibration when it is re-radiated as noise. There is a formal table in BS6472 which gives descriptors against levels of feelable vibration, and the lowest category in that table is this low probability of adverse comment. That is where that phrase came from that the Wheelers referred to.

17898. **Mr Wheeler:** We can therefore feel this noise—32 dBA noise.

(*Mr Thornely Taylor*) When it is in the category of “low probability of adverse comment”, in fact, it does not even come near the top of that category and there will not be any tactile effect from the railway in this location.

17899. **Chairman:** Ms Lieven, would you like to make a final statement?

17900. **Ms Lieven:** Yes, please, sir.

The witness withdrew

17901. **Ms Lieven:** Sir, again, briefly, settlement and then noise. On settlement, the property is assessed, as you have heard, up to Stage 3 so far, as slight to moderate risk. I would remind the Committee that those assessments are based before mitigation. So that is the unmitigated risk. So the actual chance of there being any damage to property is small. Also, as Mr Berryman has told you, there are a number of steps that can be taken to mitigate the risk before any settlement occurs whatsoever, such as grouting, such as you have seen in D12 where tunnel-boring machines are used. So there are various steps that can be taken to reduce any settlement down even further. What is more, if there is damage (and, as Mr Berryman said, that is considered to be very unlikely here) it will be repaired by Crossrail at Crossrail’s expense. So, sir, I cannot say “hand-on-heart”, absolutely no risk of settlement because that is not the way the world works, but the risk here is small and is, in my submission, fully managed.

17902. As far as noise is concerned, the noise assessment at this property is 32dBA, well below the 40 criterion that you have heard so much about. Sir, I would say to the Committee that although one understands the Petitioners’ position to say that any perceptible noise is unacceptable, the consequences of accepting that submission are that it would make it almost impossible to build a railway, let alone a

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railway in an urban area like London, and that it would be imposing a requirement on a railway project which would be wholly different from the requirements imposed on road or other forms of surface level transport. So the suggestion that it should be imperceptible is, in my submission, one the Committee should be very, very slow to accept. What you have heard from Mr Taylor today and heard in the past is that at 32dBA the chances of it causing any detriment to anyone are, really, very, very small.

17903. Sir, it may be that the greater real concern when Crossrail goes ahead for the Wheelers is the worksites, and if I can just touch on that briefly. There are two worksites that impact upon them, although they are linked together. The worksite at Wrexham Road, we fully accept, is very close to their property, but it is for a relatively limited period, which is four months—limited in the scale of the kind of times that we have been talking about on Crossrail—but, also, very importantly, it is only a daytime worksite. So although nobody chooses to have a worksite next to them for four months, it is very comparable to the kind of utilities work in the street that we all have to put up with, for instance, as our sewers are rebuilt, as is going on all over London. So the fact that it is a daytime worksite is very important.

17904. As far as the Wick Lane worksite is concerned, which is the longer one that Mr Berryman spoke about, I would ask the Committee to bear in mind that although the period for that worksite is 22 months, it is, for the vast majority of that time, all but about four months, only to be used as what is called a logistics site; so it is only for the storage of materials and plant and for site welfare facilities for the people working on the site, the Manhattan Site, a little further to the north. So the level of disturbance from that site will be very small; logistics sites do not cause people any material level of disturbance, except in truly exceptional circumstances. We quite accept that there will be an impact from those worksites, but the position is nowhere near as bad as it looks when one looks at the plan and sees two worksites. I hope that covers the main points.

17905. **Mrs Wheeler:** The Blackwall Tunnel, A12, worksite is directly behind our house as well, so we get daytime impacts from the bottom of Wrexham Road right up against the house, and then we get night-time impacts from the work being carried out on the sewer diversion along the A12.

17906. **Mr Wheeler:** Not only that, sir, but Wick Lane, down our end, as the lady said, will be for the workers, the plant, but that will be because the Manhattan building of the shaft will be 24-hour working. So although the building might be for people they will be going in and out of those buildings and it will be lit. I am not completely sure (I am sorry) but I believe the shaft, when it is actually built, will be 24-hour working. So those people will

be in and out of those buildings—designers, planners, workers or whatever—for, obviously, overnight at that particular time. I do not know how long for, it might be only weeks, but just to correct that it is not just daytime.

17907. **Chairman:** Is that true, Ms Lieven?

17908. **Ms Lieven:** Can I just check in relation to the Manhattan site?

17909. **Mrs Wheeler:** There are sites which will be operating 24 hours a day.

17910. **Ms Lieven:** Sir, my understanding—and I will be corrected by those behind me if I am wrong—is that I was entirely correct in what I said that the Wrexham Road site is daytime only. The point about Wick Lane is that for the vast majority of the time it is being used as a logistics site, so nobody is digging on that site during the vast majority of the time, but it is right to say that for a relatively short period, I think about four to six months, the Manhattan site, which is this one here, will have some night-time working. So there will be workers going backwards and forwards on to the Wick Lane site, and the site facilities means, effectively, toilets and a tea point for the people working on the site. Yes, there will be people going backwards and forwards during the night, but I would suggest that that is, although not perhaps something you would invite near your house, not a major impact, and one has to remember that in terms of the effect of people walking backwards and forwards to the facilities is concerned, we are talking about some distance from the Wheelers' house. So the Manhattan building does have some night working but the Wrexham Road site does not.

17911. **Mr Wheeler:** The distance is just a road; it is just across the Wrexham Road to us. We can walk across the road to the site. Theoretically, as the lady said, there might be plant there as well. Obviously, plant, diggers, cement mixers and whatever, have to move backwards and forwards from this docking area to go to the site; so it might not just be people—I do not know.

17912. **Mrs Wheeler:** The Blackwall Tunnel worksite, we are going to have a lot of daytime work outside our main window, and then at night when we are trying to sleep we will have night-time work going on just in the road behind the house. It is a tiny garden at the back of the house; it is no distance at all to the worksite.

17913. **Chairman:** Does that conclude your evidence?

17914. **Mr Wheeler:** Just to say that this is ongoing; our lives will be affected for the duration of the construction of Crossrail and the duration of the construction of the sewer and, maybe—we do not know yet—for some foreseeable time afterwards. We do not really want to have to keep going to a

The Petition of Mrs Barbara Wheeler and Mr Tony Wheeler

third party or to someone who will liaise between us and the Promoter to put right things that have gone wrong in the house, regardless, as my wife said. Who knows what we will be doing in one year, five years, ten years or 20 years' time? People move on. We are expecting a family, so we might move ourselves and we want to be assured that whoever purchases the house after us, the house will be a home.

17915. **Chairman:** Is there anything you would like to add?

17916. **Mrs Wheeler:** I am worried about the acceptable level of risk, which I feel we are exposed to on every level. We instinctively feel, from all the meetings that we have had with Crossrail, and all that we have read, that this acceptable level of risk is

a big grey area and that we are expected to put up with, at every stage, acceptable levels of risk which are determined by Crossrail and on which we have not had assurances as to exactly where that level is going to be. What is their acceptable level of risk? From what we have heard, we are worried that the level of risk we are expected to put up with is quite a lot.

17917. **Chairman:** Thank you very much. That concludes the evidence session for today. Ms Lieven and Mr Elvin, is there anything you want to add about future business?

17918. I am told that coffee is available after this meeting concludes. A further hearing will take place tomorrow morning at 10.00.

Wednesday 17 January 2007

Before:

Mr Alan Meale, in the Chair

Mr Brian Binley
Kelvin Hopkins

Mr Ian Liddell-Grainger
Sir Peter Soulsby

Ordered: that Counsel and Parties be called in.

17919. **Chairman:** Can I, firstly, say to everybody that all the Committee Members wish everybody a happy anniversary. Contrary to what Mr Elvin said yesterday, the anniversary, 17 January, is today, although some of us have been on punishment for much longer.

17920. **Mr Elvin:** I have been on punishment for over two years.

17921. **Mr Binley:** You have borne it very well, Mr Elvin.

17922. **Mr Elvin:** I did have hair before we started.

17923. **Chairman:** Just to remind members of various organisations and the public that it is my intention to suspend the Committee at about 11.45 or sooner, if that is possible, so that Members can go off and prepare themselves for Prime Minister's Questions. If necessary, we will resume this afternoon. Just to remind everybody here that coffee is available around about that time in the corridor.

The Petitions of Eleanor Ferguson, Mr Gerald Collins and Ms Mona Hatoum and Caroline Hamilton.

Ms Eleanor Ferguson appeared in person.

17924. **Mr Elvin:** Thank you, sir. Sir, the way things have worked out I think you are left with only two sets of Petitioners today. The first is the return of Ms Ferguson and the Princelet Street occupiers at 61 Princelet Street. Can I just remind the Committee of the location and the interim decision.¹ You will recall that the Princelet Street properties are on the right-hand side, the purple line, and they are those the Committee considered would be extraordinarily affected in noise terms by the Hanbury Street shaft.

17925. Can I remind the Committee of the interim decision and our response to it? I have extracted from the transcript.² The top is the interim decision of the Committee announced by Mr Meale on 25 July, which is that we should take steps to ensure properties are compulsorily purchased and to provide the Petitioners with individual letters of comfort guaranteeing the flats will be bought before the work begins. Ms Lieven, on behalf of the Secretary of State, accepted that, on 11 October, saying we would, in the event of the shaft being constructed at Hanbury Street, broadly as proposed, purchase the properties no sooner than nine months before the shaft works begin.

17926. Can I say to the Committee, if the exhibit can be put up, that letters were written to each three sets of occupiers on 11 October.³ They were written in

the same terms to each of the three sets of Petitioners. What they were told was, notwithstanding the various terms of the hardship policy they would be deemed to have satisfied, notice would be given nine months before the commencement of works and that outright purchase would occur nine months before the commencement of works at Hanbury Street. We will pay advance compensation on the occupier's own estimate, subject of course to the matter then going to a Lands Tribunal.

17927. What we have not done—and I think this is the bone of contention this morning and this is not something the Committee asked us to do (we consider we have done exactly what the Committee asked us to do)—is I understand that the Petitioners would like us to purchase outright now, even though funding for the works has yet to be secured and Royal Assent has yet to be secured. As far as the Department is concerned, we have made an offer in terms which meets the Committee's interim decision. Of course, it is the works which cause the difficulty, and our position is, simply, that an offer to purchase outright, regardless of the terms of the hardship policy, nine months before the works begin, with notice being given, adequately satisfies the exceptional circumstances identified by the Committee.

17928. **Chairman:** Before we proceed, could I ask one question of you, Mr Elvin. We have made our decision, which is very, very clear. Until the Bill is achieved are there any circumstances where it would be right, because there is no money until the Bill—

¹ Crossrail Ref: P133, Whitechapel Station—Construction Works and Impacts, Map C8(ii) (LINEWD-ES16-035).

² Crossrail Ref: P133, Interim Decision and Response in respect of 61 Princelet Street (SCN-20070117-001).

³ Crossrail Ref: P133, Correspondence from Department for Transport to Ms E Ferguson, 11 October 2006 (TOWHLB-19004-001 and -002).

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17929. **Mr Elvin:** As you know, and the issue was raised at the last debate in the House, the issue of funding remains to be determined by the Government. Of course, it is the works themselves which cause the problem. There is the hardship policy, outside this offer, and if the hardship policy were met in advance of those nine months, of course, it would continue to apply if it were relevant in these circumstances. We have waived all of that with the nine month-period the Committee asked us to do. As I say, I am not sure there is anything much left for me to say. We think we have met the Committee's requirements.

17930. **Chairman:** Ms Eleanor Ferguson, are you representing all of you?

17931. **Ms Ferguson:** Yes, I am speaking on behalf of Mona Hatoum, Gerry and Caroline. Can I say at the outset that we are very pleased and thankful for the Committee's recognition that we are extraordinarily affected by the works at Hanbury Street? We are also very pleased that this has been taken on board by Crossrail. Just to pick up on a couple of points before I come on to some other issues that my friend here has made, he has said that it is just the works that cause the problem. That is one thing I would take issue with. He has also said that we are asking for the properties to be bought now before Royal Assent. That has never been our position; our position has been that what we are asking for should take effect once—obviously, nobody knows whether it will ever turn into an Act or whatever—the Bill has received Royal Assent. We are not asking for anything in advance of that.

17932. The position as we see it is that whilst there is this recognition that we are extraordinarily affected and there should be compulsory purchase, when the Committee made their ruling the wording that was used was that it should be compulsorily purchased before the work begins. Crossrail have chosen to interpret this as, essentially, a restatement of the hardship policy. In other words, nothing at all will happen until nine months before the work actually starts. That pre-supposes that the work does start at some unknown date in the future. It means that the effect for all three of us is that if there is no funding—and this has been raised—or if funding is delayed for five years, ten years, 20 years, however long it may be, bearing in mind we have already been in this position since 2003 (our anniversary is not a year ago today as it is for some people here, our anniversary starts back in 2003) and we have been unable to do anything with these properties.

17933. Things have moved on a little bit to the extent that there is this recognition that if—if—the work goes ahead, if it goes ahead at the Hanbury Street shaft (and I will come back to some of the wording in the letter in a minute) we are fundamentally in the position where the effect of this letter, as it stands at the moment, is that if there is no funding for this project, or if it takes five years, ten, 20 or 30 years to go ahead, we will not be able to sell these properties

unless we can show hardship because of divorce, hardship because of illness or we need to move to a different or bigger premises. Those will be the only reasons in which we can move. That means we cannot sell on the open market; the undertaking, such as it is, is personal to us, so even if we were in a position to find somebody to take it on the undertaking would not transfer. In the underlying documentation from Crossrail they have made it quite clear that anyone buying in knowledge of the Crossrail proposals now would not be eligible for even hardship policy. Effectively, that puts it out of the equation.

17934. What this letter constitutes is, in our opinion, a very woolly assurance that is couched in very woolly language. It is not a compulsory purchase order on the back of which we would be able to serve a blight notice to bring things forward. It is not a situation where the properties are defined as being required for the project, albeit that bizarrely there seems recognition that we are extraordinarily affected and we are the sound barrier for the rest of the work that is carrying on. Somehow, bizarrely, that seems to equate in Crossrail's terms to a building that is not required for the project.

17935. So, in all of these circumstances, all of us who bought in good faith—and I can give you my personal position: I bought in 2001. I did what all purchasers do; I did all my searches, did all the things you are supposed to do, I got a letter from Transport for London saying: "No, no, you are not affected." On the basis of that, I went ahead and bought the property, as did Caroline and Gerry who bought earlier than I did. That was in 2001 and that was because the route at that time was a different route. Crossrail changed their mind in 2003, so that they are singing a different song. So, all of a sudden, all of these assurances, all of this work that we have done, in buying with good faith and with searches, is negated, and a new route is brought into force, the route is then safeguarded and that, effectively, kills off our options for selling.

17936. It has never been the position of all three of us that we are saying that this project should not go ahead—that has never been our position. What we are saying is that this is a government project, if the government wants it to go ahead that is fine but we feel that we should not be sacrificed—in other words the few for the greater good of the project—and that there should be meaningful and real compensation. All of us buy houses, a lot of us buy houses and we are in a situation where we tie up quite a lot of capital in it. Why should we not be able to sell it just because we want to sell it? Whereas we are now locked into a situation where we do not know if this project will go ahead, if there will be funding. We do not know, even if it does, when this will be, or what any of our circumstances will be in five, ten or 20 years' time, or anything like that. So we are now left in this, in our view, iniquitous position where you are, effectively, stuck.

 The Petitions of Eleanor Ferguson, Mr Gerald Collins and Ms Mona Hatoum and Caroline Hamilton

17937. The wording that was used by the Committee in the initial ruling was “before the work begins”. “Before the work begins” can mean anything from the day after Royal Assent right up until nine months before the project commences. What we are asking for is that when the actual Bill gets Royal Assent, if indeed it does, that we would be in a position to require Crossrail to purchase the properties. We do not feel that we are asking for anything at all unreasonable; we are simply asking for the freedom to do with our property exactly what we would want to do, as any other buyer of property would do, whereas, at the moment, we are locked into their precise conditions; we are very much at the mercy of Crossrail and the mercy of funding that may or may not happen. So that is our essential position.

17938. If you look also at the letter that Crossrail have written to all three of us, it is couched in incredibly (I cannot think of another way of putting it), in our view, woolly terms with caveats everywhere. What they are saying is that: “In recognition of the Committee’s request, where, after further review, there remains a continuing need to carry out the works at Hanbury Street, broadly as currently proposed” they confirm that they will pass on to somebody else and somebody else will then buy. So they are building into this, even at this early stage, the caveat that: “Well, who is going to say ‘as currently proposed?’” Who is going to say how much it has changed? Are we going to have to come back at some future date and re-argue the toss?

17939. This is further emphasised on the second page of the letter when they say: “The Promoter considers that the above achieves the Committee’s objective whilst allowing Crossrail flexibility to refine its design in the hope of reducing or removing the impact of any works to the extent you may continue in occupation.” So it seems that flexibility lies on the side of Crossrail but very little, in fact no, flexibility lies on the side of the three of us, and we are, effectively, cooped in at the whim of Crossrail and unable to really make any progress other than if Crossrail give us a tick in the box and say: “That is what we can do”. That, in a nutshell, is our view.

17940. The other point, and it is really a side issue, is that they are talking about giving us notice from the date nine months before the work is due to begin. I think others, for example, EMI Limited, have been given indicators that they will be told of the position as soon as the funding notice comes through. Our main position—what we are actually asking for—is the ability to require Crossrail to buy these properties once Royal Assent comes through. I think there should be some equity in the actual way everybody is treated, and that it should not be a case of: “Hold off to the last minute and then perhaps we will tell them at 61 what is happening”. There should be a position where we are given much, much more notice. If you were not minded to go along the lines of exactly what we are asking for in the purchase at Royal Assent, perhaps we should be looking at

something whereby if nothing happens within five years then they buy the properties. We are asking for certainty; we are asking for something that will allow us to make some cut-off point in our lives where we know exactly what is happening. We are not in a position to do that and this could go on indefinitely in the position we are in at the moment. I am happy to answer any other questions, but that, broadly, is the position that we find ourselves in. Whilst we are grateful for the movement and the recognition of the need for compulsory purchase, we are asking the Committee to take it a little bit further. We are three people in the scheme of a very, very, very large project and if I was to ask either of my colleagues Mr Lewis or Mr Elvin to sit where I am sitting, I have a funny feeling they might agree with exactly what I am saying.

17941. **Mr Elvin:** I am afraid I do not. Can I just make it clear that what Ms Ferguson is effectively asking the Committee is to change its decision. Ms Ferguson does not want purchase on commencement of the works, she wants purchase immediately following Royal Assent. We have done what the Committee asked us to do, and if I might remind the Committee, of course, the reason for that is unless the shaft works go ahead there is no adverse impact on those properties.

17942. What Ms Ferguson inaccurately terms “woolly language” is actually there to ensure that the undertaking covers the situation where the shaft is not exactly as it appears in the Environmental Statement now because there is further design; it is there to protect the occupiers so the undertaking bites even if we changed the design. That is why it says: “Broadly as currently proposed” because, otherwise, there might be some concern that it only applied if we went ahead with the scheme as shown at the moment. That is why it says it allows flexibility to refine the design (on the second page). So that is there to protect the occupiers.

17943. Can I make this additional concession in a final hope that this will achieve some form of closure on this issue? I do urge on the Committee the point that we have done exactly what was requested, but I am prepared to go one stage further and say this: if those three occupiers, who we have given an undertaking through those letters of 11 October, wish to sell their properties prior to being given the nine months’ notice and are unable to do so unless a similar undertaking is given to their purchasers, we will give the same undertaking to the purchasers as we have given to the three sets of occupiers. We will not give it automatically; these letters cannot be treated as applying to them, but if Ms Ferguson or one of her fellow residents can show us that they can only sell in the context of a similar undertaking being given to the incoming purchasers, we will issue a letter in the same or broadly identical terms to the incoming purchasers in order to facilitate a purchase in due course, if that falls before the nine months.

The Petitions of Eleanor Ferguson, Mr Gerald Collins and Ms Mona Hatoum and Caroline Hamilton

17944. I hope that attempt to extend what we have offered will, at least, give the occupiers comfort that that undertaking would then be available to them as a means of negotiating any sales, should they wish to do so before the nine month period comes in. Other than, I do not think I have anything left to say, unless the Committee want to ask me any points.

17945. **Ms Ferguson:** I think Mr Elvin is being slightly disingenuous. I cannot think of any purchaser who is going to come along and want to buy a property with exactly the same concerns as we have. I think that is being completely and utterly unrealistic. If someone comes along to buy the property they would want to be able to do with it what they want to do with it, including sell it as and when. I cannot see that anybody is going to want to put up with the very same provisions we are objecting to at this time. I think that is completely and utterly unrealistic.

17946. Whilst Mr Elvin has indicated that they have done exactly what the Committee indicated, the wording is “before the work begins” and “before the work begins” can mean anything between today, tomorrow, the day after tomorrow and right on up. They have chosen to interpret it in an incredibly narrow fashion, and for the reasons I have outlined I would ask that the Committee perhaps revisit this. I am simply looking at it from the point of view as occupiers of these properties. We are effectively prevented from selling them which is through no fault of our own. We have not got ourselves into this position out of choice. We have got ourselves into this position because Crossrail changed their minds about where the route was going to go and it seems that we are now being forced to suffer as a result and to me that seems iniquitous and, to use a sort of common phrase, downright unfair.

17947. **Chairman:** Mr Elvin, can I just ask, the question we are posing really, or have been posing, I should say, is whether or not the nine months is reasonable and I think that is where we are, but it is not quite true what you are outlining to the Committee in respect of what can be done. People are going to be trapped, or there is the possibility of being trapped for an inordinate amount of time in a property and that is blight, is it not? Is there anything within the compensatory system which we have which actually might recognise that or not?

17948. **Mr Elvin:** We went through this last time, sir. There is the hardship policy if it is met in advance. Sir, can I just remind the Committee that, in your decisions, you specifically took the start of works as the relevant time. In the EMI case, and I have not put the transcript up, but it is paragraph 16566 on Day 56, you specifically asked us to buy as soon as practicable after Royal Assent because of course, in

the case of EMI, it is a substantial business and a commercial operation which will take much longer to relocate than a residential occupation. Our position is that nine months is a perfectly reasonable period, bearing in mind that we are talking about relocating residential occupiers and not a large business. The Committee took a different view and applied different requirements to EMI and to these particular occupiers. We would respectfully say that that was a reasonable line to take.

17949. If I can put it this way, the nine-month period works also because, as the Committee will recall, and Mr Berryman said this in evidence although I cannot put my finger on it at short notice, but it was during the Spitalfields hearings, that the shaft is under review. He thinks it is still likely that it will be there, but there is a possibility, following the review, that the shaft might be dispensed with altogether, in which case, if that outcome were to be the case, there would be no adverse impact on the properties, so it is another reason not to jump the gun and require acquisition immediately after Royal Assent, but before we even know that the project is going ahead, let alone that the shaft at Hanbury Street will be built.

17950. **Chairman:** It is true to say that in the decision we made in respect of EMI, we did not actually stipulate a date, but we actually said as soon as practicable.

17951. **Mr Elvin:** After Royal Assent.

17952. **Chairman:** Just in response to one thing that you said in relation to EMI being a substantial business, that nevertheless does not mean that the inhabitants or the owners of the flats in Hanbury Street are less important.

17953. **Mr Elvin:** No, no, it is merely a recognition that it takes them much longer to relocate than it would a simple residential occupation. It is a clear recognition of that. A large business having to find alternative premises and move its operations and its employees is obviously faced with a much longer lead time than someone occupying a flat. No one is suggesting that the position of the occupiers should be downgraded by comparison; it is just a recognition of reality.

17954. **Chairman:** Ms Ferguson, we have heard your argument, it has been well put, and the Committee will come to a decision in its deliberations. Is that okay?

17955. **Ms Ferguson:** Thank you very much indeed.

17956. **Chairman:** We now move on to the Barbican Association and Richard Morrison.

The Petition of the Barbican Association.

Mr Richard Morrison appeared as agent.

17957. **Mr Morrison:** Good morning, Chairman. Congratulations on your anniversary! I remember attending the first session.

17958. **Chairman:** I think it is commiserations!

17959. **Mr Morrison:** Yes, commiserations perhaps!

17960. **Mr Elvin:** Sir, the position with the Barbican residents, as you know from what I said yesterday, is that the crossover at the Barbican is no longer being pursued and I gave a statement yesterday with regard to the crossover and its removal, and I advised the Committee to delete the crossover from the Bill. Secondly, in terms of worksites, there will be few worksites in the vicinity other than those for temporary utility works for the utility diversions. The only other element was the Finsbury Circus worksite and I do not think that affects the Barbican residents.

17961. I am not entirely sure what remains of the Barbican residents' concerns. We have had correspondence yesterday which I do not, I am afraid, have a copy of. Mr Morrison was asking for reassurance about settlement issues and we wrote to him yesterday dealing with that and, if necessary, I will ask Mr Berryman to address any other remaining concerns.

17962. **Mr Morrison:** Perhaps I am slightly behind the news. Our major concern related to the crossover and in fact, after all the work put into this, we have been told that the Promoter will not be asking the Committee to continue with the revised crossover design and we are keen for some confirmation of that and also some confirmation that the powers in the original Bill will be struck out, as it were. If there is some statement tomorrow, I apologise, yesterday rather, but I did not catch up with that.

17963. What we have been told by the Promoter is that they will not be asking you to include the additional provisions in the Bill and they will seek to remove the powers from the Bill. Our concern is that, subject to any other confirmation that may be available, some other body may seek to put the requirement for the crossover back into the Bill at a later stage, for example, the Office of the Rail Regulator or some other body, and we are concerned that there should be a clear decision either from the Committee or from the Promoter that the crossover is removed and gone for ever.

17964. **Mr Elvin:** We wrote to Mr Morrison in the same tone as we wrote to all the Petitioners relating to the Barbican in December. It says, "I am writing to let you know that the Promoter no longer intends to construct either the crossover as proposed originally in the Bill or the alternative design in AB2 and will, therefore, ask the Select Committee not to make the amendments". I cannot say what might or might not be in some future Bill or future works which are not before this Committee. All I can say is that we are not pursuing it in this project in this Bill and I hope we made that clear on the 19 December.⁴ Indeed, if any doubt remains, I gave the assurance yesterday in committee. In fact, if Mr Fry could go to the next page, Mr Mantey emailed Mr Morrison on 15 January, ie, the day before yesterday, reiterating the point, so I hope we have made our position perfectly clear.⁵

17965. **Chairman:** At the end of the day, it is actually up to this Committee whether or not we wish to pursue it or not, but given that a decision has been reached in the manner which has been described, it would seem senseless if we went in the opposite direction, so under those circumstances, it is not the intention of this Committee to press those amendments forward, so does that give you confidence?

17966. **Mr Morrison:** Yes, that satisfies the point. Our concern was that we had some confirmation other than this five-line letter that we had in December saying that, after all the work which had gone in, suddenly it does not appear anymore.

17967. **Chairman:** All I can say is that it is not the intention of this Committee to press those amendments forward.

17968. **Mr Morrison:** Then that was the only point we wished to raise.

17969. **Mr Elvin:** And that concludes the business for today.

17970. **Chairman:** Thank you very much indeed, ladies and gentlemen. We will resume tomorrow morning at 10.00 am.

⁴ Crossrail Ref: P133, Correspondence from CLRL to The Barbican Association, Barbican Crossover, 19 December 2006 (LONDLB-44 & AP2-7—007).

⁵ Crossrail Ref: P133, Correspondence from CLRL to The Barbican Association, Barbican Crossover, 15 January 2007 (LONDLB-44 & AP2-7—008).

Thursday 18 January 2007

Before:

Mr Alan Meale, in the Chair

Mr Brian Binley
Kelvin Hopkins

Mr Ian Liddell-Grainger
John Pugh

Ordered: Counsel and Parties be called in:

17971. **Chairman:** Good morning. First of all, we are going to hear from Paddington Churches Housing Association. Ms Lieven.

I am afraid I had a few hours accorded to me to get to grips with this matter. I have to deal with substance rather than style.

17972. **Ms Lieven:** Thank you very much, sir. Paddington Churches Housing Association are affected by the diversion of Ham and Wick sewer, which some Members of the Committee heard about the last session and the Members of the Committee who were here on Tuesday heard about in respect of Ms Jeffery and the Wheelers. If I can have put up exhibit 030, please.¹ Paddington Churches own a site here adjacent to the existing overland line. It lies directly on the route of the Ham and Wick sewer diversion, which is this south line here. They have planning permission to redevelop that site for housing—they are, of course, a housing association—and the concern is that in order for the sewer to be built underneath this new development two things need to happen: the piles from the existing building there which is not, I believe, residential, have to be removed if there are any—there probably are—and the piles for the new development, the Paddington Churches Housing Development, have to be redesigned so as to avoid the line of the sewer. Mr Berryman, when he gives evidence, will put up a plan to show why they have to be redesigned. There is no technical issue here. Paddington Churches have, as I said a moment ago, got planning permission now for this redevelopment, and under the safeguarding provisions, Crossrail required conditions to be attached to that planning permission which would require, one, existing piles in the line of the sewer to be removed and, two, new piles to avoid the line of the sewer. Sir, Paddington Churches are concerned about the cost that will involve to them. Mr Berryman can speak briefly about how in other instances along the line people have had to redesign buildings in order to accommodate Crossrail and have had to bear the costs of that. That is a very brief outline. I hope the Committee understands the issue. I will hand over to Mr Bishop who is representing Paddington Churches this morning.

17974. **Chairman:** You still seem to be suitably attired for a barrister anyway!

17975. **Mr Bishop:** I do my best, sir. The Petition that we have submitted, you will see, has got various paragraphs, but I think now, in fact, we concern ourselves only with paragraph five, and that is the sewer line which has been referred to. The others issues which concern us have been resolved, apparently. Our concern is the cost of this. My instructions are that that is something in the region of £300,000. I have to concede to the Committee immediately that I have no evidence to put forward on that. Those are simply my instructions and from brief discussions I have had with my learned friend, Ms Lieven, outside, that is not, I do not think, a figure that they would agree.

17976. There are other considerations. The National Compensation Code, it is agreed, does not apply in our case. Therefore, in a sense, if we are to get any sort of recompense in the future against the extra cost involved in redesigning our foundations, we have to throw ourselves on the mercy of this Committee in any recommendations it might make. That is the basic position. I have to accept that when those who instruct me, ultimately Paddington Churches Housing Association, bought the land in question to redevelop it, it was subject to planning permission of which I have a copy. I do not know where it would come in any documentation in front of the Committee, if it does at all, but paragraphs 14 and 15 of the planning permission do say that “the building works shall not be commenced until detailed designs for the foundations, to take account of the diversion of the Ham and Wick sewers, have been agreed with Crossrail”. It was bought, it would seem, subject to that in any event but, as I understand the position, the premises having been bought in April of 2006, there was then a notice to owners issued in May 2006 in relation to further amendments to the Crossrail Bill and those dealt specifically with the various sewers, including the claimed sewers. It may be that further detailed proposals in relation to those sewers were issued, or are now being considered, subsequent to the date on which Paddington Churches Housing Association acquired the land. In any event, we do say and point to the fact that we are absolutely in Crossrail’s hands as to the design of these foundations because until it

17973. **Mr Bishop:** Chairman, thank you very much. I have been instructed at somewhat short notice on behalf of Paddington Churches. I am Counsel and if I should have been robed, I apologise for not being.

¹ Crossrail Ref: P132, Ham and Wick Sewer Diversion—Locality of Petitioners (TOWHLB-29104-030).

 The Petition of Paddington Churches Housing Association

seems they are agreed with Crossrail then we cannot commence building work. I am unable to assist the Committee as to what stage those discussions have reached, but I think they must have reached a very advanced stage because, again, my instructions are we are shortly due to commence work. One can only assume that they have been largely resolved. Further on that point, I do refer to the response filed by the Promoter in relation to our Petition. In paragraph one of that, after referring to the diversion of the Ham and Wick Lane sewers, paragraph one ends with a sentence: "The method of construction will be determined during detailed design". Paragraph two refers to a meeting at which the possibility of designing a foundation of the redevelopment, such that they do not conflict with sewer tunnel drive, was discussed and considered to be achievable. At the end of that paragraph two it is CLRL's intention to continue to liaise with the development during detailed design with a view to agreeing the exact requirements. As I have said, sir, I am not sure whether that means now that everything has been settled or not, but I do point to the contingent nature of the remarks in paragraph two which seemed to indicate that there is always a likelihood of ongoing redesign as the situation evolves, perhaps not so much on the ground as under the ground. In any event, sir, if that is so, then the Housing Association is still in the hands of Crossrail as to whatever demands it might make contingent on what it finds when investigations are made into deep piling and so forth or the nature of the ground itself perhaps.

17977. We are still in a situation of some uncertainty as to what expense is going to have to be gone to to satisfy Crossrail and therefore satisfy the planning permission so that this project can proceed. We are, as you know, a housing association, so we are a registered social landlord and also an industrial property society. This scheme at Wick Lane is for the provision of 146 units of affordable housing together with some commercial and amenity development as well, all funded by social housing grants, whether exactly 100 per cent, I am afraid I cannot say. The position finally would be, in our submission, if we are forced to go to extra expense of some degree or other, as it seems we are, then that, in effect, means the diversion of public money, which would otherwise go into the provision of social housing into what one might call "sewer-friendly foundations". Whilst the Crossrail project is obviously a worthy one, of public value as well, nevertheless it does, to an extent, potentially at least form a drain on the resources that the Housing Association is trying to provide social housing above ground, as it were. Sir, the figures I regret I am not in a position to be more precise, we do not come here seeking a particular cheque for a particular sum or a blank cheque for any sum. Sir, we can only ask that the Committee gives consideration to the Housing Association's position and ask that the Committee try and accommodate it in any final recommendations it might make. Those are my

submissions. I regret they are somewhat slender, but I am afraid that is the position and all I can say without trying the Committee's patience too far.

Mr Keith Berryman, recalled

Examined by **Ms Lieven**

17978. **Ms Lieven:** Sir, can I proceed to call Mr Berryman. Mr Berryman, the Committee knows you well but perhaps for the benefit of Mr Bishop can you explain your position?

(Mr Berryman) I am the joint managing director of a company set up jointly by the Department for Transport and Transport for London for the promotion of this project.

17979. I think you are an engineer by profession, are you?

(Mr Berryman) I am. I am a Fellow of the Institution of Civil Engineers.

17980. Thank you very much. First of all, perhaps we can have put up the exhibit which shows the precise relationship between the sewer and the redevelopment?² Can you explain why the existing piles have to be removed, or may have to be removed, and the new building might have to be slightly redesigned?

(Mr Berryman) Yes, as I think has been given in evidence previously, the sewer diversion for the Ham and Wick sewers needs to go under this building. You can see here a plan of the intended development. You can see here there is a development of flats, a block here, a block here, and a link block between them with a courtyard around. We have chosen this location as it appears to be the area where it will be easiest to reconfigure the piles to allow the tunnel to pass through. I should say at this point, there are two problems: the existing piles which may or may not be there, and the future piles which will be provided to support this building. We will not know where the existing piles are until the demolition of the existing building takes place by virtue of the fact that we have no piling records for the site. If it appears that by minor tweaking of the alignments we can avoid having to remove the existing piles, then we will do that. As we said in our Petition response, we are happy to work with the Petitioner to achieve that objective. We will also work with them to help minimise the redesign of piles that they may have to do in order to accommodate the tunnel going underneath. I think we made both of those points, as I think counsel for the Petitioner has just mentioned in his opening remarks.

17981. Is there any chance at all of redesigning the sewer so that there will be no impact on this building?

² Crossrail Ref: P134, Ham and Wick Sewer Diversion in relation to Paddington Churches Housing Association (SCN-20070118-003).

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(Mr Berryman) Unfortunately not. The building, as you can see, is quite a long site. It goes virtually all the way from Wick Lane down to the next road, Fairfield Road. The sewer has to go somewhere in that area to avoid our tunnels.

17982. Are there other instances along the route where landowners have had to redesign buildings in order to accommodate Crossrail and have done so at their own expense?

(Mr Berryman) Yes, there are a number of such buildings where that has been done. Perhaps the most notable is the Paddington Central development which is immediately to the west of Paddington Station. I know it is a different scale of project but the builder of that scheme spent a very substantial amount of money in providing transport structures so that our tunnels could pass underneath easily. Of course it is a very high-rise building so that was an expensive operation. There is another example in Farringdon Road where a building was redesigned to make allowance for the tunnels to pass underneath. These were for the main running tunnels rather than for the sewer.

17983. Mr Bishop has mentioned, and members of Paddington Churches have mentioned at formal meetings, the potential cost of £300,000. Obviously the Committee are not here, and you are not a quantity surveyor, to assess the precise cost, but what would be your professional view of the likely order of magnitude of cost that we would be talking about here?

(Mr Berryman) I would be quite surprised if it was over £100,000. I have been surprised many times in my career, of course, but based on another similar example of the Farringdon Road site, the cost then was roughly £70,000 for doing that. I would need a bit of convincing that £300,000 was the right figure.

Cross-examined by **Mr Bishop**

17984. **Mr Bishop:** I have one or two questions, Mr Berryman. Presumably, from what you say, discussions have not ended, but will be ongoing because, until you get below ground, you do not know what you are going to find?

(Mr Berryman) Absolutely right, and we do have a certain amount of freedom of movement as to the exact location of the sewer. We cannot put it completely outside the development site, but we can move it to some extent to try and minimise the impact on your clients.

17985. Do I understand you right when you suggest that you do not expect to find too much in the way of existing piling, but it is the newer, modern, deeper piling which is going to be of more significance?

(Mr Berryman) No, that is probably not true. We think the existing building is piled, but we do not know exactly where the piles are, we do not know what kind of piles they are and we do not know how deep they are, so we can only establish that when the

building has been demolished, and I understand your clients are about to start work on that demolition.

17986. I mentioned the figure which had been given to me, the £300,000. Do you have any idea where that figure might have come from?

(Mr Berryman) I am afraid I do not, no. I really cannot comment further on it without seeing a breakdown. At first sight, it seems quite high to me.

17987. Leaving aside the question of the piling that has either got to be removed if it is old or put in particular places if it is new, are there any other significant design issues in relation to the foundations that are going to have to be taken into account?

(Mr Berryman) No, I do not think there should be. This is a sewer, not a railway, so issues of noise and such like do not arise here. It is a small-diameter tunnel as well, so issues of settlement are also trivial. I do not think there are any other issues which need to be taken into account.

17988. Have you any idea how long the situation is going to remain fluid, as it were, as to determining either what is going to have to be removed or where new pilings are going to have to be put in?

(Mr Berryman) I think that will be determined by your clients. As soon as the building is demolished and we can see where the piles are, what we would want, and seek, to do is to work with them to get the best fit between minimising the cost of the new foundations and minimising the cost of taking old foundations out, if needed. We are trying to maintain, and I think succeeding in maintaining, a regular dialogue and we will continue to do that until the building work starts.

17989. Just one final question, and perhaps a fundamental one: the cost of those works falls on Paddington Churches Housing Association, is that correct?

(Mr Berryman) The cost of the pile removals and the piling, I am afraid it does, yes.

17990. **Mr Bishop:** Yes, thank you.

17991. **Ms Lieven:** I have no re-examination, sir.

The witness withdrew

17992. **Ms Lieven:** I shall proceed to my closing, sir, which, as always, is going to be brief. I think the first point to emphasise is that the project will seek to minimise the impact on this building, and Mr Berryman has just given evidence about that. We are fully committed to talking to Paddington Churches and doing whatever we can in terms of design of the sewer and helping them with the design of their piles in order to minimise the interface and to minimise, therefore, the cost. Sir, that is an ongoing process and it may be almost wholly successful and it may be

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that there are no existing piles and that the cost of redesign is really very minimal, but we will do everything we can to assist with that process.

17993. Next, Mr Berryman's view, and it can only be a very general view at this time, is that the cost will not be nearly as high as that which Paddington Churches are concerned about, the £300,000, which is quite important in terms of the scale of what we are talking about, but I would also emphasise two points.

17994. Firstly, if there is a cost, Mr Bishop told us that Paddington Churches Housing Association had bought this site, subject to planning permission, and that is extremely important in terms of financial impact because any professional valuer who advised them would have said that the value was diminished by having to comply with the conditions or was likely to be diminished and, therefore, the amount of money that Paddington Churches paid for this site would have taken into account the cost of complying with the conditions. Sir, instinctively, one has a good deal of sympathy with the idea that Paddington Churches, as a housing association, should not have to bear this cost, but if they were competently advised when they bought this property, given that they did so subject to planning permission, then they are not the ones bearing the cost; the people who bear the cost are the people who sold the land to them in the first place because the value would have been diminished. If the cost was not diminished, the price did not fall, then there must have been something wrong with the advice that Paddington Churches were getting, so I would suggest, sir, that that is a very important point in the underlying true merit of this case.

17995. Secondly, sir, and probably equally importantly, there are a number of people up and down the line who have had to incur increased costs in order to comply with the Crossrail safeguarding. Now, of course one might say, "Well, the Housing Association are in a bit of a different position because they are a housing association", but, on the other hand, the developers of Paddington Central are probably going to have to spend hundreds of thousands, if not millions, to redesign and nobody is compensating them for that. Complying with safeguarding is not a matter that one gets compensation for in this type of situation. Paddington Central is this very, very big development at Paddington Station where huge blocks with piles will have had to have been slightly redesigned. Sir, it is by no means a unique situation and, in my submission, it comes back to the fact that the Compensation Code does not cover it and all our submissions in the past remain about that. Thank you, sir.

17996. **Mr Bishop:** Sir, I think I have more or less shot my bolt at the outset, but, in reply to those points, I concede, as I did in opening, that we bought with the planning permission with the knowledge. I cannot say as to what financial adjustments or

forecasts were made in that regard, and I have to concede that that must have been a factor and, if it was not, it should have been. I do not think we seek to hide that or back away from that, but my point is, looking at the way this is having to proceed and from what we hear from Mr Berryman, what we are presented with is an evolving situation and one which is not entirely predictable. As I said, we do not seek either particular sums of money or blank cheques. If one was seeking perhaps enormous costs in a court case, one might say that that should be the subject of a detailed assessment in due course, but we point, sir, to the fact that this an evolving situation with which we are confronted and in the final analysis we are in the hands of Crossrail as to what is acceptable and what has to be done or not. They will in a way set the budget for us to an extent and we can only ask, if it is found in due course that we face onerous obligations perhaps beyond what might reasonably have been expected, that some consideration can be given to recompensing the Association for that, given that it is particularly spending public money on providing social housing. Sir, I do not think I can assist the Committee any further.

17997. **Chairman:** You may be able to assist the Committee in a slight way if you could go back to your clients and ask them whether, when they bought the site, they did actually get this advice because, if they did not get this advice, they should have, as you rightly pointed out, and, therefore, they would have a claim against their advisers, so that may be a possibility. It would be helpful for the Committee to know, therefore, whether or not you did get that advice at the time of the purchase and, if you could be in correspondence with the Clerk, that would be most helpful.

17998. **Mr Bishop:** You are saying you would like a written response to that?

17999. **Chairman:** Yes.

18000. **Mr Bishop:** I will see that that is done, sir, yes.

18001. **Chairman:** Thank you very much. Now we move on.

18002. **Ms Lieven:** Now we move on to the opening on the additional provisions which some may feel is a little after the event given how long it is since we started the additional provisions.

18003. **Mr Elvin:** Sir, during the course of the Bill, three sets of additional provisions have been deposited with the Private Bill Office together with environmental statements for the additional provisions, called APESs, and they fall to be considered of course in accordance with the instructions of the House. AP1 was deposited on 18 January 2006, AP2 on 9 May 2006 and AP3 was deposited on 7 November 2006. Of course each of the APs requires your approval, although some of

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the items in AP3, as you will be aware already, sir, arise from the Committee's interim decisions given just before the summer.

18004. I have already explained to the Committee last Tuesday that we do not pursue the Barbican crossover, which is part of the APs, either as originally proposed or as proposed to be revised in AP2, and we ask the Committee to support the removal of the crossover from the Bill, and that point was dealt with again yesterday when the Barbican Residents' Association shortly presented its Petition to the Committee.

18005. Since the Committee has already heard the Petitions concerning AP1 and AP2, I do not propose to deal with them at any great length because the Committee will be familiar with many of the proposals which are contained in them, for example, the diversion of the Ham and Wick sewer and the Eleanor Street gypsy site, and many of those matters have already been dealt with by the Committee or resolved by agreement.

18006. I am going to touch on briefly, and spend a little bit more time on, AP3 which really is the new material which the Committee is about to start hearing. As I have said, you have had the various AP environmental statements which accompany the APs and they assess the likely significant effects of the additional provisions and revise the assessments of the effects previously made where they are altered or might be altered by the proposed additional provisions. There are also some supplementary environmental statements which provide additional information, for example, the recent SES which I am going to deal with at the end because there is something I need to tell you about that, which includes further material, including a comparative assessment of the shaft sites in the Spitalfields area which we agreed to carry out during the hearing of the Spitalfields Petitions last summer. Can I say, for the Committee's reference, that there is a ready reckoner, an easy reference point for all of the additional provisions in each of the non-technical summaries for the AP environmental statements. There is a table close to the front of each of the non-technical summaries which sets out the various additional provisions and summarises what they are, so there is an easy reference point in order that you can see, in very quick form, what is proposed. In the first AP non-technical summary, it is pages 4 to 8 of table 1, in the second it is table 1.1, pages 4 to 7, and in the third it is pages 4 to 11, table 1.1.

18007. AP1, as the Committee may recall, included a number of features, and I will touch on them very briefly. There were proposed amendments to the proposals at Paddington Station to improve circulation between the temporary taxi facility and the platforms to avoid conflicting movements. At Whitechapel Station, there was an enlarged western ticket hall, a new pedestrian plaza at Fulbourne Street and the replacement of two outer bridges carrying the District Line over the ELR with

footbridges. There were amendments to the conveyor at the Isle of Dogs Station and there were temporary diversion works proposed at Romford depot (west). At the Blackwall Way and Limmo Peninsula shaft, proposals are made for the additional temporary mooring to improve barge access and to remove the jetty from the Limmo Peninsula. At Manor Wharf, an alternative site layout is proposed to avoid conflict with proposed new energy from waste facilities.

18008. AP2 included the following: a revised scheme at the Westbourne Park sidings at the Royal Oak portal to enable the reinstated plant to continue to operate at its current capacity; at Farringdon Station and Liverpool Street Station, of course the crossover was proposed to be revised to bring it under the Barbican, but, as the Committee already know, we seek the Committee's agreement not to pursue it and not to include it within the Bill. As I mentioned on Tuesday, the access point at Finsbury Circus worksite has also been amended and that is required in any event with the agreement of the City of London in order to reduce the impact of the access on the trees at Finsbury Circus, and there is also an alternative route for the sewer diversion which runs through the middle of Moorgate. As you also are aware, at the Eleanor Street site, the Mile End Park and Eleanor Street shafts have been revised because of the impact on the gypsy/travellers' site, and you are also aware of the proposals to divert the Ham and Wick sewer. There are also amended construction methods for Dog Kennel Bridge and Chequer Bridge on the western line, details of which of course are all set out and, I think, are now agreed.

18009. Turning in more detail to AP3, which the Committee has yet to hear, perhaps I could ask for document AP3a, which is the environmental statement, the overall key map to be put up. There are various amendment proposals in fact along the route in most parts of it. I will deal with the central area first.

18010. The first proposal I intend to refer to is the Royal Oak portal where a new ramp is to be constructed from Westbourne Park Villas to the southern span of the footbridge, following the Committee's recommendation, and there is a photograph on page 13 of the AP3ES.³ The reversing facility has been moved further north to avoid greater independence between the existing operational railway and Crossrail.

18011. Moving a little further east to Paddington Station, page 25 please.⁴ Eastbourne Terrace is to be lowered, so Chiltern Street needs to be regraded which removes the need for stairs and lifts between Eastbourne Terrace and Departures Road. There is

³ Amendment of Provisions 3 Environmental Statement, Chapter 2, Route Window C1: Royal Oak Portal, billdocuments.crossrail.co.uk (LINEWD-AP302-003).

⁴ Amendment of Provisions 3 Environmental Statement, Chapter 3, Route Window C2: Paddington Station, billdocuments.crossrail.co.uk (LINEWD-AP303-003).

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a relocation proposed west of the station entrance and certain aboveground structures are to be relocated.

18012. More significantly, at Bond Street Station, which is page 37, what is proposed is an additional London Underground station entrance and ticket hall which is proposed to be located at 354-358 Oxford Street.⁵ The Committee can see, I hope, that that is outlined in white with an arrow pointing at it, the building that requires to be removed, along with a series of underground passages, escalators and lifts which will increase capacity and reduce predicted congestion in the interchange concourse on London Underground. In fact we have an axonometric from AP3a, map C4(v) and you can see in red the additional congestion relief infrastructure which will create greater capacity within Bond Street.⁶

18013. Moving then to Tottenham Court Road Station, page 55, there is a revised construction methodology requiring an additional building to be demolished and we can see the revised extension of the demolition in a sort of beige line extending out to Denmark Place.⁷ The building to be demolished is 138-146 Charing Cross Road. The eastern entrance to Centrepoint has been revised to enable it to be used as the main entrance during the construction period and, if you look at map C5(ii), that shows the extent of the revised demolition.⁸ It shows the extent of the demolition now proposed and that will assist in the creation of the new plaza to the west of Centrepoint and the new traffic system which we have put up as map C5(viii) from SES3a.⁹ You can see there that the proposed arrangement is that there will be a plaza concourse to the east of Centrepoint with station entrances both north and south and the realignment of the highway that is proposed and the new development which will take place along the southern side of the plaza. I was going to point out where the Petitioner this afternoon was going to be, First Out, but since they have withdrawn, I do not need to, but they were about where the words "St Giles High Street" are.

⁵ Amendment of Provisions 3 Environmental Statement, Chapter 4, Route Window C4: Bond Street Station, billdocuments.crossrail.co.uk (LINEWD-AP304-003).

⁶ Amendment of Provisions 3 Environmental Statement, Bond Street Station, Amendment of Provisions—Axonometric, Map C4(v), billdocuments.crossrail.co.uk (LINEWD-AP3C4-006).

⁷ Amendment of Provisions 3 Environmental Statement, Chapter 5, Route Window C5: Tottenham Court Road Station, billdocuments.crossrail.co.uk (LINEWD-AP305-003).

⁸ Amendment of Provisions 3 Environmental Statement, Tottenham Court Road Station, Denmark Place and Centrepoint—Revised Scheme and Impacts, Map C5(ii), billdocuments.crossrail.co.uk (LINEWD-AP3C5-003).

⁹ Amendment of Provisions 3 Supplementary Environmental Statement, Tottenham Court Road Station, Traffic Management Permanent Arrangement—Outline, Map C5(viii), billdocuments.crossrail.co.uk (LINEWD-SES3C5-009).

18014. Jumping a mile or two to Farringdon Station, page 75, this is the Fox and Knot Street Site.¹⁰ In accordance with the Committee's views, the shaft has been located further to the east enabling 38 Charterhouse Street to be retained, although numbers 40 to 42 still need to be demolished.

18015. Moving to Liverpool Street, again following the Committee's recommendations, an additional Crossrail ticket hall, which is referred to as the Broadgate ticket hall, is to be provided.¹¹ Ms Lieven is pointing to the proposed entrance which is in front of the British Land site. The AP will also include the provision of extra ticket gates in ticket hall B as to which you heard much evidence just over a year ago.

18016. At Whitechapel the issue of the school and access to the staff car park has been dealt with. The access to the staff car park has been restricted and an additional access is to be provided from Trahorn Close.¹² You can see there is an arrow as Ms Lieven is pointing out.

18017. Without a picture, the Stepney Green shafts are proposed to be amended allowing vertical limits for the westbound tunnels to be raised which will allow the shaft structures and the caverns for the tunnels to be constructed under better geological conditions and therefore reducing the construction risks.

18018. The Isle of Dogs Station—map C11(iv) from AP3a—what is proposed there is a revised station design with two ticket halls giving improved links to the north and the south sides of the dock.¹³ We can see the entrances now proposed. The construction methodology for the station has been revised to avoid extensive piling works within the dock which would have significantly affected neighbouring properties through construction noise, so that reduces the impact.

18019. Pudding Mill Lane—map C13(ii) from AP3a—the worksite has had to be reconfigured and an additional worksite provided between Cook's Road and River Lea to accommodate the loss of the Bow Midland Yard (East) worksite.¹⁴ The new area is the purple hatch that Ms Lieven is pointing to. The site that has had to be lost to accommodate the Olympics is the roughly triangular patch just to the east of the River Lea. Between there and the dotted

¹⁰ Amendment of Provisions 3 Environmental Statement, Chapter 6, Route Window C6: Farringdon Station, billdocuments.crossrail.co.uk (LINEWD-AP306-003).

¹¹ Amendment of Provisions 3 Environmental Statement, Chapter 7, Route Window C7: Liverpool Street Station, billdocuments.crossrail.co.uk (LINEWD-AP307-004).

¹² Amendment of Provisions 3 Environmental Statement, Chapter 8, Route Window C8: Whitechapel Station, billdocuments.crossrail.co.uk (LINEWD-AP308-003).

¹³ Amendment of Provisions 3 Environmental Statement, Isle of Dogs Station, Transport Links, Map C11(iv), billdocuments.crossrail.co.uk (SCN-20070118-004).

¹⁴ Amendment of Provisions 3 Environmental Statement, Pudding Mill Lane, Revised Scheme and Impacts, Map C13(ii), billdocuments.crossrail.co.uk (SCN-20070118-005).

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lines further along you can see the words “Bow Midland Yard” at the top. That has been removed to accommodate the Olympics. The site has been reconfigured and the purple area has been included so that will avoid any conflict with the proposed Olympics which of course the Committee will recall the Bill was deposited before the successful Olympic bid was awarded to London.

18020. We can deal briefly with Maidenhead Station. The access has been revised to allow a new housing development to proceed unhindered. At West Drayton Station there are works which are proposed in the event that the alternative depot strategy, which I will come on to in a moment, is rejected by the Committee. Those works are only required in the event that the depot strategy which is now proposed is not accepted.

18021. The new depot strategy involves relocating the proposed Crossrail depot from Romford in the east and the Committee will be aware there have been petitions regarding the loss of playing fields and the impact of the depot. What AP3 now proposes is to relocate the depot to the west just north of Wormwood Scrubs at Old Oak Common depot. The depot buildings and the ancillary works and the sidings will be placed at Old Oak Common and you can see it there.¹⁵ They are currently occupied by EWS and the Heathrow Express and it would propose to replace Romford. Buildings currently located on the site of the proposed new sidings will of course need to be demolished and track-work leading to the depot will be revised. Where it says Great Western main line you can see there are sidings and a depot on the other side. That is called the North Pole.¹⁶ I am not sure whether it is called that because it is north of Wormwood Scrubs or because of the pub which is located on the road, but that is where currently it is proposed to relocate EWS from this side of the Great Western main line to that side to accommodate the Crossrail network. There are still discussions, however, with regard to the EWS relocation. That, we would put to the Committee, is a satisfactory alternative site for the depot which will overcome the strategic problems of the playing fields and the impact at Romford by utilising an existing depot with consequently lesser impact.

18022. Next is Seven Kings Station, which is Ilford depot—page 197 of AP3 ES—which is part of the revised depot strategy as well.¹⁷ What is proposed, if the Committee are satisfied that the alternative depot strategy should be followed, is this will allow for stabling to be constructed at an existing depot

site. Two existing buildings in the Ilford depot would be demolished and replaced by 11 sidings and ancillary works.

18023. Turning to Goodmayes Station and Gidea Park Station, additional amendments are proposed to allow for greater PRM accessibility, including revised ticket halls and step-free access to platforms.

18024. Romford Depot (West)—these are proposals, as with West Drayton, which only arise if the Committee rejects the alternative depot strategy. There are proposals to try and mitigate the impacts of Romford, if the Committee considers the depot ought to remain there, despite the alternative strategy. Those proposals will reduce the loss of playing fields during construction and would reduce the impact, although we will still be asking the Committee to recommend and endorse the wholesale removal of the depot to West London rather than the east.

18025. Page 243—Blackwall Way and Limmo Peninsula shafts—what are proposed there in fact is to replace the barge loading facility from the Limmo Peninsula at Instone Wharf which you can see marked in white on the photograph.¹⁸ That will ensure easier access and improve the handling of excavated material.

18026. Finally in terms of pictures, page 262, this is Clacton, which I do not think we have been to so far along the course of the Bill.¹⁹ This again is part of the revised depot strategy it may surprise you to hear. The alternative depot strategy includes a proposal to reopen Clacton Depot temporarily to commission and test the new Crossrail rolling stock. Because of the decision to relocate Romford, if the Committee so endorses the decision, additional commissioning and test facilities would need to be provided. We have had to split up the function a little in order to make sure that we can accommodate the relocation of the depot. That is proposed at Clacton and because of the greater length of the Crossrail trains some alterations to the existing maintenance shed will be necessary to accommodate those trains. There are also other provisions within AP3 which I am not going to deal with in any detail: amendments to the Stockley Flyover, the limits of deviation revised works site and access at Hanwell Station and a revision to the Arsenal Way shaft to enable one of the businesses to remain operational.

18027. I hope that is not a too rapid a canter through the main proposals from AP3, but it at least gives the Committee a flavour of the main items and, as the

¹⁵ Amendment of Provisions 3 Environmental Statement, Chapter 17, Route Window W3: Old Oak Common Depot, billdocuments.crossrail.co.uk (LINEWD-AP317-004).

¹⁶ Amendment of Provisions 3 Environmental Statement, Chapter 18, Route Window W2: Canal Way, Aerial view of the North Pole Depot, billdocuments.crossrail.co.uk (LINEWD-AP318-004).

¹⁷ Amendment of Provisions 3 Environmental Statement, Chapter 19, Route Window NE5: Seven Kings Station

¹⁸ Amendment of Provisions 3 Environmental Statement, Chapter 24, Route Window SE1: Blackwall Way and Limmo Peninsula Shafts, billdocuments.crossrail.co.uk (LINEWD-AP324-003).

¹⁹ Amendment of Provisions 3 Environmental Statement, Chapter 26, Route Window R2: Clacton, billdocuments.crossrail.co.uk (LINEWD-AP326-002).

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Committee will have seen, they include a good deal of alterations in order to give effect to the Committee's decisions.

18028. The final matter I want to touch on is SES3, which was deposited in November, and contains some updated environmental information, including particularly the comparison between Hanbury Street and Woodseer Street which we promised. Since the publication of SES3 last November, it became clear this week that some corrections need to be made to a fairly small number of paragraphs—in the order of four or five—relating to the noise impacts on the proposed Hanbury Street shaft. It is right that the corrections should be made so that there is accuracy in the environmental statement, but I can assure the Committee that they do not lead to different conclusions in terms of the noise impact of the Hanbury Street shaft when one takes into account the revised possibilities for mitigation, nor does it lead to a different conclusion to the comparative exercise between the Hanbury Street site and the Woodseer Street site. If you remember, although a detailed noise comparison was not available when the Committee heard the Spitalfields Petitioners last summer, Mr Thornley-Taylor said in his view it was likely that, at least in noise terms, the two locations would come out broadly comparable. That was not the point—as Mr Berryman made clear to you and will make clear to you again if necessary—which led to the choice of Hanbury Street over Woodseer Street. The assessment in SES3 leads to the conclusion that Mr Thornley-Taylor's prediction was right that, in noise terms, the two are broadly comparable in their impact. The point for decision arises on other grounds, not on noise grounds.

18029. Accordingly, what we propose to do is to make available the corrected text to the AP3 Petitioners from Spitalfields who are appearing on 30 January. We will make the corrections available

to them this week which will be in good time hopefully for their appearance on 30 January and we will also publicise the amendments to SES3 as soon as we reasonably can. I can assure the Committee from what I am being told over the last few days that the changes will involve no Bill amendments; they will involve no requirement of petitioning. They will open the possibility to those reading the amendments that they may wish to make representations, which is a separate process from petitioning, which would then be presented by the Secretary of State to the House at third reading along with any other representations which do not arise in the context of bill petitions. Although those corrections have to be made, we hope that they should not give rise to any great difficulties. I simply say them for the record so that everybody knows that we need to make them and it may well be publicised to the AP3 Petitioners before the end of this week.

18030. Sir, unless there are any matters that the Committee would like further information on, that concludes my run through the AP's.

18031. **Chairman:** I am grateful.

18032. **Ms Lieven:** The only other matter today is the cyclists, Mr Selway and Mr Harrison. I do not know if the Committee knows that they are finding it difficult to get here this morning. I believe they can come at half past two.

18033. **Chairman:** We have a witness here but we have not got the representative. I think it is probably correct that we need to suspend until two thirty and then come back and hear their case then. The last we heard from them was that five or six emails have been received. He has left Birmingham and he will be here as soon as he can.

Adjourned until 2.30 pm

The Petition of Michael Andrew Harrison, Arnold David Moxon and Gordon Gemmell Selway

Mr Gordon Gemmell Selway appeared on behalf of the Petitioners.

18034. **Chairman:** Welcome.

18035. **Mr Selway:** Thank you, sir.

18036. **Chairman:** Congratulations.

18037. **Mr Selway:** Thank you. Oddly enough, it is not because of the weather; it is because of privatisation.

18038. **Chairman:** I am not entirely unsympathetic to what you are talking about but I think we will leave it there.

18039. **Ms Lieven:** Can I make a very brief opening, sir?

18040. As you know, these Petitioners represent the National Council of the Cycling Touring Club and are concerned about the provision of bicycles in relation to Crossrail.

18041. As I understand it, the principal concern still outstanding is the carriage of bicycles on the Crossrail service. The final policy on the carriage of cycles, as we have explained, will be decided by the Franchising Authority and the Train Operating Company, not by us, and we are wholly committed to continuing to talk to the CTC about that policy and the policy may vary. It may depend on local conditions and it may vary between hours.

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18042. It is right to say that it certainly will at least take into account the London Underground policy on cycles which, in essence, is that cycles cannot be carried in the deep parts of the tube at any time and cannot be carried anywhere at peak hours, so they can be carried on the subsurface and surface level tubes outside peak hours. We are not saying that will necessarily be our policy but obviously it is likely to inform our policy, but we are very much still in discussion and will continue to be in discussion with the CTC -- not just about bicycle carriage policy but also about matters such as where cycle racks go and detailed design issues such as that in the appropriate time in the project.

18043. I am not going to say any more now, sir. I have Mr Anderson here to give evidence if the Committee feels that is necessary later.

18044. **Chairman:** Mr Selway?

18045. **Mr Selway:** I have a small problem immediately which I must apologise for. I need to switch on my notebook and it will make a noise, and I must apologise for that happening first. I cannot find the device I need to make it not make a noise, but there we are.

18046. **Chairman:** We may just have a small problem also. The stenographers need to hear you, so if you could just lift your voice it would be helpful.

18047. **Mr Selway:** I am deaf, I have to be careful, and I am not sure whether my hearing aids are working, and when my hearing aids are not working I find it difficult to tell how loudly I am speaking.

18048. **Chairman:** You are not having a very good day!

18049. **Mr Selway:** No. I will not go into the technical reasons for it, but it does make life difficult. You may or may not be able to help me, or the Clerk may be able to help me on it. Are there induction loops?

18050. **Chairman:** Yes, and they are on.

18051. **Mr Selway:** In which case I will switch on the induction loop and see if that helps.

18052. **Chairman:** I think we will just have to get on and try and help each other.

18053. **Mr Selway:** Thank you, sir.

18054. With all respect to what counsel for the Promoters has said, the point about carriage is one of the core points of our concern, as is indicated in the skeleton argument, if I may call it that, that we have supplied and which I hope honorable Members have copies of.

18055. **Chairman:** We have.

18056. **Mr Selway:** There are a considerable number of issues which flow from our concern about carriage, both about access to stations all along the route and about the application of best practice, because this is not a here-today-gone-tomorrow undertaking, it is a piece of infrastructure work, the effects of the decisions of which will be with us for decades to come. There are still shortcomings on these deep level tube lines for people like me who have some mobility difficulties which were built 100 years ago and have not yet been resolved, so I am thinking about it in those time scales and that takes us to the over-arching concern that we mention in our skeleton argument, which has to do with climate change and how best to reduce the carbon dioxide output from travel and using Crossrail when it is in place.

18057. One of the most simple and effective ways of doing it, sir, is making it much more bicycle friendly, both on the surface sections and on the subsurface, the deep level section across central London.

18058. We have also supplied copies of the Best Practice Guide covering the issues that arise and material which, for the purpose of the original session, which did not go ahead on October 24, we supplied URLs for in relation to the carriage of bicycles on deep level tubes in various cities in North America.

18059. As far as I can tell, those set out the broad picture of the case we are trying to make out to you, sir, and to the Promoters, which is in effect that measures could be taken in respect of their proposals to make them better and more consistent with policy than they are at the moment. That is the core of what we have to say and we have supplied the material in the hope that it will assist honorable Members to determine whether that is a reasonable possibility.

18060. I would add in connection with the point that these are matters for the franchisees and the Franchising Authority, and my colleagues and predecessors, I think 16 or 17 years ago, were able to obtain the insertion of a clause in the Channel Tunnel Bill to ensure that bicycles would be carried through the Tunnel, so in some respects there is a precedent, if need be, for the case that we are putting being turned into some form of statutory provision.

18061. **Chairman:** We will read all the documentation that you have given us and we will consider all the evidence put before us, and we will at a later point, as a Committee in full and in private, discuss these and come to what we believe will be reasonable decisions on the matter, to present back to Parliament for it to decide. I can give you the assurance we will consider all the evidence that you have put forward.

18062. **Mr Selway:** That I understand, sir.

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18063. One reason for maintaining our objection was, if there were any opportunity for questions to be put, that we might be able to assist on elucidating the material that we have put in. I know it is a very short time between it being made available to you this morning --

18064. **Chairman:** It is really the other way round. It is not for you to question us; it is for us to question you.

18065. **Mr Selway:** That is what I meant, sir.

18066. **Chairman:** The way to proceed, if you want to elucidate some --

18067. **Mr Selway:** You misunderstand me, sir, I am sorry. I meant that you could ask me questions.

18068. **Chairman:** I think the best way of proceeding is this. You have a witness who has been here all day who has very kindly stayed, so if you would like to call your witness and ask him some questions Members may feel that they want to ask questions on some of the responses that he gives, and take into consideration some of the questions that you ask.

18069. **Mr Selway:** That was my intention, sir, if you are happy for me to do that.

Mr Andy Holladay, Sworn.

Examined by **Mr Selway**

18070. **Mr Selway:** Mr Holladay, would you kindly tell the Members of the Committee who you are, what your position is, and what your experience is, relevant to the Crossrail Bill?

(Mr Holladay) My name is Dave Holladay. I have worked in the transport industry for over thirty years, some of it as a British Rail management trainee. I then joined British Rail as a manager. I have since worked for CTC as their specialist in public transport and integrated transport, and I have from time to time worked with rail operators to design equipment for conveying bicycles on trains, so I have a moderate amount of experience on the issues. I have also worked on cycle parking and access to stations and other premises.

18071. Thank you. You have looked at the Crossrail proposals and you would, I think, agree with me that they are somewhat lacking when it comes to making best use of the opportunities that a combination of the use of a bicycle and rail travel can bring.

(Mr Holladay) There are a number of aspects to this. There are the existing customers who are already using the system who demonstrate quite clearly that it works, and this is where our concern principally over travel to Paddington and Liverpool Street exists in quite substantial numbers already. Some people leave bikes at those stations; others bring bikes on the trains; and there is additionally the connectivity of being able to travel through London with a bike on the underground network by

changing. To say that bicycles could be left at either end is something that could be possible for the commuter, who was making regular journeys and can plan these things, but people, for example, like tourists travelling out to Harwich for the boat or something like that, people with a specific disability that requires them to ride an adapted bike may wish to take their bike with them and adapt it accordingly, so the ability to take a bicycle of some kind under certain conditions on through trains is something we want to see as a core principle. This has already been proposed on an international basis before the European Parliament, that passengers would be able to take bikes, or that provision would be there for them to take bikes on all the trains. By painting that out of the picture you leave yourself with a difficult thing to rectify.

18072. Thank you. I wonder as well if you could explain how the combination of bike and train increases the business case, not just for commuters, in relation to a project such as Crossrail.

(Mr Holladay) There are both internal and external issues here. Basically the Bicycle Study, which I think you probably have in the bikeraill report, notes potentially 60 per cent of households within a 15-minute bike ride of a station in the existing network compared to only 19 per cent with a 15-minute walk, so immediately you increase the convenience of being able to access the system. This means that the system becomes accessible with low impact as well. Instead of having to build large car parks at every station because people perceive they have to drive, a lot more people will be able to come by alternative means and freedom of choice, I think, is quite important, to make sure you can still preserve that freedom of choice. It may be that the freedom of choice is forcing people because they can no longer afford to make short journeys by car; I am not sure what the future holds there. In terms of the external issues, Crossrail will be generating a lot of trips which deposit people for onward travel, and that onward travel has an impact also. I have in mind particularly some of the inner London stations, where you will be putting additional passengers into the Underground, the bus or the taxi networks, and to some extent the effect we see at stations like Waterloo is that passengers are realising that you arrive at Waterloo with an uncertainty as to whether the Underground system is going to be working, but if you have a bike with you, you have a guarantee that your connection is there for onward travel. That is the personal side of it, but to the Underground network you are offering a way of decanting a percentage of passengers who will otherwise be poured into the system, so you are offering an additional mode of transport to disperse the people from the station. Off peak as well there are considerable benefits where, for example, at weekends public transport services may be less frequent than they are during weekdays, or not available, so for people who are travelling to outer stations, the option is there of actually taking a bike along with them and cycling that bit when they would otherwise have caught a bus route because

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there is no weekend bus, so it gives you that immense flexibility. I notice it myself particularly with shift workers. I travel on trains very early in the morning and very late at night and you tend to bump into a lot of shift workers who take their bikes on the trains because there is no bus to get them back from the station late at night, or to the station to make their shift, so the ability to have that flexibility in the system is very important.

18073. You also mentioned benefits to the disabled. Now, I understand that Crossrail will take disabled travellers in wheelchairs. It may be helpful to the Committee to explain the situation of why people who might otherwise have to use a wheelchair are, in fact, able to ride a bike. I am sure in this country at least it seems paradoxical.

(Mr Holladay) I would draw the Committee's attention to a submission we made for the Disabled Persons' Transport Advisory Committee programme for 2007-2010 in which we gathered details of people using bicycles as mobility aids. When I say "bicycles", probably the more accurate term is "cycles" as mobility aids, because there are people who have balance or motor problems who obviously cannot cope with riding on two wheels, so they ride on three.

18074. **Chairman:** Is there a possibility that you would be able to forward that documentation on to us?

(Mr Holladay) Yes. Basically we have over the past two or three years at CTC gathered information from a lot of people who have a disability who want to take their adapted bicycle with them on the train because it makes a phenomenal difference to their ability to move around independently. For example, there are people who are registered as blind but they can ride a bicycle, and that means if they get to an end station and they want to get to a place which is not served by a bus service they are totally dependent on having a driver and a vehicle supplied for them, whereas with a bicycle they maintain that independent mobility which is a very dignified means of getting about. There are people with severe spinal injuries who also cannot walk more than five yards but they can cycle five to ten miles in great comfort. It becomes almost a mobility aid issue but for some people who can use a bike it transforms their lives. As such, obviously the use of the bike on the train forms an equivalent for them of driving a car. We know two blind people who use a tandem, two brothers, who run their business by using their tandem and the train to get around to visit customers. They cannot drive so between them they can manage the tandem and the train to cover the distances. As such they have become very skilled negotiators with the train operators.

18075. I was wondering as well if you could assist the Committee by explaining the benefits that come from the much greater area covered by stations where access is achieved by cycle rather than on foot,

and how that may compare with, for example, bus access and car access and what the implications are for station design.

(Mr Holladay) I think we are getting examples in stations like particularly at Waterloo. I cite Waterloo because we have been working with the management there on this issue because they see the parked bicycles. I do not know if any of the Committee go through Waterloo but you will see at night parked bicycles tied on every lamp-post, bollard and spare space. When you create a station, which as Waterloo does, carries four times more passengers than Heathrow through that space, one of the key ingredients is dispersal and collection because railways, as public transport, are a consolidated means of transport. It is economic and sensible to bring your passengers into a station which is convenient to stop at. With Crossrail you have a limited number of stations through Central London because you need to have a particular service pattern, you do not want to have a station with a density that you have on some of the Underground routes. The ability to consolidate passengers and also disperse them from those stations with a minimum impact to all four points of the compass in the most economically practical way is where the bicycle ties in with pedestrianised access but the bicycle gives a benefit that you can extend that access over an area at least 16 times greater because you can travel about four times as far on a bicycle in the same time as you can walking. That obviously affects the stations. If you want to turn to the Melbourne map. The bike rail one is Sydney. You can see the effect on the catchment areas of a cycle to station against a walk to station and how the corridor of catchment grows quite neatly in that respect. Of course it is fairly cheap to ride. To build a road in from every point of the compass is costly on land and resources, whereas to build a walking and cycling route takes a lot less resources to do. In terms of dispersal, next to pedestrians going out of a place, getting cyclists through a corridor, you can get a lot of them moving very, very quickly. We do not have figures for places like Waterloo because nobody has bothered to look at them. That is where we feel very frustrated by the existing network. They do not realise what they are sitting on.

18076. I was wondering whether Ms Jones was hoping to put something up on the screen for you?
(Mr Holladay) Can we have the Melbourne exhibit?

18077. **Ms Lieven:** Yes, that is it there.²⁰

18078. **Chairman:** Do Members of the Committee have this document?

18079. **Mr Selway:** They do, sir. I think you would agree, Mr Holladay, when you look at the map, which is figure 5a, the blue circles which represent

²⁰ Committee Ref: A198, LRT and Cyclists' Guidelines for Planning and Designs, Figure 5a, Comparison of the cyclist and pedestrian catchment areas of public transport stops in Sydney, Australia (LINEWD-35205-039).

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the standard assumed walking distance within 750 metres of station is in fact quite a generous walking distance. I understand planners frequently work in this country on a 500 metre distance from stations. You have an isolated set of areas served upon foot, especially in the outer areas, but you see continuous belts at the outer ends of the trips, apart from the gap between Heathcore and Waterfall, and that in the city centre you see the whole area is covered. Would you agree with me on that?

(Mr Holladay) Yes, I would agree with that. I am also looking at the speeds to check that the seven and a half minutes is recognized as being the time it takes to walk 750 metres and 7 and half minutes at 2.25 kilometres of cycling which seems to tie in. Although you would not be hanging about walking 750 metres in two and half minutes, it is very much walking as transport at that speed, it is about six kilometres an hour, is it not?

18080. **Chairman:** I have had the great pleasure of visiting Sydney and I have got experience of the bikerail network there, but could you try and relate it to how Crossrail would be affected as Sydney is not the same as London by any stretch of the imagination. Neither is Crossrail applicable to most of what Sydney has, it is different.

(Mr Holladay) I think it is not so much in terms of the topography but more in the way the catchment works. We are trying to use it as an illustration of the way the catchment works. I noticed on the same page it does mention the cycle carriage issue and it is illustrated in that document that they suggest things like end of carriage and flexible seating. One of the biggest problems we have in putting cycles on certain trains now is there was never provision for it in the first place, so it is considered to be an inconvenience because it was badly designed for. Where it has been well designed for it does not have the problems. Again, from Waterloo, there is a particular train which is being withdrawn this February which is the biggest bone of contention for delays due to cycles, largely because in the redesign of the train they put the cycles in the conductors office, so he has to open the door and has to put up with bikes in his office which is a recipe for causing friction and problems. What I would like to see in designs, and when I try to work with operators, is to work it as a matter of principle that the bike spaces are easy to access and do not delay the train because they do not have to, and this is where I think our concerns are in that respect.

18081. **Mr Selway:** If I might sum up the point you were making there. Your objective in working with operators and in making your comments on the Crossrail proposals is to attempt to design out shortcomings as they might affect cyclists and so obtain personal benefits for people who are using the train with a bike but also public benefits, is that right?

(Mr Holladay) Yes, that is very much the case. It is not good for cyclists to be seen as the pariah who delays the train if the reason the train is delayed is that they were not considered properly in the first

place. That is the way I see it. It is quite often you feel embarrassed that you have got to go and find a member of staff to open the door to let you off the train simply because they have designed the train where they have to unlock the door to let you take your bike off. This is the sort of thing we feel should be enshrined in the way the project is planned and sorted out that it is accepted that a carriage will be provided and access for bikes will be provided for. How that is determined and how it is regulated may be a matter for marketing, as I like to put it occasionally when I am dealing with operators, and managing it by policing—which is saying no to everything or “you cannot do this, you cannot do that”—or you can manage it by pricing which is recognising that a market exists and people will want to do these things. You have to regulate it by a means of supply and demand. If someone is absolutely desperate to catch the ferry by travelling across London with a bicycle and the space is limited, they pay a premium, whereas if you are travelling with a train which is probably only about 30 per cent loaded and people want to go out for a weekend cycle ride and they add another two or three per cent to the passenger loading, you would be able to welcome them. We have a situation, for example I travel regularly on the boat train to Ardrossan through Glasgow and I would say on most days in the summer at least ten per cent of the passengers on that train are travelling with bicycles, far above the level of bicycle provision on the train but fortunately the train is designed in such a way that they can be accommodated. Ten per cent of passengers are travelling simply because they can take the bikes.

18082. Thank you, Mr Holladay. I wonder as well if I could point you in a somewhat different direction. One arises from our former membership of Network Rail where you were our nominated person, which means the person who attends the Network Rail meetings and who speaks on our behalf, which gives you some acquaintance with the approach of Network Rail to catering for the passenger as a customer. You may agree with me that that fits in with your description of how trains can be better designed to prevent cyclists being a pariah. It is not simply cyclists but others who benefit from the approach. Would it be possible for you to explain the concept to the Committee?

(Mr Holladay) I am trying to picture what the question actually is. Essentially, I can highlight some trains which have been designed well whereby providing for cycle access has indeed provided for better access for peak travelling passengers. Obviously if you provide wide doorways and easy access for cycles there are some trains operating out of Waterloo like this at the moment, you also provide a wider doorway so that when the rush-hour train comes in there is not a crowd of people trying to shuffle through the doorway which is far too narrow but a much easier way on and off the train. I think it extends beyond the trains. I think we also have to consider the stations and their access. We

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share a lot of benefit/gains with the disability lobby in terms of having ramps and means of access which do not involve stairs or similar.

18083. **Chairman:** So what you are saying then is that you want us to look at the access to stations as well as the trains, the rolling stock?

(Mr Holladay) I think you need to consider that, yes.

18084. What you were suggesting earlier was a specially designed carriage which basically had, in the same way as a passenger doorway, a central locking system which opened at stations automatically and locked during transit, especially designed for cyclists to get on and off?

(Mr Holladay) Well, what happens in the situation at the moment is that with a number of operators the place where you place the bicycle actually happens to be an area of the train which is normally isolated from the public, so you do have to get it unlocked especially, but most trains have a bit more of a commonsense situation whereby you place the bicycle into an area which can be used by other passengers. There are lots of opportunities to work with flexible space whereby it is available for bicycles principally, but, if you had a crowded train, and you might still restrict the carriage of bicycles at certain times of day, that space is then available for seated and standing passengers. The indication from SouthWest Trains was that they actually reduced the number of seats after the complaints of passengers because the arrangement of seats, which sought to provide as many seats as possible on the train, did not actually suit the passengers and it just got in the way of moving around the train because people just did not use the seats so closely spaced, so the idea for the trains to be far more flexible in their use is one which appeals not just to us as cyclists, but, for example, to airport passengers travelling. If you have ever travelled on a Thameslink train which is substituted for the Gatwick Express or similar, you would find that it was a commuter train which was then crowded up with people with huge flight luggage and it does not work because there is no flexibility in the train to say that at one time it is used for commuters and at another time you can fold a few seats out of the way and take people with lots of luggage. We see this in a lot of situations, that the system is being considered as a single-focus system, but unfortunately we have an operation where I think in London we use twice as many trains to move the peak-hour traffic as we do during the day and during the day we have those trains running around almost empty, whereas the potential for other traffic to use them is great.

18085. **Mr Selway:** The other direction I have in mind to ask you about this point was also to do with station design, but to do with parking at stations and land costs. I hope that the direction my mind is moving in is relatively clear because there are, I think, are there not, distinct benefits to the operator, the station provider, if someone comes to the station on a bike rather than a car which they leave behind?

(Mr Holladay) I think you have a very true point there. It also ties in with dispersal, that the ability to park at least ten bikes in one car parking space means that you can potentially bring in ten people, whereas with a car you only bring in 1.2 on average, so that is an immediate start point. The convenience offered to the passenger of being able to place that cycle parking close to the train is very, very highly regarded. You will find that cyclists will always park as close to the station as they can and it makes that seamless transfer possible. Also with the cost of parking, most ground-based car parks at stations cannot be expanded on further and a lot of stations are now going for the multi-storey option. Typically, a multi-storey space is going to cost around £12,000 to build and the ultimate one is the one at Heathrow which was costing £32,000 per space to fit a new car park in at Heathrow Central, but, if we carry on trying to provide car parking at stations to people arriving by car, it is going to become a big expense unless we try and get more land and quite a lot of sites just do not have the land, so it is very important, I think, to plan the land and that the land required for cycle parking is designed in properly. It needs to be close to the trains because people will not use it if it is not close and it needs to be secure and seen to be secure. All the evidence at existing stations is in the way people are parking bikes already. At Waterloo and Euston, often the places are where people roll up to the station and their bikes are fully visible to everybody coming to and from the station, so you have the cab row at Waterloo full of bikes and the colonnade at Euston with bike racks full of bikes, so there is clear evidence that that is what people are looking for the provision of and that is what we feel should be engaged in the designs of the Crossrail stations because there will be this demand.

18086. **Chairman:** Could you just explain to me what the great need is at a place like Heathrow Central at Heathrow Airport for cyclists other than for people who work in the immediate area where they live which is not great, is it?

(Mr Holladay) At Heathrow there is a bicycle user group and a certain amount of cycling goes on. It is very convenient on a large site like that, particularly on the internal road network, to get around by bike because you do not have to find a space to park at either end of your journey and the journey lengths are the sort which are very quick to make by bike and you do not have to go and retrieve your bike, park it somewhere and go back to the place you are working, but you can virtually take it door to door, so internally there is a lot. I suspect, as you say, quite rightly, that there are not a lot of people who actually cycle into Heathrow, the central area, to work, but I am essentially using it as an illustration. It is an illustration of how, if we go down the car parking route, particularly in some of the central London locations, if you are talking of providing car parking, you are talking of phenomenal cost and you need to find somewhere to provide the alternatives and make sure they are provided.

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18087. This is a point of the design of carriages and so on, that it could be multi-use?

(Mr Holladay) It could quite easily be multi-use. There is very little to prevent it in that way and we have over the years with people come up with designs which actually economise on space quite effectively.

18088. **Mr Selway:** I know you have had lengthy discussions with the Promoters in respect of Farringdon Station and I understand that members of the Committee have received a communication from the local Member in relation to it. As Farringdon is an important interchange station for through-journeys, I wonder if you would like to make some comments on the situation at that station in particular.

18089. **Chairman:** Can I just say that we have a dilemma in that we have people who have already got commitments to be elsewhere and we also have a difficulty with the stenographers who have been here all day. I really do need you to get to your point and make it because, otherwise, we are going to run out of time and you will have to make this tortuous journey yet again.

18090. **Mr Selway:** That I appreciate and I appreciate the forbearance of your Committee in allowing us to appear so late in the day, as it were. This is, I think, my final area which appears to need or which may require further elucidation. Are you able to assist the Committee, Mr Holladay?

(Mr Holladay) You are talking about Farringdon and their plans for major pedestrianisation outside the station. I know the area very well as I often use Old Street and Farringdon Road as a gradient-free route. There are some routes over to Mount Pleasant which are more steeply inclined and one of the things about cycling is that you try to pick the most flat routes through, but equally if we are going to access this station, the way that most cycles access the station is to ride up to it. You can attempt pedestrianisation, but it becomes: do you police or manage? Quite often you will have seen pedestrianisation schemes which have been originally rigorously pedestrianised and then they have reverted much more to a managed situation where people will cycle through it because it is a connection route which works for cycling and it is managed by making sure that their speeds are regulated and it is a fine route to go through, so I think we are quite concerned that blanket pedestrianisation will be in force which will inconvenience cyclists in the wider City, their main routes, and also be very difficult to police because it just will not work. It is like vandals are very difficult to police because nobody observes them and to have that sort of blanket restriction will be quite difficult to enforce, so I think we would like to see something again on the access side to ensure that cycle access to Farringdon, again from all points of the compass, is sensible and delivers cyclists to places to park their bikes or places to transfer to the trains in the appropriate manner.

18091. **Mr Selway:** It may be that Ms Lieven has questions which she may wish to put to you.

18092. **Ms Lieven:** Sir, I am very conscious of the time and I am very conscious of the desirability of finishing this Petition today. What I would suggest, if the Committee considers this acceptable, is that I will not cross-examine and I will not call Mr Anderson, but I will deal with the points in closing, if that is acceptable to the Committee. It will involve looking at a couple of documents in closing which I would not normally do, but if I call Mr Anderson and close then we would be going on for another 15 or 20 minutes.

18093. **Chairman:** I fully agree with that course.

18094. **Ms Lieven:** I have no questions.

18095. **Chairman:** Thank you, Mr Holladay.

The witness withdrew

18096. **Ms Lieven:** Sir, if I can move directly to closing and deal firstly with the issue of the carriage of cycles on Crossrail. If I can have put up our exhibit 35204-002, which is a letter dated 17 October 2006 to Mr Selway, this is our undertaking in respect of the carriage of cycles to the CTC.²¹ If we focus on the one-but-penultimate paragraph: “We are therefore prepared to undertake that CLRL will continue discussions with the CTC exploring the use of cycle carriage within the central London area with consideration that ultimate responsibility for the final cycle carriage policy is that of the train operating company.”

18097. Sir, as I said in opening, it is not ultimately a matter for us as a promoter, but we are committed and we have publicly undertaken to continue discussions with the CTC. As I said in opening, it is likely that the policy will be guided by LUL policy but we are not saying it will necessarily be exactly the same. If I can break down that policy very briefly, as I said to you in opening, bikes are not allowed on the deep tube network of LUL. There are very obvious problems with congestion for anybody who uses the deep tube in having bicycles getting on and off trains, getting on and off escalators or lifts. It is important to record that so far as the central section of Crossrail is concerned, the deep tube between Paddington to the west and Whitechapel, Isle of Dogs, to the east, that it is predicted to be busy even off-peak. If one thinks of something like the Central Line at the moment on off peak, that is the kind of guide to what we are expecting on Crossrail. We are not talking about empty carriages and you can see the problems with allowing bikes on that. We are not saying necessarily, but it is likely that that will be the case. Peak times throughout the Crossrail network—the point is even more obvious to anybody who uses any part of the tube—the idea of

²¹ Crossrail Ref: P134, Correspondence from CLRL to Mr Gordon Selway, National Council of the Cyclists' Touring Club (CTC), 17 October 2006 (LINEWD-35204-002).

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people trying to get on with bikes in peak hours is a very, very problematic one. As far as the off-peak service section is concerned, LUL policy is that bikes are welcome and it is likely to be that our policy will be the same. That is the carriage itself. Folding bicycles are likely to be welcome at any time. That is certainly LUL policy and there is no reason to believe that Crossrail will be any different.

18098. So far as a few specific points are concerned at Paddington and Liverpool Street, the Committee will understand there is a specific problem there because at the moment they are served by surface level trains coming in and the policy with surface level trains is one thing, but when Crossrail comes along a number of services will swap to Crossrail and of course the Crossrail trains will be coming in at deep level at Liverpool Street and Paddington. However, it is important to note that there is a very easy interchange at both Ealing Broadway and Stratford by which people can get off Crossrail and either just walk across a platform or stand on the same platform and get the next surface level train into the main line station. Although there will be some disadvantage, it will be pretty minimal at that point.

18099. So far as the design of the station is concerned, I would ask the Committee to note a document we have not looked at before, which is Information Paper E2 on cycle carriage and cycle parking.²² Some parts of this document need to be updated and will be changed, but if I can ask the Committee to look at paragraphs 2.1 and 2.2 of this document in respect of cycle parking facilities: "It is expected that a high proportion of passengers will use bicycles to reach the rail network by 2013." We acknowledge many of the points that Mr Selway has made. Clearly it is beneficial to encourage as many people as possible to cycle to their home station rather than using the car and better for everybody that that happens. "In many cases additional cycle parking facilities will be installed at Crossrail stations before Crossrail is operational. Crossrail would seek to provide additional cycle parking where Crossrail services lead to a significant increase in passenger demand." Our stations are being designed with that in mind. Bear in mind that that is a great deal easier on the outer limbs. At somewhere like Bond Street it is very difficult to provide cycle parking, but taking the example of Farringdon, which was specifically referred to, where the proposal is to pedestrianise Cowcross Street outside the Crossrail station. If you remember at the moment it is a very narrow, very busy street with very poor provision for pedestrians. The scheme involves pedestrianisation. The detailed design of how that is done, what provision is made for cycles, both in terms of whether a cycle track is allowed through, but also in terms of cycle parking, is ultimately a matter for the London Borough of Islington. We will in any event work with them and

with the CTC to provide the best possible provision for bicycles as well as passengers and pedestrians. That is one example of putting what we say in E2 into action.

18100. In paragraph 2.2 we make specific statements about stands under cover, good lighting and the following features as close as possible to a station entrance: safe and direct access to the local road and cycle network, open and visible allowing natural surveillance, and well signposted. We very much have all the CTC points in mind and they are set out there.

18101. As far as the design of train is concerned, if I can ask the Committee to look at E2 at paragraph 4.2: "Crossrail trains are likely to include areas of flexible space within each train. This would be prioritised for the use of wheelchair users. However, it would combine wheelchair space with the capacity to carry prams, bikes and other oversize luggage and standing passengers. Restrictions are likely to be required on the carriage of tandems and tricycles depending on the final configuration of rolling stock."

18102. The undertaking which I referred to first is intended to cover the design of the trains as well, so we will consult with the CTC on the design of the train to try to do what we can for cycle users. Obviously we have to balance the needs of all the different users, but we are clearly committed to taking into account the needs of cyclists.

18103. Before I finish and leave E2, can the Committee note that the first sentence of paragraph 4.1 is one of the sections that needs to be changed because we are no longer saying that we will necessarily be consistent with LUL policy; we have given an undertaking to CTC that we will talk to them and we may, when it comes to it, adopt the policy slightly differently from LUL.

18104. Sir, that was a phenomenally fast canter through the cycling issues but I think it has dealt with the principal issues that the CTC has raised. We have dealt with this very quickly but it is a very important issue. We are very conscious that cycling is increasing rapidly and is a very important matter as far as climate change policy is concerned. If the Committee does have any concerns, I am very happy to deal with them now or if it wants to come back later and ask any questions.

18105. **Chairman:** For the record could you tell us (1) what are the projected numbers for the use of Crossrail, and (2) what periods of time would be the peak times and what would be the throughput peak times in terms of individuals who are going through? If we could have a note of that?

18106. **Ms Lieven:** I can give you those figures now. The peak times for LUL are 7.30 to 9.30 in the morning and 1600 to 1900 in the afternoons Mondays to Fridays. A good example of time that

²² Crossrail Information Paper E2—Cycle Carriage and Cycle Parking, billdocuments.crossrail.co.uk (LINEWD-IPE2-001 and -002).

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will be very busy for Crossrail is Saturday afternoons but it is not a peak hour for LUL's purposes. So far as the numbers are concerned, the 2016 forecast—Mr Anderson will tell me precisely what this is for—is approximately 380,000 Crossrail boarders per day.

18107. **Chairman:** Thank you very much. Mr Selway?

18108. **Mr Selway:** Sir, I am very grateful to my learned friend for her canter and for her references to the contents of E2. I think the differences between the CTC and the promoters at the moment are matters of degree and how fast we foresee it may be possible that circumstances change. Ms Lieven mentions that cycle use certainly in London is increasing markedly and it may be that in the lifetime of the figures that she refers to the increase may continue and we may see very different patterns of travel. The problem then is how far those patterns are held back from maintaining their greatest public benefit by the decisions that we make now.

18109. Sir, we agree that you have sufficient information to understand our position and to come to a conclusion yourselves. I would say that we intend to work very closely with Crossrail to see how far we can resolve the differences that there are between us and, if we cannot do so completely, then at least do so in an amicable fashion.

18110. **Chairman:** Thank you very much indeed, Mr Selway.

18111. **Ms Lieven:** Sir, I need to say something about Spitalfields. I was not here yesterday but I believe that Mr Elvin made reference to a short report that was being written to the Committee to explain issues around the Spitalfields Monitoring Body Liaison Panel. If I can inform the Committee and therefore it can be placed on record that that document has now been sent to yourselves and to the Petitioners who have complained in their petitions about what has happened.

18112. **Chairman:** For the record can I list that as A200.

18113. **Ms Lieven:** We will obviously be coming back to that in two weeks' time.

18114. **Chairman:** The Committee is very grateful that we have got that today to give sufficient time to the Petitioners to read it before their appearance on 30 January. Mr Selway and Mr Holladay, thank you for all the efforts that you have put in today. We are most grateful. Thank you for all the additional information that you have provided. The Committee, I can assure you, will take these matters into consideration. We wish you a less arduous journey home.

18115. That is the end of today's meeting. The next meeting will take place next week on Thursday at 10 am.

Thursday 25 January 2007

Before:

Mr Brian Binley

Mr Philip Hollobone
Mrs Siân C James
Mr Ian Liddell-Grainger

John Pugh
Sir Peter Soulsby

In the absence of the Chairman, Mr Ian Liddell-Grainger was called to the Chair

Ordered: Council and Parties be called in:

18116. **Mr Liddell-Grainger:** Good morning, everybody. We would ask Counsel for the Promoters to present the first Petitioner which I believe is Open Spaces Society and the Ramblers' Association. Ms Lieven, you are kicking off this morning?

18117. **Ms Lieven:** I am, Sir, yes. If I can have the exhibit up.¹ Some Members of the Committee may remember this one. The outstanding issue with the Open Spaces Society is that of the provision at Dog Kennel Bridge. If I can have the plan up, please. Dog Kennel Bridge is a bridge that the Committee considered on the last day before the summer recess last year. If I can remind the Committee of its decision on that day. The Chairman, who on that day was Mr Meale, said: "Can I just say, the Committee has had a deliberation on this. We want to say we are not minded to apply for extra provision to require a new bridge or replacement bridge to be built, however, we are not minded either to make a decision on the matter today. We want the parties to go away and examine other ways that might facilitate the solution of the problem, therefore we ask them to keep on discussing matters". We have indeed done that, Sir, we have done what the Committee asked. We have gone away and tried to come up with an alternative solution which does not replace the bridge, because we continue to be of the view that the cost of doing so is wholly excessive given the very low level of usage, but it does provide a somewhat improved footpath solution to the position before. If I can just, for those Members of the Committee who either were not here or do not have this matter embedded in their memory, very briefly go through the issue again. Dog Kennel Bridge is where I am indicating on the pointer. It is a bridge that crosses the Great Western Line between Langley to the west and Iver Station to the east. There was, at an earlier stage, issues as to whether there were heritage reasons for keeping the bridge, those are not being advanced by anybody any longer, so we do not need to worry about those. The bridge has to be demolished for two reasons: overhead electrification of the line along this whole stretch of line, and because we are putting in a fifth track to make provision for freight traffic up and down the line to ensure they are not disadvantaged.

The bridge, as Members of the Committee who were here before will recall, is not a public footpath; that is not in serious dispute. The British Railway Board had permission in a 1992 Act to demolish it, but obviously did not take that up. The Committee will remember the Promoters carried out quite extensive surveys as to the level of usage of this bridge, but the position is there is a footpath to the south (footpath 15) and there is a footpath to the north (footpath 15A). We did carry out surveys on two weekends in June and on a number of mornings during the week. The result of those surveys is that we found no usage whatsoever. The survey showed nobody using it. Mr Berryman and, indeed Mrs Berryman, went on a site visit to this bridge and found no evidence of usage; it was considerably overgrown at the time. If necessary we can go back and show the Committee the photos. The Open Spaces will call their witness Mr Graham who lives locally and said he used the footpath, so where the evidence appears to get to is there is a very, very low level of usage. I think that evidence was effectively accepted by the Committee the last time. The cost of replacing the bridge is something in the region of £800,000 so our clear view is that replacing the bridge is wholly unjustified for that extremely low level of usage. The solution we have come up with, after discussions with both the Open Spaces and Ramblers' Association and Bucks County Council who have a statutory responsibility for footpaths in this location, is to provide a footpath along the north side of the railway from Thorney Lane. It is still not possible to see the names on the screen in front of you. Thorney Lane is the road which runs north-south and crosses the railway close to Iver Station. What we are proposing is where the green is showing on this there would be a new footpath line just to the south of the access to the industrial works here which are known as the Bison Industrial Works. There would be a footpath running along here and then it would link into the existing footpath network. Nobody is suggesting it is an absolutely perfect solution, but I think the Petitioners believe it is better than what was originally being proposed. Indeed, we did discuss some form of re-provision to the west, but the Open Spaces and Ramblers' Association clearly prefer the current solution. I hope that covers the factual situation. The Committee will remember that you can link into the footpath. This is Grand Union Canal and you can link into the footpath to the north, like that. Once people are here they can go up

¹ Crossrail Ref: P135, Dog Kennel Bridge—Proposed footpath diversion (LINEWD-AP3-13—04B-001).

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to the north if they wish to do so. As I have said, the evidence of the level of usage is that it is extremely low, so how many people will benefit from this re-provision is perhaps open to doubt. Obviously some Members of the Committee were here the last time, some were not, so I do not know if there is anything else I can help with in factual explanation.

18118. **Mr Liddell-Grainger:** Ms Lieven, I do not think so. I think what we will do is move straight on to questions.

18119. **Mr Binley:** Just one question. We are talking about costs, that was the main reason for the Petitioners not wanting to proceed, and it is a sensible reason. Can you remind us of the cost again of replacing that bridge in this place?

18120. **Ms Lieven:** It would cost £800,000.

18121. **Mr Liddell-Grainger:** Thank you very much indeed, Ms Lieven. I now call Mr Suggett.

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Mr Eugene Suggett appeared on behalf of Open Spaces Society and Ramblers' Association.

18122. **Mr Suggett** Thank you, Sir. Good morning. As before, I am acting as agent for the Petitioners of the Open Spaces Society and the Ramblers' Association. I am obliged to Ms Lieven for setting the scene so clearly. I am afraid that will make some of what I am about to say rather repetitious. We were last here in the sweltering heat on 26 July, that was the very last Petition you heard before you adjourned for the summer recess. You will recall on that occasion we were concerned principally about the fate of Dog Kennel Bridge at Iver in Buckinghamshire. The Crossrail Bill proposes to demolish that bridge without any replacement, which is a means for users of footpaths 15 and 15A in Iver to cross the railway line. Although it is alleged by the Promoter that there is no right of way across the bridge itself, the bridge has nonetheless been used for many years as part of a public footpath route, and it is a necessary part of a chain of paths which enables walkers to make a circular walk and avoid retracing their steps or walking on roads. Without the bridge, the paths each side of it will become redundant and will effectively be lost. After you heard the evidence last time, the Committee announced that you had not closed the decision that we may retain a foot access over this line. You asked the Promoter and your Petitioners to go away and see if we could seek solutions. Discussions have been held and the Promoter has proposed an alternative footpath. In a few minutes the two witnesses who I propose to call will speak about it. Essentially today our position is this, we continue to ask for a replacement bridge. The Highway Authority supports us in that by their Petition, so does the District Council and so does the Parish Council whose representatives will testify later. The Parish

Council also agrees with us that the route offered by the Promoter, in the event of the bridge not being replaced, is not adequate by way of compensation and that a different proposed route proposed by the Petitioners would be preferable, that is if the bridge is not to be replaced. What your Petitioners request first and foremost is the replacement of Dog Kennel Bridge so that the paths which lead to it can continue to be used and are not rendered redundant. May I briefly mention a formal assurance that the Promoter gave on this subject to Buckinghamshire County Council, the highway authority. The undertaking that I mean appears in the first draft of Crossrail Undertakings and Assurances Register.² Can we see entry 68 in the Crossrail Undertakings and Assurances Register? Buckinghamshire County Council had petitioned about Dog Kennel Bridge and the resulting assurance in the Register reads thus: "The Promoter is prepared to work with the Petitioner to facilitate the provision of an alternative bridge should the Petitioner wish to promote and fund a suitable structure". Sir, while the Open Spaces Society and the Ramblers' Association will be urging Buckinghamshire County Council as highway authority, to enter into negotiations about that, we suppose any such negotiations may not, or could not, be concluded before this Bill is passed. Your Petitioners therefore respectfully urge your Committee to require an amendment to the Bill to provide for this replacement, without prejudice to any financial settlement which may or may not be reached between the Promoter and the highway authority. It has been said by the Promoters that there is a problem about providing the path, which is your Petitioners favourite option, in the event of the bridge being demolished without replacement. Perhaps if we could see the rough map which we sent in which shows our proposal.³ Can that go up, please? I am afraid our colours have not shown up as well as they should have. The Promoter's proposed route is that line which goes along there the green line, and our preferred option is a path which leaves that footpath there and goes down there and so to connect with either railway station ideally. The problem about our preferred option is said to be that our preferred alternative route falls outside the limits of the Crossrail Bill, so the Promoter would not have the powers to build a footpath along that line, but we contest that. Could we have displayed, please, the deposited plan, sheet 103, which shows Dog Kennel Lane and the bits of footpath leading to it.⁴ It may be that it is not absolutely necessary for this to be shown; I think you have got the idea of the situation anyhow. The paths 15 and 15A are described in the book of reference at pages 701 and 702 at south-box number 35, footpath 15A on the north-south side, south-box 41 on the southside, footpath 15. I was going to ask next if we could have a look at page 62.

² Committee Ref: A200, Crossrail Register of Undertakings and Assurances, Buckinghamshire County Council—Dog Kennel Bridge (LINEWD-UA-006).

³ Committee Ref: A200, Open Spaces Society and Ramblers' Association map of Dog Kennel Bridge and associated footpath network (SCN-20070125-001).

⁴ Committee Ref: A200, Open Spaces Society and Ramblers' Association proposed route (SCN-20070125-001).

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18123. **Mr Liddell-Grainger:** Mr Suggett, take it as read, we have been through this before; we know that. What I want you to tell us is what has changed. We have heard the arguments before. Can you come to the point. What has changed? What and why do you want us to change our minds?

18124. **Mr Suggett:** The burden of what I am trying to say is the land over which our preferred route would go is owned by a Crossrail related company, so there need not be a problem about dedicating a right of way over that, even though it might be outside the limits of deviation of the Bill. Any landowner can create or dedicate a right of way over land, and all we hear is since this land is owned either by Crossrail or possibly by the British Rail Residuary Board or by Network Rail, then there ought to be no problem as a matter of law about the footpath being dedicated there along the line of our preferred route. That is the background. We think that no further compulsory powers would be required given that the land is in the ownership of a Crossrail related company. Sir, I would like to call the first of our two witnesses, Mr Paul Graham.

Mr Paul Graham, Sworn

Examined by **Mr Suggett**

18125. **Mr Liddell-Grainger:** Thank you, Mr Graham.

18126. **Mr Suggett:** Mr Graham has a copy of his statement.

18127. **Mr Liddell-Grainger:** If we could call Petition 83 Doc 13 as A201.

(Mr Graham) My name is Paul Michael Graham. I live at Grovehurst, Langley Park Road, Iver, in Buckinghamshire. I have lived in Iver since 1980 and in nearby West Drayton for four years before that. You will know from my appearance before you on 26 July 2006 that I am Footpath Secretary of the Iver and District Countryside Association and was formerly its General Secretary. I have organised group walks and footpath maintenance parties in Iver and the immediately surrounding area for over two decades. I have used Dog Kennel Bridge many times on walks and seen other people using it and the footpaths either side of it. I am presenting evidence on behalf of the Open Spaces Society and the Ramblers' Association in support of their Petition against the Promoter's official response to their earlier Petition insofar as it relates to Dog Kennel Bridge. This is the bridge which takes Iver public footpath numbers 15 and 15A over the railway. Put more precisely, this footpath is shown on the definitive map leading up to the railway on either side. Though it is disputed whether the bridge itself is a public right of way, it is plainly an essential link in the local network of paths. If the bridge is demolished, it will mean a one and a half km diversion for would-be users of the path, and they would have to go on busy roads, one of which in part has no footway. I will not repeat today all the factors

which make this an important path but I urge you to accept that it is so. The view your Committee took when we gave evidence on 26 July against the closure of the bridge was that the parties should go away and examine other ways that might facilitate the solution of the problem. Since then, the Promoter has helpfully been in touch and a meeting was held. The Promoter has made a formal response by letter dated 14 December 2006. Could a copy of that, in particular the bullet points on its second page, be displayed?⁵

18128. **Mr Liddell-Grainger:** Do you have the number of the evidence?

18129. **Mr Suggett:** Yes.

(Mr Graham) The Promoters say the bridge is too expensive and have proposed an alternative route which would commence at the termination point of footpath 15A, north of the bridge, and would run easterly between the railway line and the Bison Industrial Site, and which would involve walking along the access-road to the Bison Works, finally connecting with Thorney Lane. We would prefer a different alternative route, if the bridge must be demolished, and I will give our reasons for that preference in a few moments.

18130. But first I would like to urge the Committee to require a replacement bridge. We ask you to find that even the highest cost estimate made by the Promoter for a replacement bridge is a small amount in the context of a large transport scheme of this kind.

18131. Would it be possible for page 62 of the Bill to be displayed?⁶ This is part of Schedule 3 and it concerns highways. In the table at the top of that page, the second item from the top was to require the replacement of the Thorney Lane Bridge. But the Promoter has now abandoned the replacement of the Thorney Lane Bridge. So the stopping up and highway works provided for in the table are no longer required, and that constitutes a considerable saving of costs, and I ask the Committee to bear that saving in mind when assessing the issue of expense of a replacement for Dog Kennel Bridge.

18132. We ask the Committee to note as well that a significant factor in the Promoter's estimates is the cost of possession of the track while the works to build the new bridge were carried out, such as the compensation payable to the Train Operating Companies and the Freight Operating Companies. But I ask you to note that Crossrail will need to possess the track and compensate those companies in any case, so that they can demolish the bridge in the first place, realign the rails, and erect the overhead cable gantries which are the cause of the

⁵ Committee Ref: A200, Correspondence from CLRL to Open Spaces Society and Ramblers' Association, 14 December 2006 (SCN-20070125-002).

⁶ Committee Ref: A200, Crossrail Bill—Schedule 3 Highways (LINEWD-EXH01-066).

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demolition. We believe that the costings have been arrived at in isolation, and that in the context of the entire local works the figure is not prohibitive.

18133. But even their highest estimate is a small amount in this overall massive scheme. And I should add that Crossrail have not supplied any really detailed costing for a replacement bridge in such a way that would enable the costing to be looked at critically.

18134. We were troubled by one item of evidence by the Promoter last time. In seeking to argue that the path is less well used than I know it to be, the Promoter produced a couple of photographs showing a gate across the path to be padlocked. Could photograph one be shown, please.⁷ This may have caused the Committee to suppose that pedestrians would have to climb the gate in the manner being shown here, if we could have photograph two, please.⁸ In fact, although it slipped my mind last time, this gate has a stile to the side of it, as you can see here, if we could have this new photograph three, and then photograph four, please.⁹ I have spoken to the farmer, Colin Rayner, who tells me that he rarely locks the gate, only occasionally at weekends; and then only to prevent vehicular use, not to stop use by pedestrians. He began doing this only as recently as March 2006, hence my slight unfamiliarity with the scene when the Promoter's photograph of the locked gate was presented to the Committee in July. So the padlocking is not quite the obstacle that the Promoter's evidence may have made it appear, since pedestrians are accommodated by a long-established stile if the gate is locked.

18135. Circular or through walks in the locality south of Iver and surrounding area would be severely limited as a result of the demolition of this bridge, and I reiterate that the replacement of this bridge and the dedication of its replacement as a public right of way is your petitioners' massively strong preference.

18136. If in the end your Committee decides that it cannot order the replacement of the bridge, your petitioners urge that there should be some sort of replacement route. As I said, the Promoters have helpfully proposed one. Could my map be shown, please?¹⁰ We ask the Committee to find that it is not an acceptable replacement and that our own proposed alternative route is more appropriate by way of *quid pro quo*.

18137. We say that because the existing route is an important recreational route, especially the section south of the bridge, where there are far-ranging open

views, including Windsor Castle in the distance. With the Promoter's proposal, a walker proceeding south along footpath 15A beside the Bison Works will have to turn eastwards and walk in a channel between the railway and the Bison Works. There is no footway and it seems to be well used by heavy vehicles associated with the Works, which makes it a safety issue as well. No walker, other than a fanatical train-spotter, would derive any pleasure from using this way. It is not at all comparable to the route along footpaths 15 and 15A in terms of recreational amenity. It would not meet the statutory criteria to do with convenience and enjoyment if this diversion were proposed in the standard routine way for diversion under section 119 of the Highways Act 1980.

18138. What would be more acceptable is the creation of a path on the line shown by red dashes from the junction of footpaths 15 and 17, the canal, to connect with Iver Station on its northern side. This is over an area of grass and scrub which is of open aspect and is altogether more pleasurable to walk. In connection with these proceedings I have walked this route with the Rights of Way Team Leader at Buckinghamshire County Council, who expressed satisfaction at the prospect of this path becoming a public right of way, either diagonally across the land or around its perimeter. Ideally this would connect direct with Iver station at its northern side, so that walkers could cross the line via the station footbridge and not have to use the footbridge to the east over Thorney Lane. We believe that this station footbridge is going to have to be extended in any case; we believe that it should be used as a footbridge for non-rail users so as to make a pedestrian connection between the network of footpaths to the north of the line so that, using the pavements and quiet side roads of Richings Park, walkers from the north of the railway can access footpath 24 to Colnbrook and join the Colne Valley Way by that means. We recognise, as does the Promoter, that this option of ours means that footpath 15A would become redundant. But we submit that the net amenity gain to the walker in terms of *quid pro quo* is significantly better with our preferred option than what the Promoter has proposed.

18139. We recognise that provision of the route for which we ask, if Dog Kennel Bridge is not to be replaced, is outside the powers of the present Bill. But that is why we are asking for the Bill to be amended, if that is necessary. It is believed that the land is already in the ownership of Railtrack or a company associated with it, and if that is so then no compulsory powers would be needed and there ought to be no difficulty in negotiating a public path creation agreement to bring that public right of way into existence. Crossrail have not made any attempt to talk to the British Rail Board or Railtrack or whichever company it is who owns the land.

⁷ Committee Ref: A200, View of gate at Dog Kennel Bridge (LINEWD-AP3-13—05A-003).

⁸ Committee Ref: A200, Alternative view of gate at Dog Kennel Bridge (LINEWD-AP3-13—05A-004).

⁹ Committee Ref: A200, Further views of gate at Dog Kennel Bridge (LINEWD-AP3-13—05A-005 and -006).

¹⁰ Committee Ref: A200, Open Spaces Society and Ramblers' Association proposed route (LINEWDAP3-13—05A-001).

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18140. Our proposal of this option is not meant as any sort of acceptance of the demolition of Dog Kennel Bridge without replacement. I have sought to show that it is an important path and that it is well used, even if it chanced that there was little or no use when Crossrail did their survey. The highway authority agrees that the bridge should be replaced. So does South Bucks District Council. So does the Parish Council, whose representative is here today to give evidence. It is a feature of importance to the public, increasingly so as recreational walking gains in popularity, and it is the sort of route to which Parliament attaches especial importance in the rights of way improvement plans it introduced in the Countryside and Rights of Way Act 2000. We respectfully ask that you retain this important bridge.

18141. **Mr Liddell-Grainger:** Thank you very much. Have you any questions, Mr Suggett?

18142. **Mr Suggett:** Not from me.

18143. **Mr Liddell-Grainger:** Ms Lieven?

Cross-examined by *Ms Lieven*

18144. **Ms Lieven:** There is just one matter, sir. Most of the matters I will deal with with Mr Berryman when I call him because that is the way we normally proceed. There is one point I am a little concerned about. If we can have our photograph 004 up again, please, the one with Mrs Berryman climbing the gate.¹¹ Mr Graham, I think you were suggesting to the Committee that this photograph was somewhat misleading because a little to the left there is a stile that Mrs Berryman could climb.

(Mr Graham) That is absolutely right.

18145. Can I put up a photograph taken on the same day, minus Mrs Berryman, which shows the condition of the stile on that day?¹² That is the stile, is it not, on the left?

(Mr Graham) That is right.

18146. If we put up the next photograph I think it makes it rather apparent as to why Mrs Berryman climbed the gate rather than the stile.¹³

(Mr Graham) Yes.

18147. Certainly at that time there was absolutely no evidence of anybody climbing the stile and nobody in anything other than thick walking boots and thick trousers would have wanted to do so.

(Mr Graham) That is because that photograph was taken in June shortly after, within a few months of, Mr Rayner closing the gate. Other users of the path would probably have done the same as Mrs Berryman did, therefore the stile was not used. Since

then the stile, as shown in the photograph that I produced which was taken in about November last year, if I recall, has been used considerably more and the vegetation has been cut back occasionally by the odd user or two, including myself.

18148. Can I just put up one photograph on the state of the footpath?¹⁴ That is footpath 15A in June of last year. Does that accord with your recollection of it?
(Mr Graham) That is right, yes.

18149. **Ms Lieven:** Thank you very much. I will leave the other points for Mr Berryman. Thank you.

18150. **Mr Liddell-Grainger:** Thank you very much, Mr Graham, if you would like to stand down. Mr Suggett, can we have your second witness please.

The witness withdrew

18151. **Mr Suggett:** Glenda Collins, please.

Mrs Glenda Collins, Sworn

Examined by **Mr Suggett**

18152. **Mr Liddell-Grainger:** Just before you start, Mrs Collins' evidence will be A202. Mrs Collins, please carry on, unless you have any questions to lead in with, Mr Suggett?

18153. **Mr Suggett:** No, thank you, sir.

18154. **Mr Liddell-Grainger:** Why do you not sit down, Mr Suggett, it saves you standing all the time. Mrs Collins, if you would like to carry on.

(Mrs Collins) Thank you. My name is Glenda Collins. I am the Clerk to Iver Parish Council of 45b High Street, Iver, Buckinghamshire. On 8 January 2007, Iver Parish Council passed a resolution in support of the petition of the Open Spaces Society and the Ramblers' Association. I have a copy of that resolution to hand to the Committee. If I may, it says: "The Parish Council resolve to support the petition of the Ramblers' Association and Open Spaces Society and resolve to prepare a proof of evidence testifying to the path's importance".

18155. Iver Parish Council passed the resolution because it recognises the importance of retaining the link between footpath 15 and footpath 15A. In the network of local recreational footpaths, this is a particularly important one. It is especially important because in the rectangle bounded by the railway, Market Lane, North Park and Thorney Lane, it is the only off-road route, unless you count the residential roads of Richings Park. And it is an important link with footpath 24 to the south, which can be reached with only a small amount of road walking along a road which has a footway to it.

¹¹ Committee Ref: A200, Alternative view of gate at Dog Kennel Bridge (LINEWD-AP3-13—05A-004).

¹² Crossrail Ref: P135, View of gate and stile at Dog Kennel Bridge (SCN-20070125-003).

¹³ Crossrail Ref: P135, View of stile at Dog Kennel Bridge (SCN-20070125-004).

¹⁴ Crossrail Ref: P135, View of Footpath 15A, June 2006 (SCN-20070125-005).

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18156. We know that many local people use the path. Some of them use it frequently. People from further afield use it too, especially those walking southwards to, or northwards from, the Colne Valley Way Walk. If I can just add a little bit there. I take parish councillors on a tour of the parish on an annual basis and this is one of the places that we do visit. The last time we were there, there were about a dozen people walking to and from and standing on the bridge. There was a steam train due to go through and apparently it is a very good vantage point for watching the steam trains.

18157. The Parish Council agrees with the petitioners that Crossrail's proposed alternative route between the Bison Works and the railway is of no amenity value, being so unattractive. If Dog Kennel Bridge is to be demolished without replacement, the petitioners' preferred route would be far better compensation, especially if it connected with the north side of the station at Iver.

18158. The Parish Council's view first and foremost is that the bridge should be replaced. It is an important public amenity in our locality, and so Iver Parish Council asks the Committee to accede to the petition to provide a replacement for Dog Kennel Bridge.

18159. **Mr Liddell-Grainger:** Mr Suggett, do you have any other questions?

18160. **Mr Suggett:** No further questions, unless the witness would like to hand to the Committee a copy of the Parish Council resolution.

18161. **Mr Liddell-Grainger:** No, that will go to the Clerk to be photocopied and taken as evidence. Ms Lieven?

18162. **Ms Lieven:** No, sir, no questions.

18163. **Mr Liddell-Grainger:** Thank you, Mrs Collins. Ms Lieven?

The witness withdrew

18164. **Ms Lieven:** Thank you very much, sir. If I can proceed to call Mr Berryman.

Mr Keith Berryman, Recalled

Examined by **Ms Lieven**

18165. **Mr Liddell-Grainger:** Mr Berryman, if during the course of your evidence you want to stop at any time would you please let me know straight away.

18166. **Ms Lieven:** Mr Berryman, I want to focus on matters since you last appeared in the Committee on this issue. Before we do that, I have just one question. Can you briefly summarise the surveys that Crossrail carried out in respect of the usage of this bridge?

(Mr Berryman) Yes. After the famous trip, of which we have seen so many photographs today, I had a look myself there for a few hours and did not see anyone crossing the bridge at all or even using the footpaths. The following weekend we arranged for a comprehensive survey to be done from, I think, eight in the morning to seven at night on the Saturday and Sunday and the weekend after that we arranged for the same again. During that period there were no users of the bridge. Previously we had arranged for surveys to be carried out during the week and, again, detected no users of the bridge at all. I have to say the two weekends when we did have a comprehensive survey were two weekends which would have been very attractive for walkers: the weather was good, it was in June, they were nice days for walking, but there was nobody there.

18167. Thank you. Can we turn to what has happened since the last Committee hearing. Can you just explain what steps the Promoters have taken to try to resolve this issue?

(Mr Berryman) Yes. We looked at a number of options as to how the matter could be dealt with. One option would be to take the footpath to the west from the existing Dog Kennel Bridge and underneath the Chequer Bridge and then come out back to North Park where footpath 15 joins North Park. There are a number of problems with that. Chequer Bridge would have required traffic light treatment and it is quite a long route. My understanding is that the petitioners were not particularly in favour of that, they did not think that was a particularly good idea. We considered an easterly diversion from the end of Dog Kennel Bridge, which has the advantage from our point of view of being within our limits of deviation, so it is something we could do relatively easily, and then to go as far as Iver Station and cross over the existing footbridge at Iver Station. We did not propose to link on to the footbridge station because the footbridge station does not go over all the tracks and it would have to be extended if we were to do that. The possibility of a footpath as shown on that diagram, a diagonal footpath across that piece of land, was considered, albeit rather late in the day. We know that this land is the subject of planning applications and is likely to be developed in the relatively near future. It is quite likely that such a footpath running diagonally would be difficult to deal with. I do not think a path running alongside the Bison Works north-south is very much different in aspect from one running east-west, it is a big brick house concrete works and it will not go away whatever you do with the footpath.

18168. While we are looking at the options, in terms of one of the Ramblers' suggestions, which is that we use the footbridge over Iver Station, you have mentioned the fact that it would have to be extended in any event and there is obviously a cost associated with that, but what is the other problem with doing that? How would Network Rail be likely to feel about it?

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(Mr Berryman) There is an issue of control of entrance to the station, of course. In future that bridge will be on the paved side of the station and if you have a public footpath going across it is impossible to control and I think there would be extreme unhappiness, not just from Network Rail but also from the Train Operating Company.

18169. Mr Suggett suggested that the land just to the north where the Ramblers would like to put the footpath across was owned by a company associated with Crossrail. Can you just explain what the position is there?

(Mr Berryman) Would that it were so. There are a number of places on the project where we deal with this organisation, which is the British Railways Board Residuary Body, which is responsible for leftover real estate from privatisation of the railways. I can assure you there is absolutely no connection between them and us.

18170. Finally on this point, if the Committee were to say that we should promote a footpath across this land, a diagonal footpath, what would be the consequence in terms of the process of this Bill?

(Mr Berryman) Well, because it is outside the limits of deviation it would require a further additional provision which would require, as usual, a petitioning period and would require the Committee to come and sit again.

18171. Thank you. Then the only other thing I want to ask you about is cost. We have quoted a cost of £800,000 for replacing Dog Kennel Bridge which I think is slightly less than last time because we have slightly lowered the specification for the bridge. Is that costing based on the same principles as costings along the rest of the Crossrail route?

(Mr Berryman) Yes, it is. The reason we have reduced the price slightly is because we have reduced the width of the bridge from 3.5 metres to 2.5 metres, which should be adequate.

18172. Mr Suggett suggested that we were making a saving at Thorney Lane Bridge because we were not now demolishing that bridge and, therefore, somehow the money could be hypothecated across to replacing Dog Kennel Bridge. Just on the principle of the saving, is it right to say we are making a saving of a significant sum at Thorney Lane Bridge?

(Mr Berryman) We will be making some saving but by no means the kind of sum that was suggested in evidence. The reason is that because we are not demolishing the bridge we have to lower the tracks and that needs to be done over quite a long length of track to maintain the gradients and so on of the railway. It is still quite a big job even though it does not involve replacing the bridge. Secondly, of course, we are always looking for cost savings on the project anyway. It is a natural part of design as things proceed; we are looking to bring the costs down, not put them up.

18173. **Ms Lieven:** Those are all my questions. Thank you, Mr Berryman.

18174. **Mr Binley:** I do not wish to prolong this in any sense but could you give us very briefly a history of the bridge so we can get that into context?

(Mr Berryman): The bridge was built when the Great Western Railway was built. The first two tracks were built in the 1830s and then in the 1870s the railway was expanded from two tracks to four tracks, so the northern arch was built in the 1870s.

18175. So the footbridge has been there for some considerable time?

(Mr Berryman): The bridge has been there for a long time, yes, since the railway was built, in fact. We believe it was built as a farmers' accommodation bridge but actually it is a very minor stretch in the context of the Great Western Railway, and we have not really found any records of it.

18176. **Mr Liddell-Grainger:** Mr Suggett, do you have any questions?

18177. **Mr Suggett:** No, thank you.

18178. **Mr Liddell-Grainger:** Thank you, Mr Berryman. It was nice to see you again.

The witness withdrew.

18179. **Mr Liddell-Grainger:** Anything else, Ms Lieven?

18180. **Ms Lieven:** Sir, I made most of the points in opening but probably the single most important factor here is the very, very low level usage of this bridge which has two consequences. One in my submission is it is simply impossible to justify the spending of £800,000 for the very few people who walk across the bridge. This is public money we are talking about and I am sure I have said this before—that although Crossrail is an enormously expensive project it is important to remember that £800,000 goes quite a long way in the public purse to other things, and I am sure there is some level of usage of this bridge but it is minimally low. Secondly, it is not a public footpath; that seems unequivocally determined by the documentation, and permission has been granted for it to be demolished in the past. So, in my submission, the case is overwhelming for removing the footbridge and not replacing it.

18181. The only issue, therefore, becomes should a different footpath be reprovided? Now, sir, so far as the proposed route by the Ramblers is concerned, there are two, perhaps three, principal problems with that. First, it is going across somebody else's land, land that has some development potential, or hope value, it is not clear how much, it is only planning applications that have been made, not permissions, but clearly there is some hope value, and to put a footpath across there where there is such a minimal level of usage, in my submission, would not be justified.

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18182. The British Rail Board Residuary Body is nothing to do with Crossrail whatsoever; it is a profit-making organisation which would seek to maximise any development potential. The other point, which is quite important by this stage of the Bill, is that to do so would require a new AP; it would further delay this project for, again, a minimal number of people, and, thirdly, it could not, in my submission, link into Iver station footbridge. One would again incur the cost of extending the bridge but I would suggest, even more importantly, you cannot put a footpath across a closed part of a station which falls within a paid area. To do so undermines the whole ticketing process for the whole of that part of the Great Western.

18183. Sir, our footpath is not going to be the world's most attractive footpath but one has to remember that the minimal number of people who do at the moment walk across Dog Kennel Bridge and go up 15A, if there are any of them, are walking past the Bison site at the moment. We are not taking a rural idyll and putting it next to an industrial site; we are taking a footpath that goes past industrial land and putting it past some more industrial land, so in my submission the replacement is perfectly acceptable in the circumstances we find ourselves in.

18184. Sir, I have kept it short but I would urge the Committee, if there is any doubt on the issue, to go back and re-read the original transcript where much more evidence was given on this.

18185. **Mr Liddell-Grainger:** I think you can take that as read. Mr Suggett, your final comments please?

18186. **Mr Suggett:** Sir, despite what the Promoters have said about this path, and last time they described its use as between "little and non-existent" and they have not put it any higher today, your Petitioners do invite you to find that Dog Kennel Lane is, in fact, a well-used, important public local amenity. We do not say it is overrun with use and we make no extravagant claims about its aesthetic merits; we do say that local residents use it and it is important to walkers from further afield as well. It is important, and they make significant use of it. I dare say that if you stood by a path with a clipboard even in some well-used walking area like the Peak or the Lake District you would find many days where chance would have it that that particular path was not used, as evidently happened when the Promoter went there in this case.

18187. We say that what is important is the evidence of local residents. Our local representative has testified to the significant use of the path and the parish council's representative has testified to it. The highway authority, Buckinghamshire County Council supports the replacement of the bridge or else our alternative route and South Buckinghamshire District Council supports the Petition.

18188. Briefly I would like you to agree with our witnesses that for the reasons they gave your Petitioners' preferred route option should prevail over the alignment which the Promoter has proposed. We know that the Promoter has said to us that our preferred route falls outside the limits of the Bill so there would not be powers to build a footpath along that alignment, but we say that the powers are not necessary. Although it turns out now that the land is owned by the British Rail Board Residuary, not a Crossrail company, it still nonetheless ought to be possible to negotiate a public path creation agreement over the land. It does not need to be a company directly related to Crossrail; any land owner can do it.

18189. Besides, the Promoter's reference to "building" the footpath might mean that they think we are requiring works to be done or something like that. We are not. A right of way is an abstract concept. We are not asking for surfacing, although I think there is one point where there is a ditch which would need a bridge made by a couple of railway sleepers or something of that order, so there are no major surfacing works or anything of that sort.

18190. On that aspect, that is all I am going to say. Could I turn straight to the point about replacing the bridge.

18191. The Promoter says that no right of way exists on the bridge itself. We say, and without prejudice to an argument that a right of way subsists on the bridge, that Dog Kennel Bridge should be replaced even if one does not. We submit so for the reasons given by the witnesses; we submit so because the local authorities wish it; and we submit so as well because this kind of route was singled out by Parliament in its Rights of Way Improvement Plan provisions that it introduced in the Countryside and Rights of Way Act 2000 and issued statutory guidance about as recently as 2002. Paragraph 2.22 of that guidance issued by Secretary of State highlights certain categories of paths as being of particular importance, and we urge you to find that this is one of them. It includes routes from centres of population or routes which can be used in conjunction with public transport which allow people to gain easy access to the countryside from where they live: well, that applies here. It includes routes linking and creating circular walks and better facilities for walkers including dog walkers and runners for leisure and health: well, that applies here. It includes routes to help ameliorate the effect on people's enjoyment of the countryside of a motorway or other major road or development: that might be said to apply here, and it includes routes through or around developed areas to ensure that such development does not prevent or disrupt the continuity of the network: well, that applies here.

18192. In closing I would like to make the point that each year very many orders are made by councils to divert or extinguish public rights of way and something like 75 or 80 per cent of them go through

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unopposed either by the Ramblers' Association or the Open Spaces Society or by anybody else. I mention that possibly unexciting statistic to try and show that our present petition is not some predictable knee-jerk reaction by pressure groups to any closure of any old public path. We are petitioning, and we ask you in good faith to accept this, because we do identify this particular path on its own individual merits as a singularly important local resource which should be saved, and we promise you we would not be taking up our own resources in petitioning, never mind your time or the Promoter's, if we did not believe in the strong case for replacing this bridge.

18193. **Mr Liddell-Grainger:** Mr Binley?

18194. **Mr Binley:** Just one question. Iver Parish Council says it recognises the importance of retaining the footpath, and indeed you have made

some comment yourself about the viability of the limited surveys carried out by the Promoters. I wondered why Iver Parish Council, if they were in dispute with that evidence, did not carry out surveys themselves?

18195. **Mr Suggett:** I wish I had an answer to that question, sir.

18196. **Mr Binley:** Thank you.

18197. **Mr Liddell-Grainger:** I think the point is well made, Mr Suggett. Thank you very much for coming today and presenting your evidence.

18198. **Mr Suggett:** Thank you.

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Mr Simon Brewster appeared on behalf of the Great Western Allotment Association.

18199. **Mr Liddell-Grainger:** Ms Lieven, please start, and I think we have been here before, so you can paraphrase quite a lot.

18200. **Ms Lieven:** Sir, I have not been here before, to Acton Yard, but I was going to say that perhaps the Committee may conclude this is not one of the more weighty Petitions, and I suspect even the Petitioner would accept that. The issue here is the condition of the soil on the reprovided allotments.

18201. Where we are is Acton Yard, and the Committee will remember we are doing work at Acton Yard in order to put in a provision for the assistance of the freight traffic out of Acton Yard, a diveunder which allows the freight to get in and out without interfering with Crossrail and vice versa.¹⁵ In order to do so we need to take temporarily, but for some considerable time, land which includes the Noel Road allotments, and we have made provision in the Bill for the temporary relocation of the Noel Road allotments so there is no, as I understand it, dispute with the Petitioners. They are prepared to move—well, we understand that the significant issue is not so much the fact that they are going to be temporarily relocated but the quality of the provision during the period of the relocation and we have, I would suggest, done everything we can to meet these concerns.

18202. Mr Berryman will give evidence as to why we need the site, and I do not understand there to be any evidence to counter that; Mr Berryman can give evidence as to how this is acceptable provision in terms of vehicular access for the Petitioners and access by foot, and we have offered to the Council

who, as it were, provide services to the allotment holders, to condition the soil so that it is in a suitable condition for allotment use, and we have offered that that be done so that the land can be handed over in January of the appropriate year so that the allotment holders can work from January up until the planting season to ensure they can use the allotments beneficially, and also that they can hold on to the old allotment land until April in the same year so they can harvest whatever it might be through the winter, and are not disadvantaged in that way. We have also offered to provide water and fencing at the new site. So our position is that we have really done everything that could reasonably be required of us at that site.

18203. Sir, I do not think there is much more I can say at this stage. I have Mr Berryman here not only to speak on why we need the site but also the condition of the soil when it is handed over.

18204. **Mr Liddell-Grainger:** Thank you. Mr Brewster?

18205. **Mr Brewster:** Thank you. I am a member of the Great Western Allotment Association Committee, an active allotmenteer, and also a local resident.

18206. This Crossrail Bill proposes to use the area of land marked as parcels 156 and 157 on plan 126, which is not as detailed as the one that has been brought up here but I will return to that.¹⁶

18207. It is to be used as a building materials storage area and for construction site workers accommodation. There are some errors on the map

¹⁵ Crossrail Ref: P136, Acton Yard—Relocation of Great Western and Noel Road Allotments on a temporary and permanent basis (EALGLB-10904-001).

¹⁶ Committee Ref: A203, Aerial view of Acton Yard and surrounding area (SCN-20070125-006).

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but I will return to that. This little piece of West Acton is currently home to a thriving set of allotments. We have about 20 tenants and it is full, it is permanently used, which also goes against something that Crossrail stated on one of their previous maps.

18208. Local people from a wide variety of backgrounds and ethnicities work side-by-side, growing all sorts of produce from potatoes to honey; there are beehives and all sorts of things. The area has been used as growing land since at least the turn of the century, market gardens and allotments since the war.

18209. Our objection to the proposed destruction of this site remains despite the Additional Provisions which state the Promoters only need the southern half of this site. So the map you are looking at now is inaccurate, as were quite a few things said by Ms Lieven, I am afraid, in her introductory opening passage, because the most recent Crossrail maps show only the southern end of that site to be used. If Mr Fry would put up my aerial view supplied to me by Crossrail, the allotment site is the green triangle, and the latest map shows a cut-off boundary there, so that is halving the amount of land allotted compared to the previous one that was up. So there are some inconsistencies there which perhaps need to be sorted out. Mr Fry, if you could put up the photographs that I brought in of the allotment site themselves, I wanted to show how well used the site is.¹⁷ These photographs are various views of the allotments that I took last year when I knew that the site was under threat because I wanted to show how well used it was. No padlocked gates in that sheet so far as I can see. Also I brought this newspaper cutting in simply as evidence that there are a lot of people interested in this piece of land and it was very easy for the local newspaper to get quite a good crowd to come along and support this little gem of a green space in the middle of west London, and there is a lot of local feeling regarding this.¹⁸ Six years ago some developers tried to build on this piece of land and local neighbours and I got together and got a petition with over 100 signatures, and the local council refused them permission on a variety of grounds, which I will come to. There is some sort of legal constraint over local growing land which I am not sure of the legal ins and outs of, but it was turned down six years ago and we are asking that it be turned down again.

18210. The southern half of this site, which is the one that most recent Crossrail maps show are to be required, is the most intensely cultivated area and from Crossrail's own aerial photograph, if you have extremely good eyesight you can make out lots of little sheds and plots of land dividing that section.¹⁹

If we slip to the legend or key in the top left corner of the map, it says "Plots 156, 157. Vacant allotments, London Borough of Ealing", and the photograph is evidence that those allotments are not vacant. 158 I think says: "Vacant allotments", and that is not the case either, that is an area of garages, so there are quite a few errors on there.²⁰

18211. The Promoters have spoken to us about alternative sites for the allotments, and we consider this not to be a realistic alternative for several reasons, the key one being access. Access is very difficult to this site, and if we look at the next page of the aerial view again and slide it slightly to the right, this is the alternative site which is scrubland at the moment, woods and trees and what-have-you, and the access is right over from Churchill Gardens, which is over 500 yards away.²¹ That is a long way to push a wheelbarrow and people need to be able to drive quite close to the allotments to unload fertilisers and compost and tools and what-have-you, and access to that site is actually quite difficult. There is currently no water supply on this site, although we have found out recently that the Promoters have said they will provide water so that becomes less important.

18212. The site is full of trees and brambles and as such acts as a mini nature reserve. It has not been tilled or cultivated and has very little top soil, and we do not think it will become viable as a growing space for many years.

18213. The site is adjacent and slightly to the north east of the large aggregate works of Acton Yard. Being a local resident I know all about these because they kick up an awful lot of dust, and I have quite a lot of evidence here about residents' complaints about dust levels, and as we live in an area of Britain where the prevailing wind is generally south westish then those allotments are directly in the firing line. The land is quite contaminated and used by Foster Yeomans mainly. I think it is a point worth making that Foster Yeomans are the prime clients who use these sidings and they are going to be the people who need the diveunder to access their sidings while the Crossrail route is in operation.

18214. **Mr Binley:** Can I clarify what the composition of the dust is?

18215. **Mr Brewster:** I do not think it is toxic or anything like that, and I am sure there will be controls. It is the aggregate used under railway tracks, and it is washed and stored and cleaned and processed there by Foster Yeomans. While we are on this I wanted to point out the wasted land space going on adjacent to that siding, and suggest that some of the uses for Noel Road allotments could equally be put into these areas of land instead.

¹⁷ Committee Ref: A203, Views of Noel Road Allotments (SCN-20070125-007 to -009).

¹⁸ Committee Ref: A203, Bid Starts to Halt Crossrail Land grab, Ealing Gazette, 17 June 2005 (SCN-20070125-010).

¹⁹ Committee Ref: A203, Aerial view of Acton Yard and surrounding area (SCN-20070125-013).

²⁰ Committee Ref: A203, Legend of the aerial view of Acton Yard and surrounding area (SCN-20070125-014).

²¹ Committee Ref: A203, Aerial view of access to temporary and permanent Road Allotments (SCN-20070125-016).

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18216. We believe the Crossrail project and the proposed diveunder could be completed without using the Noel Road allotment site. The general area has large waste spaces which could be used as alternatives. The plot numbered 154 on the previous photograph, and it is difficult to see this, is basically the triangle between the Central Line and the Great Western line.²² We feel it would also act as a perfect substitute for using our little piece of allotments there. This little bit of land is waste; that little bit is full of allotmentees, and we are suggesting Crossrail could use the little bit instead, and also the area adjacent to the Foster Yeomans sidings which we saw on the previous image.

18217. There is a large triangle of spare land to the west of Foster Yeomans area as well. There are about three alternative sites which we consider to be equal in quantity to the purple area marked there that would act as replacements.

18218. We consider the alternative site proposed by Crossrail could be used itself for these purposes, so cut out the middle man, leave us alone and go and use the area that they have offered us as a replacement for workers' accommodation and building materials storage.

18219. Crossrail have told us that they need access to this diveunder from east and west, but we consider that considering there is a readily available rail network to hand which could cope with moving heavy material we are rather puzzled by that dire need to access from both sides. Our allotment association supports the general aims of Crossrail and the environmental benefits it could bring by getting more traffic off roads and on to rails. However, on a local scale we feel there is an argument to be made here about babies and bathwater.

18220. Our allotments are a cushy option for Crossrail being nice and flat and free of buildings. We believe the Acton diveunder could be constructed without destroying the Noel Road allotments if the Promoters were prepared to think a little more creatively and go to a little bit more trouble in considering alternatives. When we were first shown Crossrail's plans they stated the project would need far more land than is now threatened. Originally my son's local primary school was to lose one third of its playing fields, three sports fields were to be taken and another allotment site to the east. We then found that the recent additional provisions have withdrawn the requests for these areas. We ask that one more small area is withdrawn from the list of lands required, and that is the Noel Road allotments.

18221. **Mr Liddell-Grainger:** Thank you. Ms Lieven?

18222. **Ms Lieven:** Sir, I am not going to ask any questions. I will call Mr Berryman, if I may.

Mr Keith Berryman, Sworn

Examined by **Ms Lieven**

18223. Mr Berryman, I have the plan up from the Supplementary Environmental Statement.²³ Can you explain why it is that we need the land at Acton Yard?

(Mr Berryman): Here is the site of the proposed diveunder which will take Crossrail trains underneath the entrance to the freight depot. The frequency of the Crossrail trains and the length and type of trains which use this depot would make operation of both these counter services incompatible unless a diveunder is provided, and this is one of the major pieces of infrastructure on the western part of the Crossrail route. In order to build that, we need to have work sites nearby. We are intending to use this area up here, and indeed the area that the Petitioner pointed to, but the problem is that this diveunder will have to be built around live railways, it involves big pieces of plant and kit, and working in very short possession periods, as you know this railway is electrified and is very busy so we have short duration periods to get on to it, and we need to have work space close enough to the diveunder to enable that to be effectively managed. On the western end of the diveunder we intend to use this piece of land which, as the Petitioner has pointed out, is the existing railway land, but unfortunately, despite quite a lot of effort to try and do so, we have not been able to get away from the need to use this bit of land here as open storage and assembly areas and so on for the equipment.

18224. So just to be clear on one point the Petitioner made, would it be possible to simply swap and use the replacement allotment site for our work site instead of the existing allotment site?

(Mr Berryman): No, that is too far away from the site to be used for the uses we have in mind. That would be suitable for a storage area or as offices and so on but, as the Petitioner has pointed out, there are plenty of other areas around within the existing railway depot which we can use for those purposes, so that site would be too far away for the uses we anticipate to make for this site here.

18225. Going back to the allotment site, mention was made by the Petitioner that we were only going to use the southern part of the allotment site. Can you explain the position on that, please?²⁴

(Mr Berryman): Well, the Petitioner is right, the northern part of the allotment site would probably not be needed. The difficulty is that it is going to be very difficult to get into that northern part once we start work here. There will not be any access from Noel Road into the allotment site. In fact, I understand that the pictures of the well-used and I

²² Committee Ref: A203, Aerial view of Parcel 154, land owned by BRB (Residuary) Ltd (SCN-20070125-016).

²³ Crossrail Ref: P135, Supplementary Environmental Statement, Acton Main line Station and Yard—Revised Scheme and Impacts (SCN-20070125-018).

²⁴ Committee Ref: A203, Aerial view of Parcels 156 and 157 owned by the Great Western Allotment Association (SCN-20070125-020).

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have to say very good and very nice allotments are mainly in the southern part, in any event. Most of the ones towards the north are less well-developed and less well-used. I am not trying to suggest this is not a well-used site; we are aware it is a very valuable and well-used site.

18226. And has Crossrail looked hard at whether or not there are alternatives to using that site?

(Mr Berryman): We have. We have spent a great deal of effort on this area generally. As the Petitioner pointed out we have drawn back considerably from what was in the original Bill as a result of AP3, and there is another allotment area which has affected the Great Western allotment, I think it is called from memory, in the middle, which we were originally going to take quite a big piece of. We have managed by dint of strenuous effort to reduce that to quite a small triangle which we will be taking, and I think three allotments will be affected, and that is the best we are able to do.

18227. Can we then move on to the other side of this, which is what we are going to do to help the allotment holders on the new site?

(Mr Berryman): I think the first point I ought to make is that the existing allotments, after our work has finished, will revert to being allotments, there is no question of any permanent occupation of that site, but our temporary occupation will be for a number of years, so that is the issue.

18228. **Mrs James:** I have to make this point, but if this allotment was not conveniently there, what would you do? If this was a built-on site and it was not there, what would you have done in the circumstances?

(Mr Berryman): Well, it is a hypothetical situation --

18229. If the allotment had been built on when there was a previous plan to build on it you would have lost this option. You just would not have had the option of moving in for a couple of years and taking over the allotment.

(Mr Berryman): Yes. We would have had to think of another way of doing it.

18230. I think it is the allotmenters' problem. It is hard cheese on the allotmenters that they are there, but "Oh well, they can be temporarily moved because it is convenient".

(Mr Berryman): I would not put it quite like that. There are other locations on the project where there are buildings close to the railway where we have had to fundamentally alter the design. It has not been before this Committee but --

18231. You have moved people out of buildings and inconvenienced them for two years and asked them to move back in?

(Mr Berryman): There are several places like that, yes, but there are a number of places where we have altered the design—I do not mean the design of the detail but the whole design of the scheme, because of problems like that.

18232. I do feel sorry for the allotmenters.

(Mr Berryman): We are very sympathetic to them and want to try to put them in a position as best we can where they are as little affected as possible.

18233. **Mr Binley:** Can I ask two questions, because this concerns me too. The first is, and I do not mean this in any sense as a deprecatory remark, but have you ever had an allotment?

(Mr Berryman): I have never been in that fortunate position. I have spent most of my life traipsing round the world --

18234. I am not trying to say that you must have one but my second question leads on from that because my father had what he called "40 pole of garden ground" and he worked assiduously at it and he nurtured it, and the use of an allotment is about how much work over a long number of years has been put into it. Do you fully appreciate that?

(Mr Berryman): Yes, I think we do. We understand that that is the issue and we understand that that is a problem with moving an allotment; it is not like moving a caravan or something like that.

18235. You cannot just have the same thing by simply moving from one piece of land to the other. That is the point I need to know you fully appreciate.

(Mr Berryman): We do understand that point and what we are trying to do, as I will come on to in a moment, is to make the transition as nearly adequate as we can, but we recognise that it is never going to be ideal.

18236. **Sir Peter Soulsby:** Can you tell me a little bit more about what you plan to put on the site? You talk about storage and assembly.

(Mr Berryman): The dimension between the rail and the edge of the allotments is just over 10m. There will be a diaphragm retaining wall running along, and what we need to do is to have the plant running up and down that 10m strip and it needs to be assembled, it is made up of very large elevations, and we need to assemble the reinforcement cages and things like that to drop into the trenches for the diaphragm walls when they are built. So it is a question of really assembling very large pieces of kit and very large elements of the structure to drop them in in the short periods of time which we have available during the railway possessions.

18237. **Mr Liddell-Grainger:** So is it 30 feet from the existing line, or from the new site lines?

(Mr Berryman): I believe it is a bit over 30 feet, nearer 40, from the existing line to the edge of the allotments, but the new line will go more or less in the same position as the existing line.

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18238. **Sir Peter Soulsby:** So you are not saying it is impossible to do it without taking this land, but very inconvenient?

(Mr Berryman): Extremely inconvenient, yes. I would say it would perhaps require a fundamental re-think of how we tackle this problem of the freight yard.

18239. **Mr Liddell-Grainger:** Would you anticipate a danger to the people working with machines around them?

(Mr Berryman): If they were still there, yes, there certainly would be.

18240. So there would be a health and safety issue?

(Mr Berryman): Health and safety, and access problems.

18241. Because you would be doing joint access?

(Mr Berryman): Yes.

18242. **Mr Liddell-Grainger:** Ms Lieven?

18243. **Ms Lieven:** On this topic, Mr Berryman, and this question may be impossible to answer, if we could not have this site and you had to do those operations from the main part of Acton Yard, what are the likely consequences on the work programme, the freight operations, and the train operations generally? Are there any, or would it have to be such a fundamental re-think you cannot answer the question?

(Mr Berryman): I could not answer that off the top of my head; I would have to give it some thought. It would probably mean the freight yard having to close for a period of time but I would not like to really say definitely if that is the case.

18244. Can we move on, then, to the alternative provision at Churchill Gardens? First, can you explain the nature of the land there? Size and so on? Access?²⁵

(Mr Berryman): I spent, as I said a few moments ago, many years traipsing around all over the world and it is what we would have called in the tropics “semi mature jungle”. It needs a lot of cleaning out and a lot of conditioning before it can be used as a growing area, and we recognise that is needed. It is scrubland and basically immature trees. What we would be proposing to do is to condition the soil beforehand by grubbing up and getting rid of all the existing vegetation, and then conditioning it, and I am told that the best material to do this is horse manure and wood chip which you plough into the soil and so on. Then we would be providing water supplies, as said earlier, marking out the allotments, fencing the site off—all that sort of thing, which you would expect to happen.

18245. **Mr Binley:** Through you, Chairman, so you have not had a real assessment of the real quality of the alternative site, nor do you know what is in or under that site?

(Mr Berryman): We know the history of the site and we have spoken to the local borough about what is in and under the site. The growth in there is pretty healthy at the moment, and the borough tell us it was previously used as allotments for growing many years ago, and certainly the strength and health of all the wild vegetation there indicates, in their view, that there is fundamentally wrong with the site. The London Borough of Ealing’s adviser on allotments and so on has advised us on this point.

18246. **Ms Lieven:** Have we been in discussions with the London Borough of Ealing’s allotments officer or manager?

(Mr Berryman): I will find you his official title. He is, in fact, the Allotments Manager, Stephen Cole, the Allotments Manager, Parks and Countryside Service.

18247. And have we been discussing with him how to condition the soil?

(Mr Berryman): We have indeed, and he has made these suggestions I have spoken about and also advised us on timing where we would allow people to make their planting at a certain time of the year without making the move. In other words they have two allotments going at the same time as they overlap the different crops.

18248. And so far as the condition of the soil, the condition of the allotments is concerned, have we given any unequivocal commitments on that?

(Mr Berryman): You mean on the temporary allotments?

18249. Yes?

(Mr Berryman): We certainly have. We have given commitments to the borough to do the various things which are needed to condition the soil, and I think we have given an undertaking to the allotment holders. If not, we can do so.

18250. And so far as the borough are concerned, are they content that this is an acceptable site for temporary allotments? Are they concerned about contamination of land or dust flying off Acton Yard, those kind of issues?

(Mr Berryman): No, they are not, or certainly they have not indicated to us they are. I cannot speak for them really but they have never said anything to us about that.

18251. And we have been in extensive discussions?

(Mr Berryman): Yes.

18252. Just while we are on the condition of the place, have you got any views on this issue that it is not suitable for allotments because there is dust flying off Acton Yard?

²⁵ Crossrail Ref: P135, Supplementary Environmental Statement, Acton Main line Station and Yard—Revised Scheme and Impacts (SCN-20070125-019).

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(Mr Berryman): Well, Acton Yard is a major aggregate handling area. I would imagine there is a possibility of some dust at some time but I would have thought the whole area would suffer from that problem, and if you look at the other allotment, the Great Western allotment, which is a very large patch of allotments immediately adjacent to the area we are proposing as a temporary allotment, that seems to work quite adequately, and the allotments there are just as well tended and just as actively used as the Noel Road ones.

18253. And those are existing allotments; those are not ones we aspire to move?

(Mr Berryman): We are moving a very small number of them just on the corner.

18254. But there is an existing successful allotment right next to where we are proposing?

(Mr Berryman): I think the boundary is there

18255. Now, another point that was raised was pedestrian access. I think we accept this is not ideal, but can you explain how it works?

(Mr Berryman): Yes. There is an existing very heavily overgrown track from the end of Churchill Gardens to the allotment—this is another place Mrs Berryman has tried to navigate her way through in the past—and we would be proposing to clear that out and make a walkway through. It is about, I suppose, 200m but from the Acton diveunder it is about 500m.

18256. What about access by car for bringing heavy things in?

(Mr Berryman): You would only be able to get as far as the end of Churchill Gardens.

18257. **Ms Lieven:** I think that is everything, Mr Berryman. Thank you very much.

18258. **Mr Liddell-Grainger:** Mr Brewster?

Cross-examined by **Mr Brewster**

18259. **Mr Brewster:** The access to Noel Road allotments is why they are so well used. It is because people with busy city urban lives can get down there, get digging and get out again and do not have to traipse down little avenues and freshly cleared paths, so that is a key part of their function. Dust is common. I have a newsletter from the residents' association here which speaks of—

18260. **Mr Liddell-Grainger:** Mr Brewster, have you any questions? At the moment I would like you to confine yourself to any questions you have. You will get a chance to make a statement, so if you would like to do that, would that be helpful?

18261. **Mr Brewster:** I would like to ask if Mr Berryman would consider that a building project on this scale in a built-up area is ever likely to be anything other than inconvenient?

(Mr Berryman): No, it will never be anything other than inconvenient. That is the reality of life.

18262. **Mr Brewster:** Thanks.

The witness withdrew

18263. **Mr Liddell-Grainger:** Ms Lieven?

18264. **Ms Lieven:** Very briefly, sir, because you have heard all the issues, I would start by saying that we do really genuinely need this site. This is a location where a very large amount of effort has been put in in the Bill development to try to minimise the impact on Acton Yard, and quite significant changes have taken place, so this has been tested out hard. It probably is true to say that when a Bill like this first goes in fairly generous parameters are set, and as one goes through Parliament and goes through detailed design, hard scrutiny is put on certain places and this is one area, in which hard scrutiny has been put, and it is the clear professional advice that we need this site, I am afraid, and if we cannot have it it is going to have knock-on effects on the project.

18265. It is important for the Committee to bear in mind that all along the route this project is about balancing out interests, and the interests we have here are the freight lobby, whom some Members of the Committee will remember well, and who feel very strongly for very good environmental reasons that their interests must be protected along the western line, both in terms of the diveunder but also in terms of the operation of Acton Yard. So we have to protect their interests, and we also have to protect the operation of the railway for all the millions of people who use it up and down, so increasing possessions by having a work site further away is something that has very real consequences.

18266. It is not the case that we just thought “Oh, allotments, that is easy, we will take those.” That would be a very unfair view of the process here, so I am afraid it is our clear position that we need to have this site.

18267. Therefore, we come to the issue of the alternative. Again we have looked long and hard at this and nobody is suggesting that there is a better alternative. The problem with the northern part of the site we are taking is that of access. Even if access could be got in, the difficulties of safe access, given the kind of activities going on, are really very obvious, so this appears to be the only alternative site. It is of the right size; it does allow the allotment holders to stay together, which I would suggest is very important given the sense of community and the clearly successful nature of the allotments, and we have said, and I am going to sound like Mr Mould now, we will do everything necessary to provide this as suitable allotment land. If we have to put in extra conditioning, we will do it; if we have to do it the year before—and I have not had an allotment and my vegetables die with boring regularity so I am no expert, but if it is the case that

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the manure has to go in a whole season in advance in order to get the thing rolling early, we will do that. We are thoroughly committed to making suitable provision here.

18268. So far as the fundamental argument that this is an unsuitable site is concerned, it is my submission this is quite a difficult argument to run given there are large and successful allotments next door. It might not be perfect site because it is next to an aggregate site but it is obviously perfectly capable of being successful for allotments because there are allotments next door and it is also obviously capable of being successful because there were allotments on this site before.

18269. So it is really a question of energy and commitment, and we have that, and this is one where we cannot say: “We will go back and look at it again and try and find alternative sites”, because our position is that is just not possible. I hope that is a fair summary.

18270. **Mr Liddell-Grainger:** Thank you. Mr Brewster?

18271. **Mr Brewster:** The local residents’ association have been supplying me with news letters from the past year where local residents living in Lowfield Road, which is shown on this map, are complaining about dust levels. I take the point that allotments are viable alongside this site so therefore some more to the side of it will be all right, but I do consider that the dust levels are an issue regarding this.

18272. I do not feel that anyone has answered the point regarding the space of land itself and the discrepancy between this plan and the overhead photograph I showed earlier. You will see the area in pale purple after the additional provisions have been taken, and that is totally different to what is on the map plan. We are suggesting that this tract of land on the left could make the perfect substitute for that. This tract here is part of Network Rail, I think, or BRB, one of the two, and that would provide access without needing to disrupt the allotment at all because that access is in place now, and vehicles regularly go down there to work on the tracks down here, and I know that because I can hear them at night! But this piece is clear and I have not heard a decent argument yet why that section of land could not act as a replacement.

18273. While we are on the subject I would really like some assurances that Crossrail only intend to take half the allotments now, because the plan we have been looking at that they have supplied keeps showing the whole site going, so there needs to be some clarification there.

18274. **Ms Lieven:** I had hoped I had clarified that but let me say it again—it is the access issue.

18275. **Mr Liddell-Grainger:** Ms Lieven, the point is taken very well; I think we have gone over that. The Committee will make up its own mind but we thank you. Would you like to move on?

18276. **Mr Brewster:** Yes. Sorry—is that the whole site to be taken then, or just half of it?

18277. **Ms Lieven:** We are taking the whole site, sir, because we cannot provide access to the northern part, so the whole thing is being taken.

18278. **Mr Brewster:** That is the first I have heard. When we had a meeting with Crossrail just before Christmas we were told that they only intended to take the section marked purple, plots 156, 157, so it has extended again. That would have affected my approach to this.

18279. This diveunder is for the sake of Foster Yeoman’s aggregate yard, and that is where the construction should be taking place. There is loads of spare land around there and with a bit of effort and a bit of ingenuity that is the place where the construction workers’ accommodation can go. There are big tracts of land, nothing going on, great areas of land that need a bit of tidying-up anyway. What about the site itself? I still do not feel that has been answered satisfactorily. There is a rail network there to move stuff up and down the line, and that could be used as a conduit for those materials.

18280. I think that is it. I am sorry, but I am not used to doing this.

18281. **Mr Liddell-Grainger:** Mr Brewster, do not worry; I think you have laid your case out very well. Thank you for your evidence; it is extremely good. We have taken all the issues on board and I can assure you we understood what you are trying to say, and as a Committee we will make up our minds. Thank you for coming.

18282. **Mr Brewster:** In response to Ms Lieven’s earlier comment at the beginning, this may be one of the less important Petitions for her but as far as West Acton residents are concerned it is one of the most important. Thank you.

18283. **Mr Liddell-Grainger:** Mr Brewster, thank you very much indeed.

18284. Because there is no other business I therefore declare that the next meeting of the Committee will be on Tuesday 30 January in this room at ten o’clock in the morning.

Tuesday 30 January 2007

Before:

Mr Brian Binley

Mr Philip Hollobone
Kelvin Hopkins

Mrs Siân C James
Mr Ian Liddell-Grainger

Ordered: Council and Parties be called in:

18285. **Chairman:** Can I first of all welcome everybody here again. I see a number of familiar faces on both sides of the fence. Can I say, we are here today to listen to the additional case for and against the additional provisions. I will be quite firm on repetition, and in that respect, Ms Cove has very kindly given to you a list of speakers which has been drawn together so that repetition will be avoided. I will remind everybody who is making their case today that we cannot revisit areas we have already dealt with, and I will be quite strong about that. Can I also remind everybody that at a suitable point, about 11.30 or 11.45, we will suspend for a short time so that people can get a coffee, and then we will return shortly after that. Mr Elvin, I understand you would like to present the outline of today's Petitions.

18286. **Mr Elvin:** Sir, I have not got a great deal to say. Today and first thing tomorrow you are scheduled to hear further Petitions from Spitalfields' residents and their representative associations. The issues they appear to raise, both from their Petitions and correspondence received over the last day or so and there has been a heavy flurry of correspondence in the last couple of days, strongly suggests to our minds that firstly if you look at Jil Cove's letter of yesterday, setting out who is going to deal with what, the issues are issues the Committee has already heard two weeks of evidence on and are not related to AP3 at all. In fact, as the Committee may recall, AP3 does not propose any changes in the alignment or in the location of the ventilation shaft. It changes the tunnel launch positions and it has changed the tunnelling strategy. That was dealt with the last time in any event and, indeed, to hear such matters would involve rearguing issues dealt with on days 38 to 43 last June, including matters such as impacts of the proposed shaft and residents, construction impacts, alternative shaft locations, alternative tunnel alignments, settlement, health, these were all matters dealt with last time. The Committee, as you are well aware, gave an interim decision on the grounds of the Petitions dealing with these matters on day 53. What you said in paragraph 16575 was that you agreed that the Hanbury Street shaft was the appropriate area for the shaft. There were other recommendations, such as setting up a panel, to which I will come back to in a moment, but you also heard evidence from Mr Berryman on days 38 and 39 and from Mr Thornley-Taylor on noise on day 39. You may recall, although it may be a distant memory, that the first supplementary Environmental Statement of May 2005, chapter six, described the various alternatives to the Hanbury

Street location and gave the reasons for the choice, and that SES3, which was published in November, and it is now amended as I indicated to the Committee just over a week ago, deals further with the comparison between Hanbury Street and Woodseer Street and the southern alignment because we promised, if you recall, during the course of the last hearings that we would publish further environmental information, which we have done, and that does not give rise to petitioning issues because it is in the SES and is not part of an AP, so there is no petitioning issue. It is simply fulfilling our promise that we made during the last set of hearings to publish further environmental information upon which there was public consultation.

18287. That is a matter which will be made available to the House on Third Reading. I made overall submissions to the Committee at some length on days 43, paragraphs 11678 to 11743, and in written form in document P100. Our position on the issues which are set out in Ms Cove's letter as have been spoken of by these various people have already been dealt with in the areas I have mentioned and in our submissions. Finally, I would point out that to depart from the issue which the Committee has already issued its decision on regarding the location of the shaft would entail significant additional delay if the Committee were to proceed now to allow further debate on the Hanbury Street versus Woodseer Street option and a further AP be required, then of course the progress of the Bill would be delayed for many months. Indeed, I am sure the Committee would have told us, having heard the two weeks of evidence last year, if they had thought the proposals ought to have been altered and, indeed, as I have indicated, you told us that they did not. Finally, as I mentioned earlier, the only new issue which appears to have arisen is the implementation of the Community Liaison Panel, and that is not strictly speaking a petitioning matter either because it is simply our seeking to give effect to the request of the Committee as part of the interim decisions to set up better community liaison. There have been various debates as to whether that has been done properly. You have received letters of complaint. We have submitted a report which sets out what we think has happened. It is a matter for the Committee whether you wish to police your own interim decisions and hear detailed evidence on it. I have here Mr Clinton Leeks who has been responsible for driving forward that Community Liaison Panel, and if the Committee would wish to hear from him in due course, I can get him to explain

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a little further what has happened and what is proposed for the future. I am more than happy to do that if the Committee would find that useful at some point.

18288. **Chairman:** I think your final suggestion is very apt and we will take the opportunity for that later. Ms Cove very helpfully supplied us with a list of subjects which will be dealt with by individuals. Can I repeat what I said a little bit earlier, we cannot revisit areas that we have already been to and decisions which have been made. Some things we were asked before are not within the remit of this Committee to deal with, the realignment for one. What I am going to do is allow you, in the order that you have given, to make a presentation on it and state your case. However, if it concerns matters which have already been dealt with, I will allow you to make the case, but then we will have to move on.

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Ms Jill Cove appeared on behalf of Spitalfields Community Association.

18289. **Ms Cove:** Chairman, first of all, before we start, as I said in my letter, it was provisionally agreed, with the letter that I submitted to you yesterday, with regards to the way we were going to be presenting the issues on appeals but there is a slight change in order.

18290. **Chairman:** I have got that. I intend, after you have concluded, to call them in the revised order.

18291. **Ms Cove:** Thank you. Can I just say in answer to Mr Elvin with regards to the issues I want to deal with, I was invited by the Committee clerk to come back to you to explain about the situation regarding the Community Liaison Panel so that you hear from our side.

18292. **Chairman:** We are very interested in that.

18293. **Ms Cove:** Also, I am discussing health issues here this morning and they do cross AP3 and the Environmental Statement because health is an issue which covers the whole of the things, and we are very concerned about the lack of action from Crossrail with regards to any forward-taking of the original health impact assessment that I was so critical of last time. I do not intend to be very long so I hope you will hear what I have to say.

18294. **Chairman:** Let me pause you for a second. I have made the decision that we are willing to listen to your concerns, however whether we go into detailed evidence-gathering and experts being called is another matter. Certainly do make your case.

18295. **Ms Cove:** Chairman, I have handed in five documents to which I will be referring and would ask you to have those to hand when I talk about it. Chairman, I am pleased to be able to say today that Spitalfields' Petitioners have agreed to speak on the

issues and not go over the same things. We are going to be specifying specific areas that we are greatly concerned with. We are also going to be presenting to the Committee a number of undertakings which we would like to hear Crossrail's view on and see if we can get some agreement today on those particular issues. I have mentioned the order that we have set them out in and I would like to say that although the undertakings I have produced on document 1 are presented on behalf of Spitalfields Community Association—

18296. **Chairman:** For the record, list that as A204.

18297. **Ms Cove:**—they are submitted on behalf of the entire whole of the Spitalfields community and they are not just on behalf of the Spitalfields Community Association. We believe the Community Liaison Panel and the site-specific Health Impact Assessment groups must be established, both the other major construction sites in Tower Hamlets, Stepney and the Isle of Dogs as well as in Spitalfields. Can I say again on the Community Liaison Panel, we did welcome the Committee charging Crossrail with the task of establishing a Community Liaison Panel along with other community groups, and the Community Association at Spitalfields were keen to engage in a positive and fruitful dialogue through this panel. I will not reiterate what I set out in my letter which I sent to you on 29 November, Chairman, and forwarded to the Committee clerk on 15 January. I will also not repeat what I have set out in my Petition on paragraphs 15 to 19. However, before dealing with the Crossrail response, which I understand you have had, I need to say that our view of the Community Liaison Panel is that members should not only reflect the community but be transparently selected by the community in order to have a mandate from and credibility with the community. If it is not established in this manner, the Community Liaison Panel becomes a misnomer and is meaningless. We strongly object to the Crossrail selective-secretive interpretation for selection of panel membership.

18298. I want to deal with Crossrail's responses to the Community Association's Petition in sequence, and I understand that has already been sent to the Committee. I believe that response is both misleading and disingenuous. As I refer to it, I have handed in numbered paragraphs and underlined the quotes that I would like to refer to, it is number 4 in your small bundle. Paragraph 1.4 quotes: "A number of Petitioners appear to believe that the purpose of the body (which I assume they mean the Committee Liaison Panel) is primarily to engage with the Petitioners and meet their specific concerns rather than with the wider community and some appear to consider that its purpose should be achieved through debate at public meetings". This interpretation is completely refuted by SCA and other community groups and we are bemused as to how Crossrail could have reached such a conclusion as there has never been any discussion between the

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community and Crossrail on the purpose of the Community Liaison Panel. At the first meeting in October, Crossrail produced a draft remit which we found quite unsatisfactory. I was then invited to submit a further draft remit for the Committee. I did that, but because of the decision of the Community Association's AGM on 28 November on behalf of that association that I should not attend further meetings, I did not send in the draft remit that I had prepared so Crossrail have not got the faintest idea what the community sees to be the function of this Community Panel. We believe the function of the Panel is that members must all have equal status and there must be a frank exchange of views. It is very important that we are provided with relevant and up-to-date information in order for the community to fully understand the impact of Crossrail and to seek appropriate undertakings to mitigate harm and protect the community from the impact of a major construction site.

18299. We want to discuss this information on serious concerns, including site-specific issues such as: health, safety, dust, traffic, noise, pollution, vibration, settlement, et cetera, and we are of the opinion that the Panel should follow best practice and be built on precedent set by the Kings Cross community. Paragraph 2.1 says: "Representative of the local population" (which is 58 per cent Bengali) "in line with the Committee's request, rather than Petitioners who are predominately white European". As a Community Association, we are deeply offended by the racist insinuations of that remark. Spitalfields is a close-knit racially harmonious community and it seems that Crossrail are trying to drive a wedge between the community groups by alleging that Petitioners either are not representative or are not concerned about the impact on the entire community irrespective of race. Crossrail has never investigated the ethnicity of any community groups, and I should tell you that apart from the Spitalfields Small Business Association, which is predominately an ethnic minority organisation, both the Community Association and the Woodseer and Hanbury Residents Association have a substantial number of members from both Bengali and Somali communities.

18300. Paragraph 2.1 says: "... other parties of the local population who might not have been actively involved up to that point", and paragraph 2.3 says: "CLRL consulted their Community Cohesion Adviser from Social Research Associates to review their views on proposed BME stakeholders and groups in the area". You might think this is a laudable intention, but I do question why the advice was sought from an outside group with no apparent links to Spitalfields and why only consult them and Tower Hamlets Council? Why did Crossrail not actually consult the Petitioners who live or work in Spitalfields and know the local groups? The Committee need to be aware that in 2004 the Woodseer and Hanbury Street Residents Association provided Crossrail with the contact

details of some 40 Spitalfields-based groups, yet that list seems to have been totally ignored and we ask why?

18301. I have to say that in fact the Social Research Associates do not appear to have been very successful either in identifying appropriate and interested local BME groups. In an e-mail from Tom Mantey on 25 January it said: "One group has not responded to invitations, one group has not attended either meeting (that was the October and December meeting) one declined to participate, but want dialogue outside of the panel; another group declined to participate but Crossrail continued to invite their representative to meetings anyway; a BME residents group who had in fact petitioned on behalf of his organisation had to ask to be invited to the meeting; and other groups attended the second but not the first meeting". Papers were sent to other unidentified groups who have not so far attended any meetings. It seems to us that it is a very unsuccessful way to identify panel members and not, we believe, in line with the Committee's intentions. Paragraph 3.1 of their response says: "7 stakeholders attended" and "a different group representing BME residents were asked to attend". I personally encountered six stakeholders, including the one who had asked to attend, and I am bemused by the presence of a local police officer and a representative from Skanska who are currently rebuilding London Hospital.

18302. She explained the value of the emergency services at meetings, which I accept might be useful if we were discussing an actual construction site, but at the moment with the Community Liaison Panel we are discussing a hypothetical hole in the ground, so I wonder at the value of such members at this stage. If the project ever gets underway it might be useful to have their contributions at that particular point.

18303. Paragraph 4.2 says that, "Some attendees were of the view that the Panel should not commence operation until a public meeting or a meeting of all Petitioners had been convened to allow local members of the community to select representatives." This was stated very clearly at the meeting by five of the six community representatives and it remains the view of many groups, including the Community Association, the WHRA, the Spitalfields Small Business Association, the Spitalfields Trust, the Kempton Court residents, which is at Whitechapel, the Local Area Partnership, individuals, including Patricia Jones, as well as many others, and we believe that the membership of the Panel must include a wide range of interested local people who live or work in the area, but selected by the community to ensure transparency, accountability and credibility as well. We also believe that the professional agencies working in the area should also be invited, and surely this must be the best way and the most

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transparent and appropriate way to go forward, and we wonder why Crossrail are afraid of calling such a meeting.

18304. Para 4.2 says, “action is necessary in the locality immediately”, but again the question is because of the time lapse from the Committee charging Crossrail with setting up this Community Liaison Panel, the first meeting in October can hardly be described as immediate or expeditious. Surely a few more weeks spent in seeking proposals from the Petitioners, an existing body of identified Spitalfields residents and businesses with roots in the community might have been beneficial and prevented this complete breakdown that we appear to have in communication between us.

18305. Para 4.2 says it is , “open to the Petitioners themselves or members of the wider community to arrange a meeting to select their representatives.” This is a very questionable suggestion because it is Crossrail that is charged with establishing the Panel, and I would ask them who would pay for the adverts, the leaflets, the hire of the venue, to distribute the leaflets not just in monetary terms but in time too? Crossrail appear to have vast sums of money and staff and they should not be allowed to avoid responsibility by passing the task to local groups. Generally most local community groups are volunteer-led on very small budgets.

18306. Para 5 says, “six names were added to the list of invitees.” Three of these were actually suggested by me, including Dr Safrir, as I could not fathom out why he was not invited to the first meeting. Paragraph 5 also goes on to say that they “ . . . received a letter from the Spitalfields Small Business Association who own one of the potential venues, refusing permission to use their facilities.” I have handed in a copy of the letter that was sent to Crossrail on behalf of the SSBA, number 5 in your bundle. The letter is dated 15 November and I would draw your attention to that because nowhere in that letter is any indication given that SSBA refused permission to use their venue. The letter points out that they do not have a large enough venue to accommodate a big meeting, as requested at the first Panel meeting; and it suggests instead to use the Brady Centre as an appropriate venue. I believe that this is a clear indication to the Committee members how Crossrail completely misrepresent matters, and I am not sure if it is deliberate or not. There is the reply from Gareth Epps on behalf of Crossrail on the back of that letter, from Ms Brawne.

18307. Para 8.2 says, “Therefore, making it largely a mechanism to communicate with the Petitioners does not appear to CLRL to be the right approach and is cumbersome and is unlikely to achieve the Committee’s objective”. The Committee, I believe, must understand that nowhere or at any time has it ever been suggested that only Petitioners should be members of the Panel. We consistently requested larger meetings specifically to invite Petitioners, as they not only live and work in the area but they

actually do reflect the make-up of the community. We have already shown our commitment to the issues regarding the impact of Crossrail on all of Spitalfields and representatives must be chosen from the larger meeting. This would be transparent and give the Panel members credibility, a mandate to enter into negotiations with Crossrail, and accountability to discuss all matters. We are confident that this was the intention of the Committee and I ask again what is Crossrail afraid of?

18308. Paragraph 8.4 says, “CLRL is currently looking at ways to improve the effectiveness of the Panel.” I assume that this includes continued contact with Tower Hamlets as before Christmas I was contacted by Owen Whalley from the Council, suggesting that they call a public meeting and they told me that they were acting as honest brokers. The Community Association and others rejected this suggestion as we are of the opinion that Crossrail was charged with establishing this Panel and not the Council. I told them that we were coming back to the Committee to seek some guidance on this matter.

18309. I also assume that that paragraph includes meetings with a local resident, who happens to be Vice Chair of the Local Area Partnership, which is a council run organisation, allegedly to devolve matters to small areas in the borough. I understand from her that ostensibly this meeting was requested to ask her why she had not gone to the second Panel meeting, but during that discussion she was asked by Crossrail if LAP 2—which is what they are known as—is an appropriate group for the Panel. She responded, and I quote, “LAP 2 is not appropriate for this Panel as it is run by council officers, who will be perceived as having London Borough of Tower Hamlets control.” She also told them that the way they had gone about setting up the Panel had not worked and suggested that Crossrail go back to the community and ask what they want and to cancel the February meeting in order to rethink the whole process.

18310. Paragraph 8.6 says, “It . . .”—and I assume “It” is CLRL—“ . . . will continue to work to improve the functioning and usefulness of the Panel.” On behalf of the substantial proportion of the Spitalfields community, I would say that until and unless Crossrail arrange a large public meeting, including invitations to all local Petitioners, including Kempton Court, in order for the community to choose their own representatives to the Panel, then I suggest that this Community Liaison Panel will never fulfil the intentions of the Committee; it will remain unrepresentative, ineffectual and a travesty of alleged community involvement. We make a reasonable suggestion for a way forward and I seek guidance from the Committee on this important matter.

18311. Despite all that I have described Crossrail carried on with the second meeting in December and they fixed the date of 6 February for a third meeting.

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Both Spitalfields Community and Crossrail need the Committee's help and guidance on the way forward and for this reason we seek the following undertaking today. We ask Crossrail to convene a public meeting in Spitalfields to which they agree to invite all local Petitioners, including nearby Kempton Court, community groups, amenity groups, residential groups, small businesses, schools, social and health services, in order to select representatives with a mandate from the community in a transparent manner. The Community Liaison Panel should formulate an agenda to alleviate concerns of the local community and call on the Promoter to provide site-specific information on impacts and implement robust measures to mitigate harm. The Community Liaison Panel should be granted equal status and the workings of the Community Liaison Panel in Spitalfields should follow the recommendations of the 2004 inquiry into the Channel Tunnel Rail Link.

18312. The second part of that undertaking that we seek today is that Crossrail should ensure that members of the Spitalfields Community Liaison Panel should be consulted about practices, selection of lorry routes and the nomination of contractors to ensure that the Promoter adopts Best Practice Management techniques in the densely populated area of Spitalfields. And I would ask for Crossrail's undertaking to be given to that today.

18313. Can I then turn to the Health Impact Assessment—and it is set out in paragraphs 20 to 24 of the Community Association's petition? The Committee will recall when I gave evidence last year that I was highly critical of the bland and generalised Health Impact Assessment produced by Crossrail, and I was told that it was a work in progress and that future community consultations regarding the impact on health on specific communities would take place. To date there appears to have been no action from Crossrail.

18314. Crossrail's response to the Community Association's petition says, "However, the mitigation measures set out in the Environmental Statement will reduce the potential health effects from construction activities to a level where they do not represent a significant risk to local communities." Yet again they have given no evidence for that statement and only last week Crossrail admitted publicly that their estimates of noise levels emanating from the Hanbury Street worksite would be higher than originally estimated. We know that noise exacerbates existing health problems and where no health problems exist noise can potentially cause them. How can we believe anything that Crossrail have told us so far about the low level risk to the health of the Spitalfields community from proposed construction in the Hanbury Street site? That is why today we seek specific undertakings about site-specific Health Impact Assessments beginning immediately.

18315. At the first meeting of the Community Liaison Panel, as I have already said I was extremely surprised that Dr Safir was not even invited, despite him being the local GP and a Petitioner, and I proposed that he was invited to our meetings. Since then I have spoken to him and learnt that he did attend the December meeting but because of the lack of other community groups he felt that the meeting was not very useful, and he is now considering his position regarding attendance at future meetings. He also said that the meeting was told that the community groups were boycotting the meeting, but no explanation was given.

18316. I have also spoken to the Assistant Director of Public Health in Tower Hamlets, and she told me that she had had no contact with Crossrail since the workshop in August 2005. She also said that she was concerned that no meeting has been convened locally to begin discussions on the impact on health and safety of the Spitalfields community from this major construction site being proposed for Hanbury Street. She wants that to begin as soon as possible, she told me, so that discussions can begin to decide what features need to be factored into codes of practices of construction in order to mitigate against the inevitable impact.

18317. In Crossrail's Health Impact Assessment supporting information document it says, "The Crossrail Health Impact Assessment is focused on the changes to the key determinants of health that are predicted to occur as a result of the project. It is not concerned with effects that would have occurred anyway, without Crossrail, but it does consider possible cumulative impacts resulting from implementing the project on an environment that is already affecting the health of a defined population."

18318. It goes on to say, "These impacts on the key determinants of health may then lead to a changed health outcome . . . in the risk of a disease or accident."

18319. The document further states, "With Tower Hamlets having the lowest life expectancy (and fourth lowest in England) life expectancy is an indication of general health and lower life expectancies are associated with poorer levels of health."

18320. Tower Hamlets is referred to again in this document when it is stated that, "Due to the levels of deprivation in Tower Hamlets residents in this borough are more susceptible to any activities that will have a potentially negative impact on the health of the population. This is most visible in the lower life expectancy of residents in Tower Hamlets."

18321. I have quoted these extracts in order to support the eloquent and very graphic evidence that was given to the Committee by Dr Safir, who is a local GP of 33 years' standing, and I would refer the Committee members to his evidence in paragraphs 10399 to 10429 in the transcript. I was going to quote

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to you some of his evidence that is set out in those transcripts so that they are put alongside Crossrail's own supporting documents.

18322. Dr Safir said: "We have an enormous amount of unemployment, an enormous amount of housing problems, which I will touch on, an enormous amount of illiteracy, and I hear today counsel saying about all the documents that have come through and they are bilingual and everything, but we have an enormous amount of Bengali people who are illiterate in their own language." He went on to say, "They are also, not wishing to be racist or rude in any way, totally unaware of the concepts of health, housing or major impacts on social undertakings that would have perhaps influenced different populations. I imagine an awful lot of my population would have no idea what Crossrail is about."

18323. Just to emphasise the points that Dr Safir made, he said, "I would like to touch on the health issues and the social issues by just saying that Spitalfields is a medical disaster area. I called the health authority in six months ago to point out our problems of disease entities and prevalence of diseases and they were absolutely amazed, so not even our health authority have really understood the problems we are facing in the deprivation of Spitalfields. This is compounded by the ignorance, the non-compliance, the difficulty in understanding concepts, the difficulty with language even though we have interpreters in our surgery—we are dealing with a very unique population who really are not on the same wavelength as all the people in this room, and that has to be taken into account when we are talking about impact on population."

18324. He said, "What is going to happen with the Hanbury Street project, it is going to have a major, major, major, major impact on the Spitalfields community, far, far more than any other community of similar population." And, "There is no concept of health wellbeing in the area. As I say, every disease entity—asthma, chronic obstructive airways . . . we have enormous amounts. We have the worst of the worst. I was at a recent meeting and unfortunately they did charts of hospital admissions and the cost to the health authority, and unfortunately on the top of the list my name came 'top of the pops'—most admissions, most expense, most everything for hospital admissions due to lung disease."

18325. Quoting again from him, "What I would like you to do, in a nutshell, is accept the fact that our population is going to be far more affected by the Crossrail project in Hanbury Street than any other population that I know of because of all the problems I have said, because of the non-compliance. The devastating effect on the Hanbury Street project will affect far more residents than I think people understand."

18326. Finally, he says, "I would say, number one, that this is a very highly sensitive area at the moment with the Muslim population, and I think we need to retain race relations. I am not aware of any detailed assessment of health issues that have already gone through that Crossrail have asked for. I am sure that there is going to be a big impact on the health of my population. I feel that there is a different route that can be taken that does not involve Hanbury Street. I am not political, I do not know the ins and outs, but there is a different route that could be used that would totally avoid the Hanbury Street population."

18327. This graphic description of health problems in Spitalfields from a GP of many years, together with those parts of Crossrail's own Health Impact Assessment supporting document, has still not prodded them into action to even begin setting up site-specific health groups for Spitalfields.

18328. We say that this cannot be allowed to drift along without some action by Crossrail, so today, on behalf of the community, I am seeking the following undertakings from the Promoter: that Crossrail should immediately begin the task of carrying out a site-specific Health Impact Assessment for the Hanbury Street site to consider existing health problems by creating a Spitalfields Health Impact Assessment panel. This Health Impact Assessment panel to include representatives from the following groups: Towel Hamlets Primary Care Trust, Tower Hamlets Public Health Trust, Tower Hamlets Mental Health Trust, Tower Hamlets Council's Health and Overview Scrutiny Panel, the Patients Forum for Primary Care in Tower Hamlets, the GP from Spitalfields Health Centre, district nurses, health visits and all other relevant health professionals.

18329. In addition, we would request that the Select Committee would consider charging Crossrail with the task of establishing similar sites for specific HIA panels for both of the two other major construction sites in Tower Hamlets, Stepney and the Isle of Dogs, with GP representation from the health centres local to each site. We also ask Crossrail to provide resources for independent monitoring of the impacts and applying the lessons learned on the CTRL project in addition to allocating independent experts to deal with the likely impacts to ameliorate health impacts. Thank you.

18330. **Mr Elvin:** Sir, it is quite apparent that the key problem, so far as the community liaison issue, arises from the insistence by local residents on having a public meeting at which everyone attends, rather than a representative meeting. I will call Mr Leeks in a moment just to explain the position, but the intention has been to take forward the health impact assessment through the liaison panel. Of course, as you will be aware, the doctor attended the December meeting, and Mr Leeks will tell you what transpired. The difficulty the doctor has is that if the community

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representatives will not participate his input is not going to be terribly helpful because he needs the community to assist as well.

18331. All of the matters which appear to have given rise to difficulties flow from the insistence not on a liaison panel but on a public meeting. Crossrail does not intend to host any public meetings but it has made it perfectly clear that there is nothing to prevent the local representatives from getting together on their own and electing representatives for the panel; it is not Crossrail's role to say who should or should not be on the community liaison panel, it is for the different aspects of the community to choose their own representatives—that is the nature of these things. Unless they do, Crossrail cannot really do very much in terms of taking it forward.

18332. What we were not aware of until what has just been said was that there was a cost issue standing in the way of the community having its own public meeting. What I am told is if that is really the case and all that is stopping the community or the Petitioners, or whoever it is who wants to hold a public meeting to choose their representatives, is the cost of hiring the venue then Crossrail will pay the reasonable costs of hiring such a venue, to allow the community to chose its representatives, but that point has not been raised with us.

18333. **Chairman:** So Crossrail are prepared to facilitate such a meeting?

18334. **Mr Elvin:** Yes.

18335. **Chairman:** Has any thought been given, perhaps, to involving the local authority in hosting that?

18336. **Mr Elvin:** We have tried. I will get Mr Leeks to explain to you the position. There have been discussions with a number of community representatives and persons in the community, but it is better rather than I tell you that he tells you, in a moment. I make it clear, if the residents wish to have a public meeting Crossrail does not intend to host a public meeting; it is for the community to choose their representatives, but it will pay the reasonable costs of the venue for such a meeting to be held, if that is proving a difficulty. As I say, had that issue been raised before then it could have been addressed before.

18337. However, all these issues that flow from it, such as not driving forward the health impact assessment, not involving the community in these issues, arises because there has been an insistence that the panel sit by a public meeting, and public meetings have not proved constructive in the past, which is why, I assume, the Committee thought a representative panel would be the appropriate way forward. Crossrail has only made initial invitations because Mr Leeks saw his role as setting up the panel and getting it up and running, with the view that it

should then be self-governing and he could depart. Crossrail might be represented or take part in the meetings but it is for the community to run its own panel through its own representatives and elect its own chairperson. That has not yet been done, for the reasons that we set out in the report. I will call Mr Leeks in a moment.

18338. I just want to mention one point where there is misunderstanding. The amendments to the Environmental Statement which I announced to the Committee two weeks ago have now been publicly advertised, and copies were supplied to the community the week I indicated they would be. It is not correct to say that they indicate that noise will be worse at Hanbury Street; they say nothing of the sort. Could Mr Fry put up paragraph 3.5.7 of the original version of the third SES.¹ There you will see, in the first line: "Construction noise modelling of each site predicts that 12 residential properties would be likely to qualify for both temporary rehousing and noise insulation at Hanbury Street and no significant residual noise impacts." There was then a consideration of Woodseer Street, and you will see the numbers 12 and 79, and the view was that Woodseer was slightly greater adverse impact than Hanbury Street.

18339. The change arose as a result of reconsideration of mitigation factors, and if I can just put up on the scanner the corresponding paragraph, you will see in the first sentence it reaches the same conclusion: "Twelve residential properties for noise insulation; no significant residual noise impacts".² What has changed is that applying what were reconsidered as the mitigation methods would reduce the impact slightly at Woodseer Street, so the comparison shifted from slightly in favour of Hanbury Street in noise terms to slightly in favour of Woodseer Street in noise terms. The Committee will remember from what Mr Thornley-Taylor and Mr Berryman both said back in June (or may remember it by the transcripts) that the question of the selection of the location did not turn on relative environmental impacts, it turned on the engineering problems of an alignment which would take you to Woodseer Street. You will recall the problems with the piling at the Bishops Square development. That has come out with, broadly, what Mr Thornley-Taylor told the Committee in June: that the noise impacts would be broadly similar.

18340. All that has happened is that the balance has switched from very slightly in favour of Hanbury Street to in favour of Woodseer Street, in noise terms—nothing else has changed. Certainly, the issue that has tipped the balance very firmly in favour of Hanbury Street has not changed at all; there is nothing in the SES which suggests any

¹ Crossrail Supplementary Environmental Statement 3, Design Options—Woodseer Street Shaft Site, billdocuments.crossrail.co.uk (LINEWD-SES303-029).

² Crossrail Supplementary Environmental Statement 3 (Amended), Design Options—Woodseer Street Shaft Site, billdocuments.crossrail.co.uk (SCN-20070130-011).

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change in the engineering issues and the alignment issues. I just wanted to make sure the Committee was aware that it does not predict greater problems in Hanbury Street.

18341. Sir, if that satisfies the Committee on that particular point, I will call Mr Leeks, just to give you a short account of the community liaison panel.

Mr Clinton Leeks, sworn

Examined by **Mr Elvin**

18342. **Mr Elvin:** Mr Leeks, this is your first appearance before this Committee. You are Clinton Leeks. Could you explain to the Committee who you are and what your role is within Crossrail, please?

(Mr Leeks) Yes, sir. I am the Director of Corporate Affairs for Crossrail. I joined the company in July of last year, and my remit is to cover what I would describe as the external face of Crossrail in dealing with stakeholders, dealing with media issues, dealing with and engagement with government departments, Transport for London and all the various parties who have a big or small stake in the future of the project.

18343. Mr Leeks, a report dealing with the initial months of the panel was sent to the Committee on 17 January 2007, under cover of a letter from Gareth Epps. Was that a report which you oversaw and had input into?

(Mr Leeks) Yes, sir.

18344. Can you explain briefly the purpose of Crossrail's initial involvement in the panel?

(Mr Leeks) Certainly. We took on board very much the reference to Spitalfields' need for a panel in the Committee's interim decisions, and we were struck by the use of the word, also, "immediately" and the fact that, clearly, the Committee were concerned that there had not been sufficient engagement with the community up till then. What we decided to do was, first, in discussion with the borough council, who, again, were referred to in the interim decisions as a party we should work with, set up a panel, and, secondly, talk to our community cohesion advisers that have been referred to already and, of course, who cover not only Spitalfields but were employed to cover cohesion issues along the whole of the route. We felt that, particularly given the fact that (I have to be honest) we only knew a certain amount about exactly who would be the people we should involve, a practical and pragmatic way forward would be to engage with as many different groups as we could, have a first panel meeting and take feedback from the people who were there, as to whether we had the remit right and whether we had the membership right, particularly as to whom should chair and so on, so that was the approach we took to the meeting on 31 October.

18345. In terms of your seeking assistance from Tower Hamlets, do they have experience of these matters?

(Mr Leeks) As I understand it, yes. I spoke to the Chief Executive on one occasion, but also my staff (you mention Mr Gareth Epps), saw their community cohesion expert as well, I think.

18346. Is there any desire by Crossrail through you to dictate how the panel should be run in the longer term, or what the membership of the panel should be?

(Mr Leeks) No, sir, none whatsoever. My aim, and I think Crossrail's aim, was very much to start an engagement process and encourage the community to move it forward, and specifically to give us suggestions on areas they thought were under-represented on the panel and, possibly, areas for work where the panel could develop, for instance, sub-groups such as health, which you have mentioned, at the first meeting, as areas for further work.

18347. We know there were difficulties because a number sought, effectively, a public meeting rather than a representative meeting, and then boycotted subsequent meetings. Can you explain briefly, before we come on to discuss how you seek to take matters forward in the future, why Crossrail was not interested in a mass public meeting?

(Mr Leeks) Yes, sir. This was raised at the first meeting and we had a long discussion about it. There were several different approaches. Open days were suggested at one point, a public meeting among all the Petitioners, where we would call a public meeting and they would then use that to select their own representatives was suggested, and the actual scope of those who would be invited to the public meeting, several suggestions were made. As acting chair (and I do emphasise that because I was very much saying I did not feel it was appropriate for me to go on chairing; I wanted to facilitate a chairman or chairwoman coming from within the Community) our view was that a public meeting was not really, we felt, the right way of, if you like facilitating a public meeting convened by Crossrail, for some of the reasons you, sir, and colleagues have heard already—the community choosing its own representatives. I was at pains at the meeting to stress that we had no difficulty with the concept of a public meeting, and we would welcome the community organising such a meeting or meetings as a process of choosing the very representatives that we wanted them to draw into either the main panel or the various sub-panels that would be specific to individual issues.

18348. Now that the point has been made this morning about the cost of the venue, would Crossrail have any difficulty paying the reasonable costs of the venue if the community wished to organise a meeting so that they could select their own representatives?

(Mr Leeks) Speaking for myself, sir, I cannot see any problem with that. The idea has not been put to me before. My concern was that I could not see that

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it was the best way forward for Crossrail to convene the meeting, but if the resources are an issue we may, within reasonable means, be able to help with that.

18349. Taking matters forward, Dr Safir did attend the December meeting. What was the intention behind inviting him to the meeting?

(Mr Leeks) The first meeting was very exploratory and, in fact, at the meeting the suggestion was made, I think it may have been by Ms Cove, that we ought to have included Dr Safir, and I must say I think that was a very good suggestion, and we specifically took it on board and invited him to the second meeting where he made a very significant contribution on health issues.

18350. So far as health issues are concerned, Ms Cove has referred to the need to cover a frank exchange of views, relevant up-to-date information, health issues, various other forms of impact, traffic, settlement, construction issues—all the sorts of things that will arise out of the project. Do you take any issue with that being the subject matter for panel discussions in the future?

(Mr Leeks) No, sir. If I can just amplify: some of those issues, particularly traffic, environmental impacts and construction impacts, were actually on the agenda for the first meeting, but we very much wanted to use the first meeting to explore how we could take things forward. So with feedback we deliberately put them on the agenda for the second meeting, but the second meeting did not really go very smoothly, for reasons that I know you are aware of.

18351. As for the future, a further meeting is convened, I think, for 6 February, next Tuesday.

(Mr Leeks) That is correct.

18352. We have put the agenda up. It is Tower Hamlets AP3 604-001.³ To be held in the Women's Library, Old Castle Street. How do you see taking forward an attempt to get the community involved? What efforts have been made to engage other persons within the community to try and get a better representation on the panel?

(Mr Leeks) Well, sir, this is a difficulty. I felt, personally, at the end of the first meeting, we were moving forward and it was a great disappointment when a series of letters came to us that said no, I was wrong and we were actually moving back. I felt obliged to move forward with a second meeting, having committed at the first meeting that would do our best to maintain the process. At the first meeting some very specific concerns were put to us in the second half of the meeting, after we discussed issues like the open meeting. Those specific issues were about wanting to know more about traffic impacts and environmental, so we wanted to look at those. I am sorry, am I going off your question?

18353. What I would like you to focus on is, given that there have been these difficulties to date, what is being done to try and engage the community so you get better representation on the panel and that you do manage to contact and have represented a proper cross-section of the community, so that the panel is made effective?

(Mr Leeks) I can only preface it by saying we still do have a dilemma because we have many parts of the community we want to engage with who, at the moment, are saying they, for a variety of reasons you have heard, are not comfortable with moving the process forward. What we have tried to do, we have spoken to several members of the community privately (if you do not mind I will not list them) to try and get a better idea of what the concerns are and how we can move it forward. We are also continuing to speak to the schools. The schools in the area were specifically referred to by your Committee and they have indicated to us that they have specific concerns and that they would like to go on talking to us about those concerns. We have encouraged them to think about joining the main panel but, for a variety of their own related reasons, they would like to go on talking to us in that group.

18354. You have got a sub-group for the schools.

(Mr Leeks) Correct.

18355. Has that met?

(Mr Leeks) Yes, it met—I am sorry, I do not have the date in my head, my apologies—shortly before Christmas, and it is due to meet, by coincidence, today.

18356. Is the existence of a sub-group your decision, or is that at the request of the schools?

(Mr Leeks) The background to that, sir, is that before the first meeting we did approach the schools. I apologised at the time to the first panel meeting, we unfortunately wrote to them in the week of half-term, I think it was, and they did not respond. We then got hold of them again and they indicated they would like to meet us but they had difficulties with evening meetings. We believed having spoken to other stakeholders that evening meetings were the best way forward for most people who, of course, had other daytime commitments. So we ended up, as I said, in early December with a daytime meeting with the four main schools—one school could not attend—and we did encourage them to join the main panel if they would wish to, particularly perhaps to send a school governor who would be there in the evening.

18357. If the community does appoint its representatives and you do get a representative cross-section, how do you see Crossrail's role then being in relation to the panel? Does Crossrail then intend to take a back seat? What would its relationship be with the panel, if we can get that representation established?

(Mr Leeks) I would only say take a back seat, sir, inasmuch as I feel quite strongly that we should not chair it. I do not think that is the best way forward,

³ Crossrail Ref: P136, Crossrail Spitalfields Community Liaison Panel Agenda, February 2007 (TOWHLB-AP3-6—04-001).

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in terms of the panel and ourselves engaging and the community engaging. I would hope they will choose their own chairman or chairwoman. I offered at the first meeting, and I believe it was accepted and we continue to do it, that if members wanted we would provide full secretarial support, we would produce papers, we would provide people to attend and answer questions. If they want, we will book venues for them—venues are not that easy to find, but we will help in that way.

18358. So Crossrail's role, if this panel can be got up and running, will be to be consulted and for discussion purposes; it will not be running the panel but it will provide support for the panel in a practical and financial sense to help it run itself.

(Mr Leeks) We are very much open to those suggestions and that is what I hope we get at the first meeting.

18359. **Mr Elvin:** Thank you, Mr Leeks. There may be some questions for you.

Cross-examined by **Ms Cove**

18360. **Ms Cove:** In your consultation to try and find appropriate representation within the Spitalfields community, can I ask you why you did not use the list of the 40 groups that have been provided to Crossrail by the Woodseer and Hanbury Residents' Association?

(Mr Leeks) Sir, I can only answer that I was not aware of the list and, if that was a failing on my part, I apologise, but I was not aware of the list.

18361. Can I also then ask you, Mr Leeks, why in fact, when you discussed the membership of this panel with Tower Hamlets Council and your own community cohesion advisers, you did not also come to the Petitioners where you had an identified body of loads of people, residents working and living in the area, who may also have been able to advise you on appropriate groups to invite?

(Mr Leeks) This really goes back to the dilemma I referred to. We were keen to get something moving as a pragmatic basis for dialogue. I took the view personally, and I think other parties I discussed it with shared it, that there was a sort of finite number that we could usefully get together and actually engage rather than, if you like, becoming too big a discussion really to proceed in a structured way, so the approach we took was, to be honest, to get some members from among the Petitioners because my own view was that it was not really appropriate for us to take the Petitioners as a specific group given that we believed they would represent a wide variety of views in themselves and often very specific views. We were very conscious of, or our impression was that, the Committee had been concerned that there were many parts of the community that had not been engaged with for a variety of reasons, some of which have been touched on by Ms Cove, I think, earlier about perhaps not understanding the process, perhaps questions of literacy. These are very difficult issues, but we wanted very much to get some

Petitioners there, to get some members of other, under-represented communities there, to get some people representing, if you like, community-related bodies, such as the police, not in a constabulary role but because of their community relations work, and then really to take suggestions on how we should move forward, which is very much how the first meeting did go.

18362. Would it have taken a lot of time for Crossrail to have circulated a letter to all the Petitioners, asking for their advice and suggestions of alternative groups to be invited to that first meeting?

(Mr Leeks) This I find very difficult to answer because, if I can repeat to you, sir, I was very struck by the use of the word "immediately" and we wanted to get something up and moving fairly fast. We did not feel that engaging with the Petitioners would in itself open up links with the other groups who were not represented because they were not Petitioners, so we tried to follow a several-track approach of talking, as I say, to the London Borough, talking to our own community cohesion adviser, going through our own database of those who had written to us on a whole variety of reasons and trying to get a mix of invitees to the first meeting so that people who came could then, if I may be blunt, tell us that perhaps we had the wrong people and, as Ms Cove did herself, tell us that we should invite specific other people which we then did do.

18363. What I am struggling with here is that at no time has Crossrail ever come to any of the Petitioners to ask us what sort of representation we had within the group of Petitioners or who we are representing. I am curious to know why that question was never asked of the Petitioners with regard to the representation of which member or which Petitioner, for instance, and I have told you about the Spitalfields Small Business Association, which is predominantly a Bengali-led organisation, but nobody has every asked us what our representation is and I am curious to know from you why that was not something that you thought of.

(Mr Leeks) Sir, simply for the reason that, in taking my pragmatic approach, I thought the best way to do this, particularly given our wish to get something moving so that people could see something moving, was to convene a first meeting for very much an informal discussion and specifically to encourage those who came to say, "Have you thought about this group? Have you thought about that group?" We did approach some groups, and I am not referring of course to Ms Cove's group, who did say, "Well, actually we are not interested in coming. We don't have those sorts of concerns", so for all those reasons, rather than perhaps spend a lot more time, if I may say so, going round in circles, it seemed sensible to sit round the table in a group and then knock out some ideas for how the panel might evolve and, indeed as I said earlier, how sub-panels might evolve, that there might be a menu of specific ideas, like traffic impacts, health impacts, construction impacts, where it might be sensible to take specific

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groups of the community who would specialise in those sorts of areas and form sub-panels dealing with those because there is a huge and wide range of potential issues, as we appreciate, affecting Spitalfields.

18364. You said, Mr Leeks, that you had spoken to several members of the community privately. Can you say why you are not prepared to give those names?

(Mr Leeks) My own feeling is that we were sounding out individuals privately and, subject to your views, sir, I would just rather keep those discussions private, but, if members feel strongly, I will of course be happy to submit a list.

18365. During that first meeting, do you recall anybody saying that the community liaison panel should only proceed via public meetings? Do you not recall them saying that we should have a public meeting to which the Petitioners should be invited in order for that public meeting to choose these representatives for the panel?

(Mr Leeks) Sir, there were several suggestions made, and it was a two-hour meeting, during the first half of it. Ms Cove is right, there were several suggestions made about ways in which a public meeting could help and one of them certainly was the point that Ms Cove has made now which is that it would be specifically a facilitating meeting. I think my recollection of the suggestion is that it would be a public meeting specifically of all the Petitioners in the Spitalfields area and my response at the time, as I recall it, was, as I have already said to the Committee, that I did not feel myself that that was something for Crossrail to do, although in principle I had no difficulty with the idea.

18366. **Ms Cove:** Thank you.

Re-examined by **Mr Elvin**

18367. **Mr Elvin:** In fact that point is in the report, Mr Leeks. Can I just deal with this and can we go please just to the appendix to the report and we can see who in fact was invited to the first meeting.⁴ You can see “Invited Meeting 1”, and it includes the rector from Christ Church, Spitalfields, representatives of the London Borough of Tower Hamlets, Tower Hamlets Community Housing, Spitalfields Housing Association, Mr Seely, Mr Carpenter from the Woodseer and Hanbury Street Residents’ Association, Ms Cove from the Community Association, Ms Jones from the Spitalfields Society, Ms Brawne from the Spitalfields Small Business Association which Ms Cove has just referred to, being predominantly of Bengali make-up, Susie Symes from Immigration and Diversity, a number of names which will be familiar to the Committee and a number of associations. Do you see those associations as being in a position to give better information as to who ought to be consulted?

(Mr Leeks) Yes.

18368. Ms Cove is putting to you, “Why did you not write? Why did you not do this, that and the other?”, but was there an opportunity for those various associations to put forward their views and to tell you who ought to be on the panel at the meeting, having invited them to it?

(Mr Leeks) Yes, sir, that was the specific idea behind inviting them or one of several ideas behind inviting them.

18369. If we go to the next page, we can see that quite a number of those, including Ms Cove, attended—Mr Carpenter, Ms Brawne, Mr Seely and Mr Whalley of Tower Hamlets who gave evidence on Day 38—so they were in fact in attendance at the meeting?⁵

(Mr Leeks) Yes.

18370. Thank you very much. Does the Committee have any questions for Mr Leeks?

18371. **Chairman:** Do you wish to sum up?

18372. **Mr Elvin:** Sir, our position is very straightforward. We are seeking to facilitate the taking forward of the panel. The community, for reasons which have been explained, want to have a public meeting. Crossrail does not think it is the right way for the panel to meet, but is prepared to facilitate that now that that has been requested, but it has not been requested to date, as Mr Leeks made clear to you. We will continue to strive to meet the requirements of this Committee and to engage the communities Mr Leeks has indicated and to deal with those issues which Ms Cove has indicated are of concern. Sir, I hope that indicates that we have taken this very seriously and we have made appropriate efforts, in the light of your interim decisions. Thank you, sir.

The witness withdrew

18373. **Chairman:** Ms Cove, would you like to sum up?

18374. **Ms Cove:** If you look on the back page of what Mr Elvin has just referred to with regards to who was at that first meeting, I would just remind you that Aulad Miah, who was a Petitioner with the Shahjalal Residents’ Association, had to in fact ask to be invited to that meeting because he heard about it from somebody else. I would also like to say that Patricia Jones apparently was not invited to the first meeting, but the Spitalfields Society was.

18375. What I would just like to come to briefly with regards to this public meeting, Chair, is that nowhere have we ever said that anything should be conducted only at a public meeting, but we want a

⁴ Crossrail Ref: P136, Crossrail Spitalfields Community Liaison Panel Report: Appendix—Invitees (TOWHLB-AP3-6—04-010).

⁵ Crossrail Ref: P136, Crossrail Spitalfields Community Liaison Panel Report: Appendix—Attendees (TOWHLB-AP3-6—04-011).

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public meeting in order for that meeting to elect or select its representatives for the future panel meetings which we are very keen to attend.

18376. If you remember, I did not just say that it was a cost issue about paying for the venue, but I asked questions about the adverts, the production of leaflets and the distribution of leaflets and, as I reminded the Committee and Crossrail, all of the community organisations locally are either volunteer-led, or mostly volunteer-led, and are on very, very small budgets, so it is not just a monetary matter for Crossrail to be saying that they will pay for it, but it is also the time of everybody that is involved in having to sort of draw together that public meeting.

18377. We believe that it is the responsibility of Crossrail to do that on the basis that they are charged by the Committee to set up a community liaison panel. That is the way forward and we have made a positive and logical suggestion to Crossrail and we would like them to make an undertaking today that they will actually call this public meeting that we are requesting, including inviting the list of people I have put forward, and we do not understand why Crossrail are so very, very reluctant to actually meet at the request of the local community if they are serious about wanting to engage with us in Spitalfields.

18378. **Chairman:** For the record, Ms Cove, can I just state that when I asked the question of Mr Elvin a little bit earlier about facilitation, I think he took it as read, or I hope he did anyway, that such things as advertising for such a meeting would be Crossrail's responsibility.

18379. **Mr Elvin:** You have taken the words out of my mouth, sir, and that is what I was standing up to tell you. Of course we are not going to pay for people's time, but we will cover the costs, the reasonable costs, of hiring the venue, and we will cover the reasonable costs of advertising, leafleting, whatever is required to notify the relevant people of the meeting.

18380. Can I make a suggestion, that, if the representatives of the various associations are willing to attend the meeting next week, they can put forward to us, or they can do it in writing if they would prefer, who they wish us to target with advertisements for meetings in the future or indeed how they would like us to assist them in setting up the public meeting. Next Tuesday would provide an opportunity. If that is not convenient, then no doubt Mr Leeks or Mr Epps can be contacted by the community with a view as to indicating how they would like to be assisted in terms of the advertising, arranging the venues and the like, and we will facilitate it, as I indicated earlier.

18381. **Chairman:** Ms Cove, do you want to make a quick response?

18382. **Ms Cove:** Yes, I do, Chair. There is no way that I can possibly attend the meeting next week because the AGM of my Community Association said that I should not go to any further meetings until such time such as a meeting to select representatives has been undertaken. I had rather assumed that that stands for most of the other community groups that did not go to the second meeting.

18383. **Chairman:** May I suggest, Mr Elvin, that Crossrail writes to all the associations that have been involved and others that they can find, perhaps on the advice of Tower Hamlets, that Crossrail writes to all of them, facilitating the meeting not next week but shortly thereafter and invite them and those who can attend or who wish to attend may attend.

18384. **Mr Elvin:** I assume that the boycott does not preclude any form of communication with the Spitalfields Community Association.

18385. **Chairman:** I think correspondence is acceptable.

18386. **Mr Elvin:** As long as correspondence is acceptable, what we will do is we will write to the main associations that we know in the London Borough of Tower Hamlets, we will set out our proposals for facilitating one, or it may be necessary to have more than one, I suppose, public meeting in the way I have indicated and invite the main associations to provide us with the details of other associations which ought to be notified as well if we have not notified them and they are not on our list so that we can make sure that we have targeted everybody that Ms Cove and other representatives consider to be appropriate.

18387. **Chairman:** I realise cities are rather strange and sometimes it is normal to go to another local authority for them to try and gather everybody together.

18388. **Mr Elvin:** Indeed and we tried to do that, as Mr Leeks indicated. Clearly they will be asked to engage in this exercise as well and we will do our best to contact as many people as we can.

18389. **Ms Cove:** Can I just suggest that somewhere among Crossrail's papers they actually find this list of 40-odd organisations which was submitted to them by WHRA and perhaps it could even be re-submitted because it seems to me that that is a very substantial and comprehensive list of a number of organisations within the Spitalfields community.

18390. **Mr Elvin:** At the risk of asking for assistance from the Petitioner myself, perhaps if the Spitalfields Community Association or Mr Carpenter and the Woodseer and Hanbury Street Residents' Association, which is appearing tomorrow, would supply us with an up-to-date list and if that is the same list, then fine, so that we know that we are getting from them the list that they think we ought

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to be using. If they would kindly supply us with that or with an updated version of it, then we will use that as the basis for sending out letters.

18391. **Chairman:** That is a most useful request, but again I repeat that in case there are any people who are not on that list, perhaps we can make sure that you contact the local authority.

18392. **Mr Elvin:** Indeed. As Mr Leeks explained, we are anxious not simply to look at the people the Petitioners are referring to, but to engage the community as a whole.

18393. **Ms Cove:** Whilst I accept what Mr Elvin has said about all the issues relating to the possibility of a public meeting, we are still very concerned that Crossrail do not feel it their responsibility to actually convene that meeting.

18394. Coming back again to the other undertakings that I put forward about the health impact assessments that need to be started very closely to the site-specific impact assessments with the same sort of group of people on that, which I again have listed to you, we do not believe that that should necessarily be part of the community liaison, although there must be links between the two so that everybody knows what is being said and what is being looked at. If we are only going to have 25 to 30 members of the community liaison panel, that will not cover the list of people that I actually invited the Committee to consider taking part in the site-specific health impact assessments, so we would like Crossrail to consider that as an undertaking today.

18395. **Chairman:** Your requests and your contribution today will be considered collectively by members of this Committee and we will take a view on it.

18396. **Mr Elvin:** Sir, the way we are proposing to take the health impact forward is to use the panel to carry out the initial consultations as to how we then take forward the iterations of the health impact assessment. Our view is that the panel can assist the process and it is not going to be only the panel that is involved, as you would expect.

18397. **Chairman:** Thank you very much. The next Petitioner is Rupert Wheeler.

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Mr Rupert Wheeler appeared for the Petitioners.

18398. **Mr Wheeler:** Let me explain that I am Rupert Wheeler and I am a resident of Spitalfields, Wilkes Street. I am a chartered architect of about 20 years' experience working with the reuse and repair of listed buildings. I am here representing Fiona Atkins and a number of other Petitioners in the area.

18399. On 13 June last year we presented evidence to the Committee which demonstrated that in our view the Promoter had not carried out sufficient and detailed investigations into the condition of the listed buildings within the lines of deviation along the base route. I will state the main points at the outset so that you can see we are endeavouring to avoid repetition. I am not going to repeat technical things which I spoke of last June.

18400. Our two main points are: firstly; those assessments which have been carried out have been shown to be inadequate and incomplete; secondly, the Promoter has not produced individual reports for all the listed buildings in the area contrary to his claim presented to the Committee last year. To take the first point that the assessments are inadequate and incomplete. This is simply because they have not been inside any of the buildings. They have therefore not recorded or appreciated the variety of construction and structural defects inherent in many of the structures, whether these arise from their original construction or subsequent alterations and deterioration. These subsequent alterations, which generally affect all the buildings, generally arise from the conversion of the original houses into commercial use, usually comprising the removal of structural elements that from an external inspection you might assume still remain. For example, in many of the houses all internal structure was removed at ground floor level in the late 19th century to form open factory space. The necessary structural support to the upper floors, that usually remained in residential use, was often created by reinstating a single cast iron column, or such like, in the centre of the plan, or otherwise we simply relied on the strength of the original floor beams spanning between the party walls.

18401. Our earlier evidence to the Committee focused on three buildings that we had invited the Promoter to visit and inspect internally. We had chosen these three buildings on the basis that they are open to the public anyway and therefore reasonably accessible and that they demonstrated an original cross-section of the construction issues typical in the area. We pressed the Promoter to visit these buildings because it seemed clear to us that the scope of their settlement assessment reports did not adequately reveal their condition and risks of damage from settlement. These properties, which the Promoter and his experts did visit, comprised 19 Princelet Street, the Museum of Immigration, 84 Commercial Street, which is Ten Bells Public House, and Christ Church, which you will know of. No assessment at all had been made of Christ Church. The conclusion of these visits was that in the case of Ten Bells at least they confirmed that they were happy with their original assessment, but the other two properties now required further consideration. They duly reported that further investigations would be carried out into the effects of likely settlement on Christ Church and that the building sensitivity score for No 19 Princelet Street would be upgraded from category 2 to category 3. This changed the impact

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from negligible to a moderate magnitude and the overall assessment from a negligible impact to a potentially significant impact.

18402. I have generally been referring there to the historic building assessments carried out by Alan Baxter Associates on behalf of the Promoter, but we have also received advice subsequently from various structural engineers who have worked on the repair of these buildings in the area and who have now have sight of the assessments carried out by the Promoter, and they raise rather more technical concerns arising from shortcomings in the engineering analysis carried out by Mott MacDonald.

18403. I will summarise these. There is no information, for example, on what analytical model has been used, nor the data and assumptions that have been made in their input into this model. As it stands, all we have is a table of results to go on giving predicted settlements, strains and likely severity of damage. Even if the predicted settlement is accepted, it is not clear how they have used this to predict the likely crack width in particular properties. They have given a prediction of maximum strains in the buildings of .24 per cent, but they have not stated where this occurs. One would assume, perhaps, that it is at the interface between the foundations and the subsoil. If that is the case, these will be magnified up the height of the building, as a result of the hogging-the-shoulder effect as the tunnels come through, the way the ground settles in various curved forms, this would have the result of movement and cracking at higher levels and is likely to be considerably more than the .1mm predicted. They also pointed out that there is a severe lack of tensile resistance within the buildings due to the lack of bonding and cross-walls, the presence of lime mortar, and the poor bearing of often rotted timbers on supporting walls or even worse rotted wall plates. This means that movement would have serious consequences for the buildings, requiring extensive remedial works and repairs.

18404. Of course, the risk of collapse, which was referred to in a letter from the Ancient Monuments Society to Norman Haste of Crossrail back in 2004 when we first picked up this issue, and all the above clearly demonstrate that the original assessments were inadequate. I referred earlier to the fact that these assessments had just been made from the public highway. The Promoter claims in his response to the Select Committee's interim decisions of 11 October: "That an individual report of all the listed buildings in Spitalfields has been produced". We have made a further analysis, you do not have to dig very deep, of the settlement assessment reports and it reveals that this is clearly mistaken. For example, there are detached buildings, and these are listed buildings, to the rear of number 3, no 5, no 7, and no 9 Princelet Street, and to the rear of no's 13, 23, 24, and 25 that have not been inspected at all. There are also large and architecturally notable extensions to properties, such as no 4 Princelet Street, which is featured in countless well-known film—it is a well-known filming venue and maybe they took that as

the evidence—and the old synagogue to the rear of no 17 Wilkes Street, both these properties have been entirely overlooked internally. In our view, that clearly demonstrates that the original assessments are not complete.

18405. Can I demonstrate something. I have only got one thing to put up in front of you but it is an extract from the assessment report for numbers 17 to 25.⁶

18406. **Chairman:** For the record, can we have that as A205.

18407. **Mr Wheeler:** The description given refers only to the front elevation. If we go a bit further down the page, it starts with plain stock brickwork with red rubbed brick dressings. I will not read all that, but it comprises entirely of a description of the front elevation. It is not surprising that when they get on to the next bit of the report where they talk about significant and potentially vulnerable features, read that list, that is entirely a description of defects or likely risks to the front elevation as well, no consideration of any internal features or internal risk of damage at all nor any buildings beyond that front elevation. In estate agents' circles this is what I think they call a second gear survey; second gear being the gear you need to engage as you drive past the building to make your survey.

18408. Then they get to the technical bit at the bottom of that page where it says foundations. The technical bit is so short I will read it all. Corbelled brick strip footing is approximately 2 metres to 2.5 metres below road level. That is the technical analysis. There is a likely settlement, and you see the heading of that likely construction, then we go on to likely settlement and there is a single sentence which goes on to the next page. Can we look at the next page, but the remainder of that sentence talks about differential movement between one of the buildings at the end and the next-door building, nothing to do with 17 to 25. Again, you see all the pictures and they are all outside the front door. My understanding is that this process, this Bill, essentially comprises the equivalent of the Promoter applying for planning permission, or in the case of these buildings, listing building consent for the works that will so affect these historic structures. The reports prepared to date come absolutely nowhere near complying with the scope of detail required for historic building assessments by the local authority if you were submitting a listed building application. If any of the residents of those buildings have to make any changes, and they are not going to be likely to be anything as significant as the whole building setting by half a brick force, if any of them applied to make any changes to these buildings, they would have to do a historic building assessment which is enormously more detailed than you have in front of you from the Promoter.

⁶ Committee Ref: A205, Settlement Assessment Reports, 17-25 Wilkes Street, Tower Hamlets (SCN-20070130-012 to -015).

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18409. There are technical guidelines for how the Promoter ought to go about this. They are contained in government guidance PPG15 which demands a detailed understanding of the historic character and significance of the buildings concerned and the government guidance PPG15 particularly refers to internal features like panelling, stucco, and plaster freezes, none of this has been tackled in these assessments at all. Let me quickly demonstrate the last point considering number 17 to 25. I will describe a few things they have missed. To the rear of no 17 there is an old synagogue, two-storey galleried space supported on cast iron columns, and apparently one of the first synagogue in the country. It incorporates many of the characteristics of a synagogue at no 19 which has been found to be deserving of a reassessment. This building behind no 17 is not mentioned in the Promoter's assessment at all. No 19 is entirely underpinned with concrete footings and a lowered basement floor, the only house treated this way in the street, and is therefore guaranteed to move differently from its neighbours. This presents very critical issues and again has been ignored in the assessments. No 21 remains entirely in its original form on its three upper floors but has been gutted at ground level in the way I described right at the outset where the whole of the ground floor and all the structure was removed to make way for factory space. It is now being turned back into a house and has no rear wall at all at basement ground floor level but has a two-storey glass screen of full height, any movement will render these useless. The internal structure now rests entirely on a single cast iron post in the basement, as I described earlier, a very typical construction. No 23 includes a complete self-contained dwelling in the rear garden of original historic construction with a glazed lantern roof. Another building which has been completely missed. No 25 demonstrates what happens when work is undertaken without sufficient analysis of the historical fabric.

18410. While this building was being converted back to residential use some 20 years ago the entire front wall came loose and crashed down into the street. The fragile junction between the front wall and the remainder of the structure, so absolutely typical in all these buildings, simply gave way as a result of building works elsewhere in the house. What arises from all this is two main points and I will reiterate them again. Firstly, as I say, the assessments which have been carried out have been shown to be inadequate and incomplete. Secondly, the Promoter has not produced individual reports for all the listed buildings in the area. We had hoped that we had demonstrated the inadequacies of these reports in our submission of 13 June last year and we were encouraged by the Committee's decision which asked the Promoter to come back to the Committee in the autumn and demonstrate clearly that an individual assessment has been made of each listed building and historic building in the area and that the appropriate mitigation has been put in place.

18411. The Promoter has subsequently replied to confirm that the reports he has already prepared are all that he intends to produce at this stage. We do not believe that you, the Committee, would have asked him to come back to the Committee in the autumn if you had been happy with those previous reports. I have already demonstrated how those reports are so wide of the mark of current public government guidance PPG15, we do not believe you would have asked him to come back again if you had been satisfied with what he had already produced. We therefore require the following undertaking.

18412. All listed and historic buildings under an accurate and comprehensive individual inspection and assessment now and not once work has started on the tunnelling; to determine the settlement impact and mitigation measures, firstly: for the long-term protection of the individual buildings so affected, but also, secondly, to give a clear idea of the likely impact of the Promoter's preferred route alignment on the historic fabric of the area before you make your decision on the final selection of the route. There is no use doing this work after you have decided the route. I appreciate you may feel that you have already asked the Promoter for this undertaking in October, but can we now ensure that we are not fobbed off again by Crossrail and that the Promoter now takes these issues of settlement and potential damage to the historic fabric of our city seriously and does these reports properly?

18413. There are a number of other undertakings in respect of the Petitioners whom I represent but they will be listed by Pat Jones when she gives her submission for the Spitalfields Society so I will not go over them again here. Thank you very much.

18414. **Mr Mould:** I do not know if you want me to deal with it now or . . .

18415. **Chairman:** Bearing in mind the statements which are being made in relation to what this Committee has been told, I think it is important that we call Mr Berryman to answer some questions.

18416. **Mr Mould:** Very well.

18417. **Chairman:** I think we will now adjourn until ten minutes to twelve.

After a short break

18418. **Chairman:** Mr Mould, we have been told by Mr Wheeler that we have been fobbed off, and it is your job now to prove otherwise.

18419. **Mr Mould:** We do not accept that we are fobbing you off. Mr Berryman is here so I will ask him to tell the story to a large extent, but I can perhaps begin by reminding you of your interim decision in relation to the historic buildings in Spitalfields, and I would ask Mr Fry to put up

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paragraph 16830.⁷ This is Day 58, when we came back with our response to your interim decision, if you recall, and it sets out the decision and the response. The first point I would draw to your attention is that you heard, as you say at 16830, a great deal of evidence about listed buildings in the Princelet Street area. Sir, I cannot remember who was sitting in the Chair, but I think it was Mr Liddell-Grainger, and I am not sure whether you personally were present, but certainly you will recall from reading the transcripts that there was a great deal of debate about this in June, and we heard from Mr Berryman at that time, and we drew attention to the Information Paper which deals with the settlement process and settlement investigation, and we note specifically about the approach to listed buildings.

Mr Keith Berryman, Recalled

Examined by **Mr Mould**

18420. **Mr Mould:** Mr Berryman, before I ask you to go through our response and draw out a few points from that, perhaps you can go through the process that we have set in place for the impact of settlement on buildings in the Spitalfields area, in particular consideration of the impact on listed and historic buildings. What is the position in relation to that?

(Mr Berryman): All buildings on the route are assessed for settlement and they fall into various categories depending on the severity of the settlement impact which we predict. All buildings which are listed buildings go to the highest level of assessment, so if you take the generality of buildings we do a level one assessment, where we establish whether there is any possibility of damage. If there is any possibility we go to level two, and depending on the severity of any damage that is assessed we then go to the next level, level three. But in the case of listed buildings we automatically go to level three in every case. Level three is itself sub-divided into stages depending on the severity of the assessment that is made. The way a process works is that what we call the greenfield settlement contours are established—that is to say, what would happen if there were no buildings on the site what would the ground do; how would it move and what would be the magnitude of movement and what would be the profile of the movement? We can use that information to assess the strain which would occur on any part of the building. That is to say, the expansion and contraction caused by that movement. From that we can assess the likely impact on the building in terms of damage. So that is done for all properties and, as I say, it is taken to different levels depending on the amount of settlement which we predict and the sensitivity of the building which we detect.

18421. In relation to listed buildings we have had specialist reports undertaken in relation to that category?

(Mr Berryman): Yes.

18422. Who has carried out those reports?

(Mr Berryman): They have been carried out by Alan Baxter Associates.

18423. Tell the Committee a little about Alan Baxter Associates.

(Mr Berryman): Alan Baxter Associates are one of the leading conservation engineers in the country. They have been responsible for a very large number of restorations of significant historic buildings. They are involved in numerous high-profile projects and have been for many years; and Alan Baxter, who is the Chairman of that company, took a personal interest in this particular issue.

18424. Can you look at the response that we made in October, at paragraph 16831?⁸ We said that we had done a considerable amount of work to ensure that the settlement impacts of the works on all buildings, including listed and historic buildings, have been adequately assessed and appropriate mitigation put in place. Then you go on to say a little more about the assessment reports in relation to, amongst other things, listed buildings, in 16832.

(Mr Berryman): Yes.

18425. And we had said that those are buildings which are on the statutory lists of buildings of special architectural or historic interest compiled by the Culture Secretary, on the advice of English Heritage. Can you help the Committee with a little information about the listing details? Do they set out in appropriate detail the features of special architectural and historic interests in relation to each building that is shown on the list?

(Mr Berryman): Indeed they do, and that is the basis upon which the listing is usually made. There is always something which is either special architecturally or of historic interest. I think all buildings over a certain age are automatically listed as well—but that does not apply in this case.

18426. Can we say whether or not Alan Baxter Associates would have had that information very much in mind when they were carrying out their assessment?

(Mr Berryman): Very much; that would be the starting point of their assessments.

18427. We know, and you can confirm this to the Committee, that those details, where there are particular internal features of historic or architectural interest, find their way on to the list as well as external features to do with the external fabric of the building; that is right, is it not?

(Mr Berryman): Usually that is the case. It slightly depends on what the internal feature is, but it would normally be the case.

⁷ Para 16830.

⁸ Para 16831.

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18428. So, in relation, for example, to buildings in Princelet Street, in the event that the statutory listing details referred to certain specific internal features, what is the position? Would Alan Baxter have had access to that information and would they have been able to take it into account in assessing the probable effects of the Crossrail proposals?

(Mr Berryman): In so far as it is described in the list that would be the case, yes. There is also a considerable amount of information on some of these buildings, which is in the public domain—not all of them, by any means, but a few of them.

18429. You have mentioned Alan Baxter's standing in this branch of the profession and their experience in that respect. What confidence do you have that had they felt that the listed buildings, some of which have been mentioned by Mr Wheeler today, were likely to have internal features which were susceptible, at least in principle, to the risk of settlement damage, is that something that you think they would ignore?

(Mr Berryman): No, they would not have ignored it, and in fact there are a number of places where they have drawn my attention to features in other buildings on the route, which they felt were particularly worth special attention.

18430. If we go down to paragraph 16832, one of the concerns that was raised today, I think repeated again from July, was the need for individual assessment of listed buildings.⁹ Can you see what we confirmed? In that paragraph, "... confirm that an individual report for all listed buildings in the Spitalfields area has been produced. An individual report was considered appropriate because these buildings are statutorily protected and because they have been selected by English Heritage as being of national importance." Is that information accurate?

(Mr Berryman): That is correct, yes, we have done this first stage assessment at the highest level on all of those listed buildings. It may be that when we get to the surveys before construction there are individual features which may need special protection, but certainly we have done what we would expect to do at this stage, which is a thorough assessment of the likely settlement of the buildings.

18431. In that respect I think that Mr Wheeler mentioned an old synagogue behind number 19 Princelet Street.

(Mr Berryman): Yes.

18432. I have just had in front of me Appendix 6A to the main Environmental Statement, Annex B2, page 53, and I note that one of the buildings which is shown there in that list of listed buildings, which has been the subject of individual assessment was number 19 Princelet Street.¹⁰

⁹ Para 16832.

¹⁰ Crossrail Environmental Statement: Appendix B2, Listed buildings and settlement—Table 1.1 Listed Buildings and Structures Located within the 10 mm Settlement Contour, billdocuments.crossrail.co.uk

(Mr Berryman): Yes, that is correct.

18433. You took the point, I think, a minute ago that there may be ancillary buildings or other buildings within the curtilage of a particular listed building that had been the subject of assessment that are not specifically mentioned in the individual report, and it may be that we have an example of that here.

(Mr Berryman): Yes, that is perfectly possible. It is possible in some cases that there have been structural modifications inside the buildings which may affect the precautions that we need to take when tunnelling underneath these buildings. But I do want to emphasise, as we emphasised in June when we gave evidence on this in the first instance, that the assumptions we make are very conservative. That is to say, we assess things with a much bigger impact than we really expect to achieve, for obvious reasons, and it may well be that once we have the tunnel boring machines running and we know what we are achieving in terms of ground loss that we will be able to make a reassessment of certain buildings.

18434. I will come back to that point in a moment, but just staying with the question of the possibility of certain extensions or ancillary buildings not having been specifically identified in the individual reports, Mr Wheeler has continued with his assistance to us in identifying a number of details which he says that perhaps the reports had not drawn out, and we are grateful for that. Can you tell me this, if we now know something possibly about the old synagogue building to the rear of 19 Princelet Street, will we take that away and have a look at that to see if there has been an omission there?

(Mr Berryman): Yes, we would certainly take that away and just check if we have picked everything up, which we think we have.

18435. **Chairman:** What about the charge that Mr Wheeler made that certain buildings have had no assessment on them?

(Mr Berryman): As far as we are aware all the buildings on the whole route have been assessed on one level, at the lowest level, and those which have been found to be potentially suffering damage we will attend to next time. It is possible that we have if anyone draws attention to that—

18436. You are not aware of any?

(Mr Berryman): I am not aware of any, certainly not in this locality.

18437. **Mr Mould:** Sir, I drew attention a moment ago to this list which is set out in Appendix B2 to the main bundle of the statement. That list is actually a table of listed buildings and structures located within the ten millimetre settlement contour, and the significance of that contour was explained to you earlier by Mr Berryman, who reminded you of that point. We believe that that list is comprehensive and that there are no significant omissions. If that in fact is not right—we do not believe that there are any errors there or omissions—obviously we will rectify it if an omission is drawn to our attention, and we

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will complete the process in relation to any building that we are shown to have been omitted. As I say, I do not accept that the list is in error; as far as we are concerned we have checked this.

18438. **Chairman:** All I want is an assurance that those buildings which Mr Wheeler highlighted earlier, for which he charged had not been investigated, if you could look at those and give a note back to the Committee?

18439. **Mr Mould:** I took the trouble during the short break to check the numbers that I wrote down from listening to what he said and I think I identified all of those buildings as being within that list, but we will double-check that. Mr Berryman, Mr Wheeler drew the Committee's attention to Planning and Policy Guidance 15, which is a guidance document published by the Secretary of State for communities and local government and the Culture Secretary, and deals with the treatment of listed buildings, which are affected by proposals for development.

(Mr Berryman): It does indeed.

18440. In particular, how to handle proposals which involve the demolition or substantial alteration of listed buildings.

(Mr Berryman): That is correct, yes.

18441. Does Crossrail actually propose the demolition or substantial alteration of any listed building within the Spitalfields area?

(Mr Berryman): No, we certainly do not. We have referred to PPG15 because that also sets out the criteria by which buildings are listed, but, as counsel says, the main part of that guidance is about what happens if you want to alter a listed building or if you want to demolish it, and we certainly do not intend to do that.

18442. As I understand it, we are rather doing the opposite; we are trying as hard as we possibly can to avoid making any significant alteration.

(Mr Berryman): Our intention is to avoid any damage at all.

18443. Indeed, as you said in paragraph 16833 on the same page, that we mention the criteria laid down in PPG15 as an important part of guidance for us in assessing the particular architectural or historic interest or sensitivity of a building.¹¹

(Mr Berryman): That is right.

18444. That is something that Alan Baxter would have had in mind?

(Mr Berryman): Yes, very much so. Alan Baxter, apart from his role as an engineer, is also a Member of the English Heritage Advisory Panel and has many other areas of interface, with government and quangos in this area, and he is a very influential and knowledgeable person on these matters.

18445. Just picking up on another point made by Mr Wheeler—I think again covered last time, but we will remind the Committee of the position. Concern about individual assessment, you have confirmed that has been our approach in relation to listed buildings, and I think we indicated last time that the proprietor of any such building was able to call for a copy of the individual assessment report if they wished to see it.

(Mr Berryman): That is correct.

18446. Has there been any take-up on that from any of the Petitioners?

(Mr Berryman): The take-up at the moment is pretty low. I think from memory that there are only four people who have actually asked for that, and only one of those has since been before the Committee. However, when we write to all Petitioners, as requested by the Committee, to explain which undertakings apply to them, which we will be doing when these proceedings have finished, we would expect to get a lot more requests at that point. Unless people are actually in this room and aware of what is going on at this moment in time we would not worry about those—we know that we have written to them.

18447. The offer is on the table and the proprietors can take that up if they wish to, and of course that will provide an opportunity to help us with any further information that they may have about their building which they think we should take into account?

(Mr Berryman): Yes, and experience tells us that people will write in with specific concerns.

18448. If we look at 16833 we can see what we told the Committee in response to their interim decision about the information any proprietor who receives such a report is likely to see included within that assessment. If you glance down that page you can see a little bit of insight into the detail.

(Mr Berryman): Yes. I think that during the selection of the mitigation, the sensitivity of the particular features, as is reported here, will be reviewed and we will continue to review them during the detailed design process. It is worth just mentioning that for other buildings, which are not listed, we do not produce an individual report, necessarily, from each building, but we do the analysis in exactly the same way and we are happy in fact to explain to people how to interpret those reports, because they are not things which a man in the street would make much sense of, without help.

18449. Indeed, we get a sense of the bottom line because one of the points raised by Mr Wheeler is the need for internal inspection. You say that in relation to all the buildings within a ten millimetre contour there is a reference to the process of internal inspection.

(Mr Berryman): Yes, that will happen before construction comes to that area—we will do an internal inspection of all buildings, obviously focusing particularly on the listed ones, and we will

¹¹ Para 16833.

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do two things there: first of all, checking for any defects that exist in the building; secondly, seeing any specific or special measures that might be needed for that building to ensure that it is not damaged.

18450. Again, as the challenge has been laid down, I would like you to help with this. The information given there in October in response to the Committee's interim report, looking at that again is there any part of that which you can see is inaccurate?

(Mr Berryman): It still pretty much remains our position.

18451. I note just one other point. Mr Wheeler raised concern about mitigation, you see about seven lines in you made the point there that in relation to the selection of mitigation, and it is not just something we regard as a process that has been completed and therefore work can be done, but do you regard it as being given and will continue to be given?

(Mr Berryman): Absolutely, and nearer the time if any further mitigation is needed it will be designed and arranged for.

18452. If we just turn back, please, Mr Fry, to paragraph 16822 and pick up on another building that Mr Wheeler mentioned specifically, this is Christ Church, because that was the subject of an interim decision by the Committee, you see that there?¹²

(Mr Berryman) Yes.

18453. Essentially, the Committee were inviting the Promoter to confirm that Christ Church was one of the churches that should receive top-tier mitigation, and that that should be at Crossrail's cost.

(Mr Berryman) Yes. This is similar to the undertaking that you gave regarding the church at Stepney, where we confirm that any mitigation needed will be at our cost. Also, we have taken particular care in that area to optimise the final alignment so that the risk of even any settlement at all is as low as possible.

18454. **Mr Mould:** That is all the evidence I want from Mr Berryman at this stage.

18455. **Mr Hopkins:** There seemed, at the beginning, to be some distance between what Mr Wheeler was saying and what the Promoters have decided to do, but we have been given some assurance about that and we assume you will take up what Mr Wheeler said about specific cases. Especially after Mr Wheeler drew attention to alarming possibilities, like walls collapsing where they are not tied in properly, presumably where concrete underpinning or extra tying-in of walls is required, that kind of work will be undertaken. Would that be paid for by Crossrail and done by Crossrail?

(Mr Berryman) Yes, absolutely.

18456. **Mr Hopkins:** If there were a dispute, if the owners of a building had an architect or structural engineering saying the work was required and your experts said it was not required, how would that kind of dispute be resolved?

(Mr Berryman) I believe there is a dispute resolution procedure which is mentioned in the information paper. I am sorry I do not have it in front of me, where it can be taken to an independent arbitration.

18457. **Chairman:** Also, if everything else fails, there is the Lands Tribunal.

(Mr Berryman) The Lands Tribunal is always there as a back-stop, yes.

18458. **Mr Hopkins:** Just one technical point, Mr Wheeler talked about one building which had concrete underpinning and therefore was much more stable, next to a building which had not been underpinned. Presumably, differential movement could cause problems there. Will your advisers be taking particular note of that kind of problem?

(Mr Berryman) It would not necessarily cause problems. It depends on the detail, to some extent. When ground moves—I do not know if you can remember Professor Mair's evidence quite early on in the piece—it moves like a sort of wave (I am grossly exaggerating) and as the wave moves forward the buildings do that and then that. So the maximum strain is at the top or the bottom, depending on what point of the wave you are at, but it does not necessarily depend on the nature of the foundations.

18459. **Mr Hopkins:** If one building is attached to another building and one building has been underpinned, and the other one has not, there could be some differential between them.

(Mr Berryman) It is conceivable but for buildings of this size—I do not know how big the building is Mr Wheeler is talking about—if it is one of the normal terraced houses it probably would not make a huge difference.

18460. **Mr Hopkins:** Anyway, I am reassured that you are going to take account of what Mr Wheeler has been saying.

18461. **Mr Mould:** Sir, can I pick up on your first point? You asked about dispute resolution and so forth. Just to remind you, of course, we have set out in Information Paper D12 on settlement the arrangements we have for offering settlement deeds to proprietors.¹³ Certainly, as a rule, a deed of that kind would be available to the proprietor of a listed building which is being subject to a staged reassessment and shows the requisite level of risk. As part of that deed there are detailed procedures for arbitration of any disputes that arise: where the work is required, who is going to pay, etc. I do not know if you were here when we dealt with the

¹² Para 16822.

¹³ Crossrail Information Paper D12—Ground Settlement, billdocuments.crossrail.co.uk

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building that Members will know, St Dunstons Church in Stepney. During the course of my submissions to the Committee on that day I went into some detail in trying to explain how the deed would work in that respect and it may well be helpful to mention that on the record as a source of information on that.

Cross-examined by **Mr Wheeler**

18462. **Mr Wheeler:** There are a few points, if I may. Regarding the assessments, these documents, I cannot quite remember how we did come by them but I think we came by copies of these reports for the whole of Wilkes Street, Princelet Street, Hanbury Street and the Brick Lane area as a result of a meeting we had with Crossrail. We have circulated these to all the owners of the various buildings, whose addresses appear on the top of them. So by and large everyone has got a copy of them. They were all very concerned—some more than others because some had more fragile buildings than others—which is the reason we came back to the Promoter and asked them to arrange revisits to a number of the properties. I was not going to be able to get them, I thought, to visit all of the properties so that is why we made a selection of three that I mentioned beforehand, because residents and owners are very concerned about the cursory nature of these reports.

18463. **Chairman:** How many did you establish had not been revisited?

18464. **Mr Wheeler:** We have only asked them to revisit three, number 19 (which they are getting confused with number 17 now, but I will come on to that in a minute), Ten Bells and Christ Church. There was a particular request from many people, why had they not done a report on Christ Church at all. I had originally chosen number 19 Princelet Street and the Ten Bells as being two buildings with a lot of cast iron in them, which always frightens engineers, and being particularly at risk. The local residents said we must include Christ Church on this list, so we included Christ Church. We took a team of Alan Baxter, Mott MacDonald and various other Crossrail engineers around those three buildings. So that was the first thing that arose.

18465. Obviously, the second thing that arose was from my presentation on 13 June, and the reason I am back here again today is we thought we had an undertaking, we thought, as I said earlier, we had good news from you and that you had clearly spotted the lacks in these assessments and had asked the Promoters to come back and do them properly. It then turned out not to be the case, which was a bit embarrassing for myself, because I was the one who went and told them, actually: “It’s all right, chaps; they will be coming and having a look before they decide the route”. Then we find out that is not happening, so that is why I am back in front of you today. Concerns arising out of the shortcomings of these reports.

18466. I was answering a question from the Committee.

18467. **Chairman:** I am satisfied with that answer. Would you like to get on to the questions of Mr Berryman now?

18468. **Mr Wheeler:** Yes. Do you undertake, therefore—I get the impression from just looking at PPG15—to carry out reports on these buildings in accordance with PPG15?

(Mr Berryman) No, we are not. We are not planning to modify or alter those buildings in any way.

18469. I think you are; they are going to settle 27mm. I think that is a fairly fundamental alteration.

(Mr Berryman) I doubt that it is a fundamental alteration. I am sure they have settled far more than that in their lives hitherto. That is not an alteration to a building; that is just a phenomenon which takes place on the ground on which the building stands.

18470. Only if you change it.

(Mr Berryman) No. As you well know—perhaps you do not know but you should know—the ground in London goes up and down all the time due to various climatic and tidal factors.

18471. I think this is getting a bit abstract. I do not know of any ground that goes up and down 27mm in London.

(Mr Berryman) I do.

18472. Let us leave that to one side. The Promoter does accept that there will be settlement and that there will be damage.

(Mr Berryman) We accept that there will be settlement. We do not anticipate that there will be damage other than—what is the word we use—trivial. We do accept there will be settlement.

18473. You cannot say “we do not accept there is damage” and then say “other than”. You accept that there is damage.

(Mr Berryman) Only in the way of negligence.

18474. Therefore, you do not know the extent of the damage unless you have done a proper analysis of the building you are dealing with. I would like to say, just picking up on Alan Baxter, most people who know these buildings are fairly knowledgeable about them, they know Alan Baxter, they respect his company and he has done quite a lot of engineering work in the area, and we were encouraged that he was, at least, involved with the project. As I have pointed out, these assessment reports do not include any internal reference at all—those ones I have showed you have no internal reference at all. We could go through the whole lot and pick out whether some of them do, but at least we have got five buildings here on which there is no internal inspection. The process is, Mr Berryman, is it not, that Alan Baxter will do a report on the historic fabric of the building?

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(Mr Berryman) The process is that Mott MacDonald, who are—

18475. I was going to get on to that bit, but it starts with Alan Baxter doing the analysis of the building. *(Mr Berryman)* I can tell you how it works, if you want, but if you have got a better explanation, perhaps you—

18476. **Chairman:** Perhaps, Mr Berryman, you can take us through the way, starting with Mott MacDonald.

(Mr Berryman) What Mott MacDonald actually do is give an estimate of what we call greenfield settlement. That is to say, the settlement which would occur if there were no buildings there and we were just driving tunnels in the ground that we know exists there at the depths we know exist and at the positions we know. Alan Baxter then take that work and do their assessments based on that greenfield assessment which was previously done by Mott MacDonald. Of course, part of their task is to look at the buildings and see where the sensitivities lie, which is almost an independent exercise. The process is that Mott MacDonald do it first and then Alan Baxter look at the impacts of that.

18477. **Mr Wheeler:** Do you not feel that approaching it as a greenfield model, at least sounds rather unrealistic? If you have an old building, if you are the owner or occupier of an old building and you are aware of its fragility and its weaknesses, to do an assessment of how it responds to having these tunnels built under it, on the basis that it is greenfield site, is somewhat alarming? It is one of the issues that has given rise to a lot of worries because, of course, we know it is not a greenfield site; we know it is riddled with wells, underground rivers, previous generations of building work and all sorts of other defects.

18478. **Mr Mould:** Sir, I am sorry to interrupt but the Committee has had a detailed presentation from Professor Meyer which explained the basic theory behind the settlement assessment process that we have undertaken. It is set out, I think, in detail in the evidence he gave on Day 8, at 2368. It is also detailed in the Information Paper and I think someone has very kindly put up on the screen, beginning at 2.3, in relation to Stage 2 of the process, a short summary of the justification for using the greenfield analytical basis.¹⁴ It is, in fact, designed with the biggest degree of robustness into the assessment rather than the opposite. My point is this, I wonder whether the Committee is being greatly assisted by revisiting these matters.

18479. **Chairman:** I think Mr Berryman adequately explained the method used which is outlined in the documentation, I am just very interested in what the

next part of Mr Wheeler's question is going to be. We have not arrived at that yet but I am hoping we get there soon.

18480. **Mr Wheeler:** I am no engineer so I will not continue pressing an engineer on engineering issues about greenfield settlements. I have stated the point that the information produced, and this is available to occupiers, has given them no comfort that their buildings have been adequately assessed and it is just inconceivable that you can make a realistic assessment as to how the building will act if you do not actually go and have a look inside the building. I am just amazed that the Promoter is not, at least, obliged to carry out equivalent reports that you would under PPG15, when we know this work is going to affect these buildings. Let me ask you, Mr Berryman, I will go on to number 19. You have just, I believe, indicated that you will go back and make an internal inspection of number 19 Princelet Street. *(Mr Berryman)* We will be making, ultimately, internal inspections of all the properties, but we can bring that one forward, yes.

18481. There is some confusion because you have already inspected number 19 because it was one that I asked you to come down to do *(Mr Berryman)* Can I just emphasise—

18482. I do not think anyone was listening to our presentation, I am afraid.

18483. **Chairman:** Mr Wheeler, would you allow Mr Berryman to respond?

(Mr Berryman) I do not do these inspections personally. This is a huge project. I have staff who go round and do these inspections. I do not know whether they have looked at number 17 or number 19 without asking them. If Mr Wheeler says that we inspected number 17 and got it down as 19, I accept what he says.

18484. Let us conclude this. Mr Berryman, will you inspect numbers 17 and 19?

(Mr Berryman) We will.

18485. **Mr Wheeler:** Will you do these as part of the assessment of the selection of the route?

(Mr Berryman) The route has already been selected, as you know.

18486. Yes, I do. Then the route has been selected on an inadequate analysis—

18487. **Chairman:** Can I stop you there again, Mr Wheeler? We have had evidence on this. The Committee has made a decision on this and the alignment of the route has been decided, and that is it. We have received evidence and taken a decision on that. So, if you like, you are retracing steps which have already been dealt with by the Committee.

¹⁴ Crossrail Information Paper D12—Ground Settlement, Settlement Assessments—Stage 2, billdocuments.crossrail.co.uk (LINEWD-IPD12-002).

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18488. **Mr Wheeler:** Right. I have no further questions then. It seems as though these buildings are not going to be properly assessed before the final—

18489. **Chairman:** There are two matters, which are quite separate. One is the evidence which you have brought forward to this Committee about the buildings which have not been properly assessed. We are going to revisit that. There is also the latter item which you brought up, which is the possible reviewing of the change of the line of route. What I am saying is that you are revisiting old evidence where a decision has already been made by the Committee. It is not within the grounds on which you are able to come back to the Committee.

18490. **Mr Wheeler:** Right. Could I then ask that we just get someone to undertake that all the buildings will be assessed as they claimed? I have not given you a comprehensive list yet, but I just demonstrated a few, and you can check them out with the Ordnance Survey map.

18491. **Chairman:** If you give us the list then I will give you an assurance that we will sit down with the Promoters and go through where assessments have been made and where they have not been made, and if they need further assessment we will make sure that they are.

18492. **Mr Wheeler:** Crossrail has an army of experts. I do not really feel qualified to be producing a list; all I feel qualified to do is point out that there are a number of buildings that have previously been missed on the list.

18493. **Chairman:** I understand where you are coming from, but you have said to us you have produced three but you have not put forward a comprehensive list. What I am saying is if you come forward with that comprehensive list we will discuss with Mr Berryman that request in the same way as we have with the other three. I give you those assurances. Do you have any more questions of Mr Berryman?

18494. **Mr Wheeler:** No.

The witness withdrew

18495. **Chairman:** Mr Mould, do you want to sum up?

18496. **Mr Mould:** Simply to say that I have drawn your attention to the undertakings that we gave in response to your interim decision on this and we stand by those undertakings, subject to, of course, as always, taking the points and information such as has been put forward in relation to the individual buildings by this Petitioner. As you have said, we

will go away, as you will, and we will check that those do not reveal any limitations or omissions in the assessment process.

18497. **Chairman:** Mr Wheeler, do you have any answer to Mr Mould?

18498. **Mr Wheeler:** Can I just ask: what did you mean when you said that the Promoter should come back in the autumn with further work? If there were no more assessments in the meantime, why were you not happy then but you are happy now?

18499. **Chairman:** What we have said is that the three where you have said assessments have not been made, they will be reassessed, or brought forward in Mr Berryman's terms, and reassessed. You said you had not provided a comprehensive list today because you were concentrating on the three, but if you will give us that list back we will deal with it in the same way. If we are perturbed about any of these matters, particularly your concerns about environmental damage, what the Committee may do, if they are not fully satisfied, is ask Mr Baxter to come and talk to us also.

18500. **Mr Wheeler:** That would be welcome.

18501. **Chairman:** Certainly, we will not leave it there. I have given you assurances and we will proceed with those assurances.

18502. **Mr Wheeler:** The three you refer to were reassessed before 13 June, so I do not understand in your Committee's decision what you were asking the Promoters to add to the work they had done already.

18503. **Chairman:** Mr Hopkins asked the question, for example, on the solid foundations and how those would be affected. It would be questions like that which are being raised in the course of your evidence to this Committee that we will re-look at. We will re-look at the three properties. Mr Berryman said that all properties will be reviewed before any building commences. What he gave an assurance of was he would bring those three properties forward to have a reassessment as of now, and what I am saying to you is you have other properties which you say you have not given, and we will have a look at that and if we are not convinced that a proper assessment has been made then we will take a decision on that as a Committee. It may be, as I have said, if we are not wholly satisfied we may actually seek the expertise of Mr Baxter in this matter to give us some comfort on any decisions we may have to make. That is where I want to leave it.

18504. **Mr Wheeler:** Okay.

18505. **Chairman:** Do you want to sum-up any more than that?

18506. **Mr Wheeler:** No.

18507. **Chairman:** Thank you very much indeed. We now move to the next Petitioners. Patricia Jones.

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The Petitioner appeared in person.

18508. **Chairman:** Ms Jones, you have two bites of the cherry today. Why is that? Could you not do them together, because in our outline which we received from Ms Cove it seems to be about the same subject?

18509. **Ms Jones:** No, it is not. As an individual Petitioner and resident I just want to address the concerns that Mr Hopkins mentioned on the settlement deed and how that is going to be made good. In the last presentation in the summer the Spitalfields Society was represented by Mr Philpot, and the Spitalfields Society has asked me to speak for it and the concerns of its members separately on this occasion, if that is all right. I will not take up much of your time.

18510. **Chairman:** Which one are you going to do now?

18511. **Ms Jones:** Me.

18512. **Chairman:** Before you do, Mr Mould?

18513. **Mr Mould:** I am going to hand the baton back to Mr Elvin now.

18514. **Chairman:** Are you handling both bats?

18515. **Mr Elvin:** Why not?

18516. **Chairman:** Would you like to give us an opening?

18517. **Mr Elvin:** All I know from the letter that Ms Cove sent yesterday is that Ms Jones is proposing to speak on the compensation settlement agreement, and you have heard from Mr Mould what our position is on those matters.

18518. **Ms Jones:** First of all, I was listening to Mr Wheeler's presentation, thank you very much. I think it would really allay the concerns of everyone, all the individual Petitioners, because nobody thinks that the assessments have been done properly. It would really help if we could provide that list to you for everybody, and that the Committee could say: "Yes, we think it would be a good idea to do an internal inspection of all these properties" just as a matter to allay the residents' concerns and to make absolutely certain that you are happy that there are going to be no substantial problems. You are probably wondering why everyone gets so emotional about these places, and I do extend an invitation to all the Committee to come and have a look in them. If you have a look in them you would really understand what people are talking about. They are incredibly fragile, shabby places, but they have been there for 300 years and the plaster has been there for 300 years; it is very fragile. Please come and have a look. That is all I would say about that, but thank you.

18519. **Chairman:** Let me just state for the record that I do not think it is the case that the Committee is going to review all the buildings, but it is just a few important buildings that Mr Wheeler raised concerns about.

18520. **Ms Jones:** I think it will be enough. What would be helpful is if we could just provide you with a list and if you can then decide, as you said you would, which you think should be looked at internally.

18521. **Chairman:** Yes, but let me repeat that it is not all properties. It is the few listed important buildings that Mr Wheeler was referring to.

18522. **Ms Jones:** Yes. On the settlement issues, if the Promoter had come to me two years ago and said, "I want to build a big tunnel under your house and there is no other way of doing it. First of all, no damage is going to be caused and actually, if any damage is caused, we will make it good and we will make it good without fuss or bother and without any stress to you. You will not be able to hear the trains, the rumbling or the noise of them as they go underneath you and we will make sure that that is the case", if the Promoter had come to me and said that, I would have said, "Fair enough. If that is the case and you cannot put it somewhere else, you have told me that basically I will not be affected by this project", and I would have said, "Fine, thank you". That is what I would have expected any decent and responsible entity building a railway line to have done.

18523. However, I did not even know that the settlement deed existed until a lawyer told me that I could find it somewhere on the Crossrail website, but nobody had told me that there was a settlement deed. When I got the settlement deed and I found it, I looked at it and I thought, "But this doesn't go anywhere near protecting an individual". I wrote to Mr Mantey with my comments on it and I had a letter from Mr Mantey on 15 June 2006, saying, "We will come back to you towards the end of next week or early the following week". I have heard nothing from them at all. They have not engaged on the settlement deed and yet I know that they are negotiating at length, over periods of months if not years, with the big corporate institutions.

18524. Now, this settlement deed, to me, does not protect the individual. I will go through it and very briefly I will tell you what it does and what I would like it to do. On noise and vibration, the Promoter has said to me on four different occasions, "Number one, you will not hear anything and you will not feel anything". On the next occasion, the Promoter said to me, "Well, it will be like the noise of a lorry rumbling at the end of the street". Crikey, what—24 hours a day! On the next occasion I was told it would be like a dishwasher going 24 hours a day in our front room, and on the next occasion someone from

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the Promoter said, "Don't worry, you'll get used to it". All I am asking for is: do as you would be done by. The Promoter is asking me to accept a situation where there will be no damage and I will not be able to hear anything, so I am asking for an undertaking to make absolutely certain that that is the case.

18525. Would it be appropriate for me to go through the main points of the settlement deed? What I am quite happy to do is to go away from this meeting and in the next week or so sit down in a meeting with the Promoter and try and agree the terms of the deed which I think would protect the individual. That would give huge reassurance to the individual residents in this area. At the moment, under the terms of the settlement deed, you have to be a lawyer, in fact you have to be almost a construction or a property lawyer with some degree of experience to understand that settlement deed. It is very legal and it is semi-technical. Also, there is a wonderful place in it which basically, if you enter into the settlement deed, takes away the rights to take any action through any other means. Let me take you through the detail, it will take me five minutes, because what I would like to do is to just have your reassurance and understanding because, if that deed protects us properly, then I imagine quite a lot of the concerns of the individual residents would go away.

18526. The first thing is that the Promoter says that it will make good damage arising by settlement. 'Settlement' is a very defined term. It does not extend, for example, to engineering measures, such as dewatering, it does not extend to damage caused by vibration from the operating trains or indeed vibration from construction traffic. I do not know what else settlement or other damage could be caused by because I am not an engineer. I would say that if any damage is caused because of the project, and that is the construction of the tunnels or subsequently in the way in which the trains operate, then could you please make it good? We would also ask that that also extends to deterioration that is caused to the property because damage and deterioration are very different things.

18527. We would also say that, if there is a dispute, at the moment, as I think Mr Berryman said, there is a disputes resolution clause, but that is very costly, so, if we were to say that damage has been caused by the tunnels and Crossrail were to say, "No, it has not", we would have to go off and appoint an engineer and actually a very experienced engineer in tunnel construction and that is hugely expensive and none of the individuals in this area can afford that. They certainly would not be able to afford litigation which is grossly expensive.

18528. The settlement deed says that the Promoter will make good "material" damage. I do not care whether it is material or not. If it is damage, it is damage and I do not want to argue whether something is material. If it has been caused by the project, then please put it right.

18529. The deed also goes on to say that the owner should obtain, I think it is, three competitive quotes for works. Well, if you have ever tried getting a builder to do anything on a small project, then it is very difficult and to get three competitive quotes, if not impossible.

18530. I would like monitoring to take place on these properties at least two years before construction and you have already asked the Promoter, and it has been accepted, that they give an undertaking for seven years afterwards. It is quite important in order to avoid any disputes that the condition of those houses is recorded for at least two years before, otherwise you cannot properly assess the existing settlement trends.

18531. All of this really goes to making sure that there can be as little room for dispute as possible and that the residents are put in a situation where, at no cost to them, any damage is made good and, more importantly, with no stress and no litigation pending over them. They are all individuals and they have busy lives to lead. They are worried about the impact of this and they are worried about the potential of having to litigate to make anything good.

18532. We would ask in all cases that all Crossrail reports that they can provide, the defect survey, the condition survey, that we can have them assessed by our own experts and that the Promoter pays for that because people cannot afford expensive engineers. That is what I would say on the settlement deed.

18533. In terms of noise and vibration, I would just ask that we have the same mitigation as the Committee asked for, and to which the Promoter agreed, for Christ Church. We would ask that the noise mitigation for these properties is set at 25 decibels.

18534. There are various undertakings or requirements in the settlement deed which are listed out on a separate sheet, but the real crux of it is it is not as if we are holding the Promoter to ransom and saying, "You can only do this if you pay us such and such". All we are saying is, "Please give us an undertaking that backs up what you are telling us, that there will be no damage, that it will be made good and that we will not be able to hear anything".

18535. **Chairman:** Is that it?

18536. **Ms Jones:** Yes.

18537. **Chairman:** Mr Elvin?

18538. **Mr Elvin:** Firstly, there is nothing in this Petition which relates to AP3 and does not relate to matters which have already been dealt with exhaustively before the Committee during the summer. That said, let me say this: firstly, it is clear from the settlement paper, D12, paragraph 8.1, that the protective assurances and mitigation which are set out in the paper and which were dealt with, as I

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say, at some length in evidence before, are available whether or not the settlement deed is entered into.¹⁵ It is not a precondition of getting mitigation and protection that you enter into the settlement deed, and you will see that from the last sentence of 8.1.

18539. Secondly, so far as the deed is concerned, the deed is what the deed is; it has been negotiated at some length with those concerned in heritage matters, including English Heritage. It is legalistic because, by its nature, it has to be. It should be noted that the terms of the settlement deed, and I am looking at page 6, clause 15, are that the owners' reasonable costs, charges and expenses in terms of using their own engineers or using technical advice and the like are reimbursed under the deed.

18540. There has to be a disputes resolution mechanism. It is unrealistic for Ms Jones to suggest that that is an expensive process. Going through a disputes resolution process is generally much cheaper than going to court and litigating, and there has to be a means, if parties are reasonably in dispute, of resolving the issues. Our view is that the settlement deed does present a sensible way forward which has been accepted by the heritage bodies. It provides a means of ensuring that compensation is provided. It is not a means, contrary to Ms Jones' suggestion, of providing an overall deed to compensate for every sort of damage whether caused by settlement or not. This is dealing specifically with the issue of settlement, particularly settlement in heritage properties. It is not dealing with other forms of damage which might arise, for example, if a lorry were to go out of control and hit the property or something of that description. They have to be resolved in the normal way of things if damage occurs.

18541. So far as the noise issue is concerned, Christ Church is a Grade I listed building which also functions as a concert hall, as the Committee may remember. The Spitalfields Festival gave evidence to the Committee through Ms Serota in June and agreement was reached with the Spitalfields Festival. The standard given to Christ Church is a standard which is appropriate for the quietness which is required at the venue which is used for worship and as a concert hall and to give individual homes that criterion (a) would be unreasonable, and (b) would be giving them a criterion which is probably quieter than they enjoy in any event. I cannot explain the confusion which may exist with regard to different noise levels. Mr Thornley-Taylor tells me the reference to the lorry in the distance is a common illustration for saying, "Well, that is what 40dB would sound like", but of course our estimates of the impact of the proposals is not that there is going to be a 40dB noise impact on the residents, so it may

simply be that some confusion has arisen with some illustrations to try and explain what the different noise levels mean.

18542. I come back to the point that settlement is set out in detail and has been explained by Professor Mair on Day 8 to the Committee and during the last Spitalfields petitioning session in June. D12 sets out the process, including mitigation which is to be taken. So far as the deed is concerned, it does provide a mechanism which has been negotiated with the relevant heritage bodies which provides both for the carrying out of works and repairs, if necessary, and it substitutes compensation under the deed for any action in damages because it provides its own mechanism for dealing with it which hopefully is actually rather easier to operate than if you had to go to court. On noise and other environmental impacts, other standards and assurances are given elsewhere in the material. You will recall we have given undertakings regarding the EMRs, the environmental minimum requirements, the Construction Code and the like and those issues, we say, are properly protected. They are matters we have dealt with at great length during the earlier parts of the committee hearing and what is raised today does not, in our respectful submission, lead to any need to adjust those other matters; there is adequate protection provided in any event.

18543. **Chairman:** Do you reaffirm that that is given in response to our decision which is under T4 and T5 on the 7th?

18544. **Mr Elvin:** Yes, we do not go back on that at all. Could I just make one point clear as there may be a little bit of confusion in the minds of the Petitioners. Stage 3 is not just a single report. Stage 3 is an iterative process and that is made clear perhaps if Mr Fry can just put up page 3 of D12.¹⁶ You will see that it consists of several sub-steps, 242, but it is an individual assessment. I am told that all of the listed buildings, all of the Stage 3 buildings are individually assessed and in due course, if they have not been internally inspected now, will be internally inspected before any works are carried out, but it is an iterative process. You start with the general appraisal at the very early stage, Stage 1, and you work down in increasing detail. Stage 3 does not just stop with one individual report, but further work will be done after that, as D12 makes clear. However, for the record, the undertaking we gave to the Committee on Day 58 in response to the Committee's recommendations I reaffirm.

18545. **Ms Jones:** If I could take the points made by Mr Elvin in turn, and I fully appreciate Mr Elvin is doing his job, I do not think that what the Promoter is offering is a decent way to treat individual owners. Mr Elvin said that the settlement deed did provide for the undertaker to pay for engineers' costs. Well, it does, but in a very, very specific circumstance, and

¹⁵ Crossrail Information Paper D12—Ground Settlement, Preparation of Assessment and Report, Cases in risk category 3 or above, [billdocuments.crossrail.co.uk \(LINEWD-IPD12-019\)](http://billdocuments.crossrail.co.uk/LINEWD-IPD12-019).

¹⁶ Crossrail Information Paper D12—Ground Settlement, Settlement Assessments—Stage 3, [billdocuments.crossrail.co.uk \(LINEWD-IPD12-003\)](http://billdocuments.crossrail.co.uk (LINEWD-IPD12-003)).

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that is only where the report assesses that the building falls into risk category 3. None of these buildings falls into risk category 3, according to the settlement reports. Risk category 3 is where I think there is a risk of either substantial damage, but none of the buildings falls within that.

18546. **Chairman:** In the response, and I am reading 2.5 in the Promoter's response, it says, "The Promoter confirms that, under the settlement policy, any material or physical damage arising from ground settlement associated with the nominated undertakings will be made good".

18547. **Ms Jones:** My problem is that, if there is a dispute over the damage and the cause of the damage, then the individual home owner has to dispute that and would have to provide expert evidence.

18548. **Chairman:** What you are attempting to get is a guarantee that you will get support for legal challenge?

18549. **Ms Jones:** I am asking that any reports produced by the Promoter can be challenged by the individual appointing its own expert and that the expert's costs be paid by the Promoter. I am also asking that it does not just extend to the material damage, which is limiting in scope, but that it is any damage so that we do not have to argue what material damage is.

18550. I think there was one point in the settlement deed where it said that if there is a pre-existing defect, then the Promoter will not make anything better because basically it was a bit vulnerable anyway. Well, of course all of these properties are vulnerable, so we would say that any damage caused whatever is made good at the Promoter's expense.

18551. **Chairman:** So that is any damage even if it was pre the tunnel?

18552. **Ms Jones:** Any damage. Say, the ceiling falls down, I am not asking them to go and repair that, but I am saying that, if the ceiling was very vulnerable because it had not been repaired, but the external factors caused by the tunnelling did cause it to collapse, then I am asking that that should be made good because these properties do not need that sort of external—

18553. **Mr Elvin:** Sir, I thought I made it clear that the protections in the paper do not depend on the settlement deed. Just so that Ms Jones knows exactly what is there, can we just look at section 6 in D12, and I hope this is helpful, sir, rather than just being an interruption.¹⁷ You will see there it says, and this is not just relating to listed buildings, "The Promoter will require the nominated undertaker to reimburse property owners for the reasonable costs they incur

in remedying material physical damage arising from ground settlement caused by organised works, provided it is "caused by the nominated undertaker's works", "advance notice" to carry out the repair work is given, "competitive quotes" and the claim is made within the period of two years. Those are not, we would suggest, unreasonable suggestions. We cannot obviously give effectively an insurance policy that any damage which happens will be paid for during the course of the works because they may not be attributable to the works, and to suggest that we have to act effectively as an insurance mechanism for any damage which occurs during the works is just not reasonable.

18554. **Ms Jones:** I am not saying that.

18555. **Mr Elvin:** Ms Jones, would you just let me finish explaining please? We have made what we hope is a sensible statement, that we will reimburse for material damage, and the reference to "material" is just so that it is not a claim relating to one piece of paint flaking or for something which is obviously trivial where the mechanisms of the process would obviously not be engaged. Clearly if something of any significance arises, if there are problems with doors, windows, physical damage and the like, clearly those will all be dealt with under this policy, but what cannot be done is an insurance policy provided. We have to be reactive, we cannot simply say, "Whatever you tell us is damaged will be paid for by Crossrail". It has to be demonstrated or at least Crossrail has to be at least satisfied that it is caused by the works.

18556. **Ms Jones:** Absolutely. I absolutely agree with that. We are not asking for an insurance policy for anything which happens during the Crossrail project, but we are asking that anything that happens because of the tunnelling, the dewatering, the engineering measures and the vibration caused by the trains is made good. Now, when you look at that provision there, it actually says no more than the settlement deed which I am saying is inadequate. Mr Elvin quoted some of those points which I specifically mentioned would be very difficult for individuals to deal with. It is very easy: any damage which is caused by the project, and that is the tunnelling, any engineering works that have to be put in place because of the tunnelling, the operation of the trains and the vibration caused by it, can they please be made good by the Promoter at the Promoter's expense and, if there is any dispute, the third-party costs which the individual would have to incur, can they please be paid for by the Promoter? Then we will know that we do not have the threat of having to litigate hanging over us to prove, at our own cost, that the damage was caused by the project.

18557. Just as one further point, if I could also come back on the 25 decibels, I think that people's lives and their peace and quiet is as important as worshipping in quiet in a church and, because the

¹⁷ Crossrail Information Paper D12—Ground Settlement, Repairs, billdocuments.crossrail.co.uk (LINEWD-IPD12-006).

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Promoter is putting in the mitigation for 25 decibels at Christ Church, it does not seem to me to be a huge amount to ask it to extend that through Spitalfields.

18558. **Chairman:** Thank you very much.

18559. **Mr Elvin:** If I can just help a little bit further, sir, can I just say this, and it is perhaps a statement of the obvious to those who are in the profession and it may not be obvious to residents, so I will just say it now. Of course, if there is physical damage caused outside the settlement policy, if it is caused by the Crossrail works, there will be an entitlement to compensation already either at law or under the Compensation Code. In the usual course of things, if there is a valid claim, either in law or under the Compensation Code, that claim will include the reasonable costs of employing lawyers to represent and it will include the reasonable costs of experts, so there is protection already there and it does not need an undertaking because there is already an entitlement. As the Committee might well expect, the law protects against damage caused by other people's work.

18560. **Chairman:** We are grateful that you have re-emphasised that on the record.

18561. **Ms Jones:** Could I just make a few comments on what Mr Elvin has said? Yes, you can always sue outside the terms of the contractual commitment under the settlement deed, but it is very expensive and stressful. Again you would have to fund those costs in advance, so I am asking that that commitment which Mr Elvin has referred to is put into the settlement deed and given to the individuals.

18562. **Chairman:** Ms Jones, we have got your view on that.

18563. **Ms Jones:** Could I just ask what will happen now? Will you consider the undertakings that I have asked for?

18564. **Chairman:** Let me briefly go through it. The evidence from here today will be considered by the Committee in full and we will come to our decisions and we will make those decisions known to all Petitioners and to the House, and we will do that in our own time whenever possible.

18565. **Ms Jones:** Perhaps I could hand you a bit later a full list of the undertakings so that you have them in front of you.

18566. **Chairman:** Yes, thank you. We will resume at 2.30.

After a short adjournment

18567. **Chairman:** The next Petition we will hear is Robin Tutty and others, Ms Zoe Hudson.

18568. **Mr Mould:** I am reading from the helpful note we had from Ms Cove, and we understand that Ms Hudson is going to speak on specific health matters. That is all I know, I am afraid.

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Ms Zoe Hudson appeared on behalf of Robin Tutty and others.

18569. **Ms Hudson:** Thank you. I would like to point out that I am here representing 46 members of the Spitalfields community of mixed age and ethnicity. I would like to say that I have got the utmost sympathy for the Committee whom I am sure when they were elected did not envisage having to spend over a year listening to both Promoters and Petitioners about a resurrected project that has been on the boil for the last ten years. I will be brief. I have spent the weekend reading through the Health Impact Assessment and various amendments and provisions and it fills me with great sadness. Page 11 of Crossrail's report states that: "Tower Hamlets in particular has a young population which is sensitive to environmental disruption and has the highest levels of unemployment, poor health and low quality housing along the route. Furthermore, the borough has the lowest life expectancy in London".¹⁸ You heard this morning that Dr Safir, the local GP, gave evidence to the Select Committee on 14 June last year in which he detailed the unique socio-economic deprivation in the area? Spitalfields is joint top in the UK for social deprivation. The extent of disease entities is prevalent in the area. It has every single disease entity under the Chronic Disease Register. Even the Health Authority has not understood the complexity.

18570. Spitalfields tops the lead for lung disease, most admissions, most expense, and the biggest indicator of premature death. Obviously the route has to go through some part of Tower Hamlets, and I know the area well, I am a senior clinical lecturer at Barts and The London Medical School and have lived and worked in the area for over ten years. I devote a lot of my time promoting health and physical activity within the borough. When I run around Tower Hamlets I see large areas of non-residential areas in the borough. The Committee have been around the Hanbury Street site and have seen that it is slap bang in the middle of a very dense residential area. As Dr Safir stated, up to four families will live in a four-bedroom flat, 20 to 30 people within a residence. Density calculations do not account for that.

18571. We worry about provisions for dust et cetera, but this will not ameliorate the level of lung disease during construction and will further increase it and the area is already tops for lung disease. Access to the site is by narrow roads. Brick Lane has experienced diversions for water mains replacement

¹⁸ Crossrail Health Impact Assessment, Community Profile, January 2006, www.crossrail.co.uk (LINEWD-GEN04—013).

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recently, and the very same roads that will be used to access the site have been blocked by normal size lorries unable to negotiate these small streets. I watched last year as Crossrail produced plans of lorry access to the Hanbury Street site and they have underscaled the size of the lorries. How could anyone think that Hanbury Street could be a suitable site for a shaft, never mind a tunnelling site which was originally envisaged? Let us take the most deprived population and hammer them even more.

18572. Knowing these facts, I am not sure how anybody can sit very comfortably, and I do not want to be part of a society that can knowingly do that to such a vulnerable section of society.

18573. On a final note, I have personal experience of sitting on these types of processes. I was and am adviser to the London 2012 Olympic bid which was partly won with the strength of the health and legacy aspects. Having sat on developmental meetings where ideas are discussed you end up seeing ideas are suddenly on the minutes and they may become facts set in stone with no future reference to their origin, rightly or wrongly. I have in my mind that when this route was devised it was done in a planner's office with redundant plans which in no way conveyed the nature of the area and no site visit. That can make sense of this nonsense. I understand that the route is picked and then the various health impact environmental reports et cetera are undertaken. Undertaking individual provisions in this instance seems wholly inadequate for the overall equation of the shaft site location and a uniquely deprived community. It seems to appear at worst a cynical ploy as they are already so deprived it is not going to matter, or at best incompetent, and I am not sure if we will ever know the answer to that.

18574. I would like to thank the Select Committee for their patience and trust them to look after this community.

18575. **Mr Mould:** Sir, this morning you reminded the meeting of the decision which the Committee has already expressed in relation to route alignment, and in particular you will have had in mind the Committee's decision which is to be found at paragraph 16824 from day 58, which is the day on which we responded to the interim decisions, which made it clear that you accepted the case for Hanbury Street as an appropriate site for the shaft.¹⁹ I do not want to go over that ground again, indeed this morning you indicated that would not be helpful at this stage. As regards health impacts: Mr Elvin made some comments to you in relation to that earlier on as indeed I think Mr Leek did. I would also draw attention, for the record, to what I said about that at paragraph 10942 on day 41, when we were last considering the Petitions of those who represent bodies within Spitalfields.²⁰ The particular point I was making there was that the Health Impact

Assessment process is an iterative process and is one which is underway but by no means has it been completed. A further point which the Committee may find of some value to be reminded of is that it is a process which is being undertaken in accordance with current guidelines laid down by, amongst others, the Department of Health. We are seeking to apply best practice in conducting that assessment process and indeed will continue to do so as the process develops in relation to Crossrail over coming months.

18576. I think Mr Elvin said a little this morning about how we propose the Liaison Panel locally should play a part in that process as it applies to Spitalfields. That is all I propose to say in response to this Petitioner, unless there is any other point I can help you with?

18577. **Chairman:** Would you like to come back on that?

18578. **Ms Hudson:** I think I would like to make two points. It is a bit of a sequencing issue, is it not, in terms of they obviously have to pick the route and then do the impact assessment? Has the consequence of any of these impact assessments had, rather than just making provisions and undertakings, fundamental changes to original plans, or is it just part of the process?

18579. **Chairman:** There are things which we are very interested in and we think they are a vital part of the process, but we are here to listen to evidence and whatever people's concerns are, what the plans which have been presented are, and if Petitioners have a view on it then we have got to look at the views which you are expressing and take a decision.

18580. **Ms Hudson:** A lot of my colleagues are presenting the micro issues and I wanted to give—as I am representing so many more people—more of a macro overview. I would like to make one last comment. It strikes me from a lot of this morning that one of the fundamental issues is that Crossrail seems to have failed to engage with the local community time and time again. I heard talk this morning about correspondence and I fail to see how Crossrail see that correspondence is going to engage the community?

18581. **Chairman:** The part of where you were talk about correspondence was in the evidence which was given this morning where there seemed to be an impasse between one of the Petitioners and the liaison between the parties, and what I commented on there was to correspond at the very least. I think

¹⁹ Para 16824.

²⁰ Committee Ref: A206, The Spitalfields Society comments on SES in respect of Noise (SCN20070130-001).

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exchanges of information, whether it be by a letter or voice, are very, very important, this is all part of the process. What you are here today for is to put forward how the people you represent are dissatisfied with the process so far, and what you have to do in the process of doing that is convince the Members of Committee who are present today of your case as against that laid down in the Bill as it

proceeds. We will take whatever you say in consideration of that, it is how well you make your case.

18582. **Ms Hudson:** I hope I have made my case.

18583. **Chairman:** The next Petitioner is Patricia Jones, again on behalf of The Spitalfields Society.

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Patricia Jones appeared on behalf of The Spitalfields Society.

18584. **Mr Elvin:** Again, from Ms Cove's helpful letter all we are told is matters related to Hanbury Street: compensation and settlement.

18585. **Ms Jones:** Please bear with me, I will only take about 15 minutes of your time. If I could just tell you briefly what I am going to talk about. Mr Elvin made it clear when he stood up in his opening that there is not a question of reopening or looking again at the alignment of the bridge because it would delay the passage of the Bill and I fully appreciate that on the evidence presented to the Committee before that you have made your preliminary decision that Hanbury Street is the best location for the ventilation shaft. But the SES3, which has now been presented, shows that the selection of Hanbury Street was based on incorrect evidence presented to the Committee. I will take you through the SES to demonstrate that.

18586. The fact that a change in the alignment may delay the Bill I do not think is particularly important when I will show you that the decision was reached on incorrect evidence which was put before you. I will show you that on the basis of the new evidence Hanbury Street has greater environmental impact than Woodseer Street and that the Promoter was incorrect in asserting the opposite. In the light of that, I will ask you to consider whether you now think that when the Promoter asserts that it has looked as the southern alignments you believe that it has done so objectively and accurately and whether the Promoter has really tried to optimise a route so as to find a less harmful solution. I say that it has not. It has continually tried to retrofit the shaft and a route to the base case and that no final decision can be taken until this exercise has been carried out. I will ask the Committee to reconsider its previous decision in the light of the new information in the SES and further information which should be required of the Promoter.

18587. The analysis now on the basis of the new information of Hanbury Street and Woodseer Street shows that on environmental grounds Hanbury Street has the greater impact. I think the Promoter accepts that if one site or route is shown to be environmentally less harmful then it should be pursued unless engineering difficulties outweigh the environmental impact. I think that is a legal duty imposed on the Promoter.

18588. I will show you that there is no evidence that Woodseer Street has the engineering disadvantages. We will ask the Committee to demand additional evidence from the Promoter so that it can be satisfied in the light of the new information in the SES that there are the engineering difficulties that the Promoter says there are, and that they are of such a magnitude that it is a compelling reason to stick with the same shaft, notwithstanding the greater environmental impact.

18589. I will show you that Hanbury Street has too many construction difficulties associated with it and that the new information in the SES shows that in the original evidence given to the Committee the Promoter was understating the impact of the works to a considerable degree.

18590. Overall I will ask—and please bear with me because this is on the basis of the new information—you to reconsider your decision with the evidence now before you, and ask for further information from the Promoter before making your final decision. I will dwell on Hanbury Street and Woodseer Street, but only to show you that the evidence produced by the Promoter upon which you relied in making your preliminary decision is wrong in fundamental respects, and that Hanbury Street should not be the location.

18591. If the decision is still to prefer Hanbury Street then we would like certain undertakings from the Promoter to support the evidence upon which it relies in arguing for Hanbury Street.

18592. If I could give you these? I want to go on very briefly to show you on the SES where I think have problems.

18593. **Chairman:** This document is A206.²¹

18594. **Ms Jones:** In the paragraph headed "Noise", if we turn first to the noise assessments, which you will recall had not been carried out when the evidence was first presented or before your decision was made.

²¹ Crossrail Supplementary Environmental Statement 3, Mitigation and Residual Impacts, billdocuments.crossrail.co.uk (LINEWD-SES303-020).

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18595. In addition to the summary of the noise assessments in the SES an errata statement was issued by the Promoter last week, as I understand it in response to the continued efforts by Tower Hamlets to question the noise assessments made by Mr Thornley-Taylor. It is worth looking at those revised statements in detail. If you could have paragraph 3.4.60 of the SES, it says—and this is on Hanbury Street—32 properties will qualify for insulation; but, of those, 20 so badly affected that they would need to be rehoused.²² A further 30 would experience significant residual impact. So that makes 62.

18596. If you go to paragraph 3.4.62, with noise mitigation measures there are still 34 residential properties which will be affected, eight so badly as to require rehousing; and with further noise insulation 22 will still experience significant residual noise impact.

18597. If we go to 3.4.63, with further mitigation 12 residential properties will still suffer significant impact and are likely to qualify for noise insulation, and with that in place, when you look at paragraph 3.4.64, apparently—but somewhat difficult to believe bearing in mind that a number of properties sit directly above the site, which some Members will recall from their site visit—no residential properties will experience significant residual construction impact. But of those 12 properties at least three of them are at 61 Princelet Street and they are properties which the Committee had decided, and the Promoter has accepted, would be extraordinarily affected.

18598. On Day 62, paragraph 16837, “We recognise that these people will be extraordinarily affected,” which was accepted by the Promoter. So is the Promoter correct when it says that with mitigation no properties will suffer noise impact?

18599. If you go on to paragraph 3.4.65 the Promoter then suggests that it may not be possible to achieve the mitigation, in which case 12 properties will still be affected.

18600. If you turn to the comparison with Woodseer Street, paragraph 3.5.7, “Construction noise modelling of each site predicts that 12 residential properties would be likely to qualify for noise insulation at Hanbury Street and no significant noise impacts.” Remember, again, that of those 12, three are the ones so extraordinarily affected that they had to be bought out. Going on, “Near the Woodseer Street site four residential properties would be subject to significant noise impact.”²³ Please also ask yourselves if any of those properties at Woodseer Street are likely to be so extraordinary affected as at

Hanbury Street? The answer is no because there are no properties which are so close to the site. Please also note that this analysis appears to ignore commercial properties, of which there are a large number at Hanbury Street.

18601. So less impact and possibly significantly less impact at Woodseer Street, and less people overall significantly affected.

18602. So what was the Committee told when it was making its decision? And this is the important thing: upon what did you base your decision? Day 38, paragraph 9517, Mr Berryman says, “As far as noise is concerned we think the impacts are pretty neutral, much the same on Hanbury Street and Woodseer Street . . . There is really nothing to choose between them on noise grounds.”

18603. Day 39, paragraph 9918, Mr Thornley-Taylor, “It is possible we may find there is a higher residual significant effect at Woodseer Street than Hanbury Street. It is unlikely to come out better from the noise point of view.” But it does. It may not be hugely different but, nevertheless, if you compare the two Woodseer Street has a lower impact.

18604. On Day 53 Mr Elvin, in paragraph 11730 says, “The noise impacts will be comparable although different residential properties will be affected, notably a large number of flats facing the Woodseer Street site.” Incorrect. With the mitigation three flats and possibly none with further mitigation.

18605. So we have a situation where the noise assessments on which the Committee made its decision were wrong. If you had two sites and all other criteria were the same would you choose the one where less people—it does not matter how many less—were affected by noise, or a site where some people are so extraordinarily affected that they have to be rehoused? The answer must be the former, that is Woodseer Street. Indeed, on Day 39 paragraph 9872, when discussing having to take people out of flats around the Hanbury Street site, counsel says, “It is a pretty unpalatable option and something you would want to avoid if you could, is it not?” And Mr Berryman says, “Yes, of course.” So if you chose Woodseer Street you would not have to rehouse anyone, and you would not have to buy out the flat owners at number 63 Princelet Street, and potentially only four properties with noise mitigation would be affected.

18606. In our opinion this all supports the retro-fit approach which we fear has been applied by the Promoter from the outset, that is select the route and then do the analysis in such a way that it does not jeopardise the original choice. This is clearly the case when you come to look at the southern route, which the Promoter has considered in response to the undertaking given by WHRA, and which Kay Jordan for the SSBA will detail for you later.

²² Crossrail Supplementary Environmental Statement 3 (Amended), Design Options—Woodseer Street Shaft Site, billdocuments.crossrail.co.uk (SCN-20070130-011).

²³ Crossrail Supplementary Environmental Statement 3, Mitigation and Residual Impacts, billdocuments.crossrail.co.uk (LINEWD-SES303-020).

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18607. I want to take you through the lorries because, again, I know that in the decision you thought that the Petitioners had been overstating the problems. I want to take you through the points on the new SES on lorry movements. SES3, paragraph 3.4.54: “. . . an average of 32 lorry movements per day for the peak construction period of nine months . . . At other times typical lorry movements around 12 movements per day are still expected.”²⁴ Paragraph 3.3.14: “The main construction works at Hanbury Street under the revised strategy will be phased over 46.5 months with the major civil works over 25.5 months. Peak activity, the sinking of the shaft will take place for nine months of those 25.5.”

18608. I now want to look at what the Committee was told by the Promoter in its evidence. Day 39, paragraph 9812, Mr Berryman: “We are showing one a day for the duration of most of the works with possibly two a day for a few months, but I would be very surprised if our heavy lorries exceeded that number.” Mr Elvin, summing up on day 43, paragraph 11735: “The main construction of the shaft is now likely to be two years at worst case with only 15 lorries a day, dropping to a single vehicle no more than once a day after two years.” So the Committee reached its decision having been told that there would be 15 lorries rather than the 32 now referred to for nine months; and having been told that after two years there would be one rather than the 12 now referred to. Tower Hamlets will allow working hours of eight to six, Monday to Friday, and that was substantiated by Mr Berryman on Day 38 at paragraph 9576, where he says: “This will be a normal daytime site.” Day 43, paragraph 11738, Mr Elvin says, “Core working hours are to be eight to six.” Mr Elvin goes on to say that movements of lorries will not take place at night. So ten hours in all per day. Also, I think there was an undertaking given to the schools that the hours would be further restricted because of the neighbouring schools. So we can assume ten hours at best. A lorry movement is two journeys—one arriving, one leaving. The point was made by Mr Elvin that the lorries will follow a circular route, but this is actually irrelevant to those around the shaft site—they will be affected by both the arrival and departure. They will experience an arrival or departure of the lorries every nine minutes for the peak period of construction. If my maths serve me right that is ten hours, divided by 60 to give the minutes, divided by 64, which is the number of journeys, which equals nine. During the space between those nine minutes the lorries have to be unloaded and loaded. Is that possible? Otherwise, even if you assume that the traffic routes are circular it still equates to one every 18 minutes.

18609. Please also bear in mind that although the point was disregarded by Mr Elvin in his summing up there will be future oversight development and that will extend the construction activity. Please also bear

in mind that none of these estimates take into account construction delays—and I have never seen a building project that does not have substantial construction delays. So we do not think that the problems have been overstated, we think they have been understated by the Promoter and that the Committee has made its decision on incorrect evidence supplied by the Promoter.

18610. So is the situation any less difficult at Woodseer Street? Day 39, paragraph 9881, counsel: “Traffic management is acknowledged to be an advantage of the Woodseer Street site?” and Mr Berryman answers, “Yes. I have to say it is a marginal advantage.” But it is an advantage all the same, which we would say becomes a greater advantage the more traffic movements there are; and of course the evidence presented before you understates the number of traffic movements by a huge percentage.

18611. So we now have a situation where on the new evidence Hanbury Street has greater impact in terms of noise, displacement of residents and traffic management.

18612. I will turn very briefly to the vexed issue of the listed buildings, the seven-year monitoring—which, thank you, for which you have asked the Promoter to give an undertaking—the further assessments and protective measures for some of them, the 25dcb requirement for noise insulation to Christ Church, together with the potential damage to 40 or 50 listed buildings under the Hanbury Street alignment. Day 39, paragraph 9861, counsel says to Mr Berryman: “So far as it is possible to avoid tunnelling under or close to listed buildings, that is something that the Promoter recognises it would wish to do, is it not?” and Mr Berryman says, “Yes.” So you now have greater impact at Hanbury Street: the noise, displacement of residents, traffic management of the site, and listed buildings.

18613. Turning now to the size of the site, you will recall that the Promoter provided three different options for traffic access, only one of which had lorries on site and this was shown by the Spitalfields Society to be impossible. In reply, the Promoter said that its very detailed drawings of three options still needed more work. Where is that work? No one has seen it. Is it possible? So is Woodseer Street any easier? Day 39, paragraph 9873: counsel says: “Woodseer Street, of course, is a larger site and you can see that from the guidance we have looked at. That is acknowledged to be an advantage of the site in the June 2006 report, is it not?” Mr Berryman said: “Yes.”

18614. So we now have Hanbury Street, which has a greater impact in terms of noise, disruption to residents, traffic management, site size for

²⁴ Committee Ref: A212, Tunnel Alignments East of Liverpool Street, Feasibility Study Report, Volume 2—Whitechapel Station (SCN-20070130-016).

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construction working. Not only does it have a greater impact on environmental grounds but it provides more difficult working conditions for the Promoter. This is not my argument; this is the evidence which has been given by the Promoter in the new SES combined with the previous evidence given in the summer.

18615. So why is Hanbury Street still the preferred option? The Promoter says engineering issues, but where is the evidence to support this? Two firms of eminent engineers, Arups for Tower Hamlets and Whitby Bird for the residents, did not agree with the conclusions reached by the Promoter and said that the case for Hanbury Street was not proven. I am asking the Committee to satisfy itself on proper evidence before making any final decision that the engineering difficulties are such as to prefer Hanbury Street.

18616. To summarise: the only engineering issue is the requirement, if you follow the Woodseer Street alignment, to pass under the Bishops Square building, which has deep piles. You may not need to; nothing has been produced which says that an alignment is not possible which avoids the piles of Bishops Square. On Day 38, counsel for Tower Hamlets asked Mr Berryman if an iteration (which I think is another drawing of the line) along those lines had been done. Paragraph 9554, Mr Berryman said, "Something very similar has been carried out". Counsel said, "Have we seen it?" Mr Berryman said, "You have not seen it". You will remember that this is the one issue which Mr Berryman said had many man years devoted to it and yet they had not shared this with Tower Hamlets with whom they were in long discussion.

18617. I would ask the Committee to demand that the Promoter provides that iteration, which, after all, the Promoter says it has, to find out if that alignment works and to optimise it. Then you have no engineering difficulty at all and a better site on all the grounds referred to above.

18618. Let us assume that that iteration does show that an operational curve is not possible and you still have to go under Bishops Square. So what? On Day 38 Dr Bowers, who is an expert on the Channel Tunnel Rail Link project, said that it is possible that the tunnels would need to go deeper, but that they had seen no evidence, and even if it was necessary it might be the case anywhere along the line, depending on the ground conditions. So the perceived problem is not particular to this area, and that even if this did prove necessary, as Dr Bowers said in paragraph 9347, "Both construction and noise mitigation would clearly be possible using well-established tunnelling and railway noise mitigation technologies. This arrangement is well within the bounds of past construction experience on other tunnelling schemes".

18619. We would say that the Promoter is going to have to do that all along the line; it never knows where it is going to actually come across pile buildings. So the engineering difficulty may not be there at all and, even if it is, it appears to have been grossly overstated.

18620. Indeed, I believe that none of the arguments raised by the Promoter to prefer Hanbury Street hold any water. Yesterday I received by courier minutes of a meeting in which Simon Bennett of the Promoter, in answer to why Hanbury Street was preferred over Woodseer Street, stated: "Crossrail had looked at other sites but found they were worse. The process, evidenced in the SES, boiled down to Hanbury Street and one alternative site. There were issues, including the alignment of the route and demolition. In committee the Select Committee agreed it is the least worse option. Some further work has been done on Woodseer Street, but most impacts are similar. Woodseer Street is worse in terms of noise impacts and has an extant planning permission for development". No, Woodseer Street is not worse in terms of noise impact, and why is the Promoter giving weight in its decision to a planning permission that has been made? Is not the disruption and rehousing of existing residents and businesses a more important factor than a planning permission having been granted for a small, building off the Woodseer site? It seems extremely odd.

18621. I am simply asking the Committee to be sure that its decision has been reached on the correct evidence and to require further evidence to be sure that all alignments have been properly considered. I am not saying the shaft should be at Woodseer Street but I do say that it is clear that the case for Hanbury Street has not been proven given the new evidence. I would like the Committee to ask itself: if there were no engineering issues, which site would be better? Are there any engineering difficulties? If there are, are they unusual in such a project? Can they be mitigated? We say, "Of course", and these measures will be necessary all along the line at various points. Most importantly, why has that analysis not been carried out for the southern alignments? How can a decision be taken without all the proper evidence?

18622. Sir, I would ask for some undertakings. What I would ask is that the Committee simply to obtain the further evidence and consider what I have been saying. The first one is to ask the Promoter for the iteration that shows the alignment to Woodseer Street which misses the piling of Bishops Square and optimise it, so it does not simply produce an alignment, which it has done in the past, which it knows will not work. You will recall that Dr Bowers did say that it was possible. I would like that we be given an opportunity to analyse it with our experts

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and make representations, just in the way that Tower Hamlets have had to ask for further information in order to show that the noise assessments produced by the Promoter were wrong.

18623. If no acceptable horizontal alignment can be achieved to Woodseer Street, I am asking that the Promoter produces evidence to substantiate the problems it says will arise at Bishops Square and to prove that these problems are not problems that it may encounter elsewhere, and that mitigation would be so difficult as to outweigh the environmental concerns which are higher at Hanbury Street, and that we be given the opportunity to analyse them.

18624. I will not dwell on any undertakings required to assess other alignments so as not to repeat what other people may say or have said, but the overriding issue must be the legal requirement to give proper consideration to all alternatives to find the optimum solution, and we say that it is clear that this has not been done by the Promoter.

18625. If, notwithstanding that, your view is still that Hanbury Street is the better site, then we ask for the following undertakings and, firstly, no demolition of Britannia House. Britannia House is a very big building which the Promoter says it is not going to demolish and which provides the big noise shield. So we ask for a guarantee, in terms of an undertaking, that that will not be demolished. We would also ask that the Promoter does not acquire Britannia House other than as a very temporary measure, because it seems to us to stand to reason that it may well try to buy it and, subsequently, it will sell it on for redevelopment, or it will redevelop it itself. That is a huge building to demolish, and the subsequent consequences of that redevelopment will be very difficult for the community. I accept fully that there is nothing to stop the current owner from pulling it down and demolishing it, but it is an operational building at the moment and that is extremely unlikely to happen.

18626. We would also ask for an undertaking that the properties at 61, 63 and 65 Princelet Street, which also provide a noise barrier, are not demolished. We would ask for the highest form of noise mitigation; we would ask for no on-street loading or unloading; constant supervision of traffic to ensure the safety of pedestrians; no floodlighting in hours of darkness; best environmental protection from dust and pollution including the enclosure of the site and sheeting of all lorries, speed restriction on all lorries, no queuing to access the site by traffic; no wheelwashing; no construction activity before 8pm or after 6pm, other than below ground tunnelling; no access at all to the site before 7am and no access by lorries before 8am or after 6pm weekdays; no weekend working or deliveries, and compensation for loss of revenue suffered by the commercial properties.

18627. I would ask for those undertakings whether at Hanbury Street, Woodseer Street or anywhere else. I would like also to repeat the undertaking requested by Mr Wheeler in relation to settlement assessments and on the damage and vibration, which I will ask for for all members of the Society, later in my personal Petition. Thank you very much for listening to me.

18628. **Mr Elvin:** Sir, it is slightly difficult to know where to start. Ms Jones, who is a professional lawyer, to the best of my recollection, specialising in development matters (and she will tell me if I have got that wrong) ought to know better than the gross misrepresentation of the evidence which she has just presented. I will give you one example: the selected reference to one lorry per day, which she picked out of one paragraph, was in the context of a question which was asking Mr Berryman how many of the very largest lorries would be used, to which that was the answer. He said that the majority of the lorries that would be coming to Hanbury Street would be of the smaller, flatbed sort and the like, and I am sure the Committee can check that by looking at the paragraphs that is referred to.

18629. As for the suggestion that the issues of the alignment and the comparative assessment is a retrofit, this is a complete rerun of Ms Jones' arguments which did not satisfy the Committee last time. You will find those arguments set out in her presentation to you and the presentation on behalf of some of the residents by Mr Philpott, who presented submissions to you on Day 39, and Ms Jones presented her material to you on Day 41. This is a complete rerun of the alignments. You will know from what Mr Berryman told you—and I will give you some references, Day 38, paragraph 9508 to 9512 and also 9520 to 9521—that considerable attention had been given to refining the sites for the shaft. In fact, what Ms Jones has just forgotten to do is to read the Environmental Statement. Chapter Six of the first Supplementary Environmental Statement, which was published in May 2005, which we mentioned and went through on numerous occasions last time, sets out the different sites that were considered for the shafts. I think there were eight. I am not going to put them up now but there were a considerable number of sites.

18630. Woodseer Street over Hanbury Street, you were told by Mr Berryman, and Mr Thornley-Taylor that in general terms the noise impacts would come out fairly similar, but the decision was not made on noise impacts, in fact it was made because of the engineering difficulties. The alignments were of course considered and indeed co-Petitioners of Ms Jones have been demanding additional historic reports on the alignment, and I have got about six inches worth of reports that have been asked for and provided over the course of the last week, which

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show, as Mr Berryman said, there have been many man hours over five or six years refining the alignments. He gave you a summary of this; it is summarised in SES3. The fact is the alignments were looked at and the alignment was chosen; it was not retrofitted. The original alignment, in fact, was further south than the current one and would have put a ventilation shaft in the middle of Princelet Street, for the record, and it was changed partly to deal with that and partly to move further away from Christ Church Spitalfields, which is an obvious point of sensitivity as a Grade I listed building.

18631. These issues have been looked at; they are summarised quite properly in the Environmental Statement, as Ms Jones well knows, wearing her professional hat, the Environmental Statement has to set out the likely effects and give a summary of the alternatives which were studied. It is the tip of the iceberg, as we made clear to the Committee last time, and the Committee based its decision on the position which accurately reflected the comparison. The decision Hanbury versus Woodseer Street was based on engineering considerations which are set out in the evidence.

18632. I can call Mr Berryman if the Committee wishes to be reminded of those matters, but they are in the evidence for the Committee to see. Sir, this is simply, of all the Petitions you have heard today, the one which is most clearly an attempt to rerun an issue which the Committee has already decided.

18633. The position in SES3 is not in favour of Hanbury Street. I have already shown you the differences this morning between the corrected SES3 text and the earlier one; what it shows is instead of being marginally in favour of Hanbury Street in noise terms it is marginally in favour of Woodseer Street in noise terms. As it happens, the noise impacts now, now that the mitigation has been worked on further in the SES, are expected to be far less harmful than they were originally thought in the original Environmental Statement. The numbers have gone down. The fact that the anomalies exist as Ms Jones thinks is because, in fact, mitigation measures that are now being looked at mean that noise impacts are probably going to be much reduced. That said, I do not seek to reopen the issues at Princelet Street, and those circumstances the Committee has already dealt with. We will take those as they stand. The fact is that the matters have been looked at, the decision is still clearly in favour of Hanbury Street over Woodseer Street on engineering grounds, and that is made clear in SES3. That represents the position you were told in evidence over two weeks last year. So the SES3 does not represent a change of position.

18634. Indeed, it supports the fact that (a) alternatives were looked at, (b) alternative alignments were looked at, and (c) the balance came down, for engineering reasons, in favour of Hanbury Street. That is what you were told in June and that is what the SES says, if it is read fairly and individual parts are not simply plucked out in isolation. So, sir, in my respectful submission, the Committee should resist the temptation to reopen this issue.

18635. **Ms Jones:** I am very happy for you to look through all of those references and to look back through the evidence which was given and to make your own minds up whether I have correctly represented it, but it seems to me very clear that, on all the environmental grounds stated by the Promoter, Hanbury Street cannot be seen to be the preferred option. I appreciate that Mr Elvin has said that the decision was made on engineering grounds, but there is no evidence whatsoever to support the fact that there are those engineering problems and that they should outweigh a site which has less impact on environmental grounds, so I would ask you to look at that aspect again.

18636. Mr Elvin says that a number of different shaft sites were looked at. If you were to look at the shaft sites which were originally proposed by Crossrail, of which I think there were eight, remembering that at the time this was for tunnelling intervention so you would have had a sort of Thunderbird Island-type affair in the middle of a residential area, if you looked at those sites, you would laugh at them, they were tiny. There is absolutely no way you could get any shaft site, let alone any intervention site, in those areas.

18637. The last thing is that the alignments which were proposed, we say that the Promoter deliberately looked at another alignment and you would actually fall off the trains, I think, as Mr Berryman said, because there was such a substantial curve. We say that the Promoter made no attempt, no proper attempt and that they thought, because we did not have engineers, that we would not be able to tell if they had not optimised that curve, and I would ask again, because the Promoter says that it does have that iteration that it did to try and avoid Bishops Square, that it produces that and optimises it.

18638. **Chairman:** Thank you very much. Mr Elvin, I think we will conclude there. All I can say to you, Ms Jones, is that we will consider all of your views which you have put forward and the evidence presented and in due course we will let you know the findings of that.

18639. **Ms Jones:** Thank you, and I will give the composite list of the undertakings to you.

18640. **Chairman:** Thank you. We move to the next Petition which is that of John and Sandra Critchley.

The Petition of Mr John Critchley and Mrs Sandra Critchley.

The Petitioners appeared in person.

18641. **Chairman:** Mrs Critchley, you have appeared before the Select Committee before?

18642. **Mrs Critchley:** Yes, I have.

18643. **Chairman:** Welcome back.

18644. **Mrs Critchley:** Thank you. I will not take up much of your time.

18645. **Chairman:** Before you begin, I would like to ask Mr Mould just to summarise what the case is about.

18646. **Mr Mould:** Again we are taking our lead from Mrs Cove's helpful letter and I gather that Mrs Critchley is going to focus on residential impacts.

18647. **Mrs Critchley:** Yes, that is true. I am petitioning jointly with my husband John, as you have heard. Our house at 14 Wilkes Street is historic. It was built in 1724 for Huguenot silk-weavers, but, through some lack of foresight in the past, it is not listed as Grade II. It is fragile and creaking and we want cast-iron guarantees from the Promoter that there will be no damage to our property arising from the construction, or operation, of Crossrail and that, if there is, it will be fully made good with no stress or hassle involving us.

18648. We and the Committee were told by counsel for the Promoter when we appeared at the previous session that a full assessment had been made of our property. This statement turned out not to be true. We were telephoned by a member of their office several days later to say that that was not true and we feel that that statement was clearly designed to fob us off and to reassure the Committee on our behalf.

18649. We are still worried about the noise from construction and from the running of the trains. We have been told that it will be very low level, but why should we be subjected to any noise at all? Why should we have to hear anything? When we moved to Spitalfields ten years ago, there was no noise from trains and there is none now. Why should we be subjected to stress from trains passing underneath every two minutes?

18650. It is clear that Crossrail have not a clue how our 300-year-old buildings will react to the construction of the tunnel below or how the settlement and vibration will affect the fabric of our homes. Why have they not carried out internal inspections already? Perhaps they do not want to know the inconvenient truth about the risk of collapse and damage. To reiterate what was said earlier by Ms Jones, it would be wonderful if the Committee should decide to come and have a look inside some of our buildings, especially 19 Princelet Street which is the Museum of Immigration. They are all very different inside, reflecting the different uses to which they were put in the 19th and early 20th

Centuries, but they are all rickety and crooked, the timbers which support them are old and weak and the mortar is powdery. The historic houses of Spitalfields are a unique collection of early Georgian buildings and there is nothing else like them in London. In its evidence to the Committee, Crossrail has wilfully understated the fragile and vulnerable nature of these buildings. As you have heard from Ms Jones, much of the evidence put before the Committee, and upon which it based its interim report, may have been erroneous.

18651. We feel as if our serious concerns have been treated with contempt and levity by Crossrail. If it goes ahead, we want the effect of Crossrail on our lives to be negligible. In other words, we want to be where we would be if it had not taken place, with no regular noise, no settlement, no vibration and no damage to our buildings.

18652. We would ask Crossrail to look again seriously at the route and move it away from our historic buildings and, if the route is not changed, to provide stronger guarantees to make good any damage to all buildings and we would like full inspections of ours and other historic houses to take place and we ask the Committee to protect our interests and ensure that our lives are not blighted by the Crossrail experience. That is all I want to say.

18653. **Chairman:** Thank you. Mr Mould?

18654. **Mr Mould:** Sir, as you have heard, these Petitioners, I think, did place their concerns about the impact of the Crossrail works upon their property before the Committee when it was sitting last summer and, as I understand it, they raised those two concerns which have just been reiterated, that is to say, the effects of groundborne noise and concerns about possible settlement impact, this being a property, number 14 Wilkes Street, which, as I understand it, lies over the running tunnels of the route.

18655. Indeed Mr Elvin has very kindly reminded me that we made our submissions in response to those concerns on Day 39 at paragraphs 10087 through to 10092, so I will not repeat those points. I shall simply say this: that I am not aware that information given about the assessment process as it applies to 14 Wilkes Street was in any way inaccurate, so I do not accept that we misled the Committee, as has been suggested. My understanding then and my understanding now is that an appropriate assessment of this property was carried out in accordance with the settlement process that we reminded you of earlier.

18656. As regards groundborne noise, I will not trouble the Committee with the assessment process and the design process in relation to that aspect as the Committee has had a great deal of evidence on that topic and will remind itself of that evidence in due course when it comes to writing its report.

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18657. **Chairman:** Thank you, Mr Mould. Just taking up the issue, Mr and Mrs Critchley have properly petitioned again on noise and the assessment criteria. Whether or not they have repeated the argument is quite another matter. Because we are unsure about this, I wonder whether we can give an undertaking that we will go back and deal with it if we have not already, because we are not quite sure, deal with the full assessment and see, on the noise mitigation side, whether that has actually been covered in any report which has been produced.

18658. **Mr Mould:** I am sorry, I may not have made myself clear. I do not accept that there has been any failure in terms of assessment either in terms of noise or settlement in relation to this property. I am certainly taking steps now just to check what the position is in relation to settlement assessment and I will let you know if anything material arises from that, I hope, before the end of the day.

18659. **Chairman:** We would want that in relation to making any decision on it.

18660. **Mr Mould:** Of course, I understand that, and I will make sure that anything material in relation to that is relayed to you. I certainly do not accept that there is any need for anything further to be said to the Committee in relation to noise.

18661. **Chairman:** The reason why I raised it is because they have come back to petition again because they have been very, very unhappy with what they thought was the guarantees which they thought they had been given and then found those to be unsatisfactory. It is legitimate because everybody has the right to re-petition.

18662. **Mr Mould:** Well, I will not go into that, but I understand why they are here. Sir, I just must remind you, and Mr Elvin again has kindly highlighted the passage, that in paragraph 10090 I informed the Committee that the prediction in relation to the Petitioners' property as regards groundborne noise, located, as it is, just to the north of the eastbound running tunnel at Wilkes Street, is that the groundborne noise would be less than 30dB(A)LAmax and I mentioned the relationship between the noise predictions and the design criterion which Mr Thornley-Taylor has explained to the Committee, and of course I was

there comparing that with the design criterion of 40dB(A)LAmax which Mr Elvin has mentioned again to you during the course of his submissions this morning, so I need not say any more about that; the comparative predictions and the design criterion and the relationship between the two is self-explanatory.

18663. **Chairman:** Would you give a check on that settlement issue?

18664. **Mr Mould:** Of course, we will do that.

18665. **Chairman:** Mrs Critchley, do you want to come back?

18666. **Mrs Critchley:** No, I think your questions have satisfied us, Chairman, thank you.

18667. **Chairman:** Our next Petitioner is Mr Roy Adams.

18668. **Ms Jones:** I am afraid he has had to go, so he will try and rearrange for tomorrow morning.

18669. **Chairman:** Mr Elvin, has there been any liaison in respect of someone disappearing from the list? Mr Adams has had to leave.

18670. **Mr Elvin:** I was entirely unaware of that. No one has mentioned anything to us.

18671. **Ms Jones:** He probably did not know that he needed to inform you. He had to rush off to another meeting.

18672. **Chairman:** Yes, I understand that and we will get in touch with Mr Adams, but I have to say that this is a very arduous process, a very long process and it is a very time-consuming process in terms of not only for the Members, but also the House, so to reschedule things, we really do need to know if anybody is going to depart and leave us without time, and we may lose time today because of that. As I say, it is a very expensive thing on the public purse, so we will be in touch with Mr Adams and perhaps try and rearrange it, but perhaps you could pass on to him our disquiet at his departure.

18673. We will move now to the final case today which is the case of the Spitalfields Small Business Association and Ms Kay Jordan.

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Ms Kay Jordan appeared on behalf of Spitalfields Small Business Association.

18674. **Mr Mould:** Whilst Ms Jordan is coming up to the table, might I just deal with that outstanding point which you asked me to clarify. What I wanted to do was double-check that what I had told you in paragraph 10087 was accurate. What I said there was that the results of the settlement assessment process, as regards the property of the previous Petitioners at 14 Wilkes Street, had indicated that there would be negligible effects from the tunnelling works beneath their property and in the light of that no further assessment was proposed. I am told that was an accurate statement of the position and so that is the evidence we thought we would give to you in relation to that.

18675. **Chairman:** I am grateful for that. If the Committee can have a note on both of those two things so that we may pass that on for the comfort of those Petitioners who raised those points. Mr Elvin?

18676. **Mr Elvin:** As I understand it, Ms Jordan will be dealing with the small business interests in the proposed route. I will repeat again, as I have said already on a number of occasions today, the alignment issues were looked at in considerable detail in June and indeed Ms Jordan raised these issues then.

18677. **Chairman:** Ms Jordan?

18678. **Ms Jordon:** I will be considering small businesses because that is who I represent. The SSBA is a social enterprise which has tenants who own small businesses with well over 100 tenant members now, and we also represent small business interests in the Brick Lane and Whitechapel area. It is in the context of our concerns that whilst we are appreciative of the fact that we have not got the Pedley Street spoil in the area, we still feel that the size of the shaft which is proposed at Hanbury Street and the works that are proposed at the Whitechapel Station will have a dramatic impact on the economic life of our area. We are exceedingly concerned about it because Crossrail appears to think that the only thing that matters in our economy is Brick Lane and this is not true. It is in that context that I am talking. Otherwise, I am talking about our Petition, and our Petition was specific in its content about why we felt that the revisions on the Whitechapel Station were not necessary, and why we felt that the route alignments through the SES3 had not been covered. That is what I want to talk about, not a line in general but those specific things.

18679. I have complicated things for myself because in rushing out this morning, having slept in, whilst I brought the drawings and I numbered them up, the documents that I am referring to, which I had carefully reduced in size in order to give to you, I have gone and left in my house. I have no solution other than to pass it around. I do have some notes

that can refer to them. I am referring to the drawings so there is not a lot here, but I did provide the documents behind those.

18680. **Chairman:** First of all, the documents you gave us is marked A208 for the record. What we will do to try and help is we will get them on the overhead projector.

18681. **Ms Jordon:** Thank you. If I can reiterate again, what I want to do is explain why we petitioned against the AP3 and the accompanying Environmental Statement by showing you what we think is wrong with those proposals and giving you proof of why we think they are wrong, then telling you what we want you to do to rectify those errors. As I said, our Petition is very specific. It had two fundamental points: one about Whitechapel Station and one about the route alignment. If I deal with the smaller one first, which is the Whitechapel Station. Our feeling was that the changes that were going to happen at Whitechapel did not improve things at all, we were not happy with them and we are not happy with the extent of the works on Whitechapel Station, but what had been offered was not sufficient or adequate. We felt that the location of Whitechapel Station, the associated works, the effect on our business community, the blocking of roads and the disruption of the change which is going to happen were based not on the interests of railways and positions of stations but really the interests of real estate and other things. In fact, in order to try and demonstrate that I have brought the architect's original tunnel alignment east of Liverpool Street document for the studies done on the Whitechapel Station. I have only got one copy of this. Like all architects, it has no numbers on the pages or anything else so it is very difficult to refer to.

18682. **Chairman:** For the record that is A212.

18683. **Ms Jordon:** That report was done as a supplementary of the MacDonald report done in February 2002 when it started to look at the route alignments and everything else. Why I have pulled this out, although it is true lots of changes have happened over the period and I know what we are dealing with now, strangely enough, the original scheme chosen out of their options, the Western Williams options, I think they looked at five or six or even seven different options for stations but all were on the same route alignment but there were different entrances and exists and whatever. In fact, in coming up with what they have proposed, this picture probably shows you, when the option went from seven to three and then on the three option, the third option that they chose, we were told that one of the reasons for it was that the existing station building could be sold for commercial development following the completion of the project.

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18684. More interestingly, the advantage of this option, and this is demonstrated here, which is almost back to the amended option which has gone through the Committee, it said that the advantage of this option is further advantages that the possibility of a high quality development above the new station. There is an elevation drawing at the back of this which shows a nice large block which goes from Whitechapel across the station.²⁵

18685. **Mr Elvin:** If Ms Jordan would allow me to interpose. Can I make it clear that whatever the position was in the earlier reports in 2001 and 2002, there are no proposals at Whitechapel for oversite development. The real estate issue, the possibility of expensive new development over the top, no longer exists at Whitechapel. That has gone many years ago.

18686. **Ms Jordon:** That is true, Mr Elvin, and although I have not got my report with me, I believe somewhere in one of the reports I read there was a question of retaining air rights above the station in order to be able to sell it on and get development after the proposal and this would help with the regeneration of our area. I do believe now that your proposal, which you did finally bring back to the Committee, did not show a development. I am trying to say that in the initial stages and where the station is now, its location, the modifications that are being proposed were chosen around development proposals as well. We feel that there were other more satisfactory arrangements. If you go to the MacDonald report of 2002 and if you look at the tag at the back which says the platform position on page 70 of that report, these were the conclusions that were drawn at the end of that on the various options.²⁶ This was one of the statements made, whilst we have chosen option three, which is where the station is at the moment, in the Whitechapel Station conclusions they drew, in overall terms therefore a feasible station out at Whitechapel was deferred to mentioning construction terms as feasible but the following broad issues require further consideration. “The possibility of aligning the new station with the District Line was considered and constrained by the alignment to the West”, which is quite true. The line coming in from the Hanbury Street shaft severely constrains where they hit Whitechapel. “However, this offers significant advantage aligning itself with District Lines and could be further reviewed.” In fact, there are significant advantages in the position of the Whitechapel Station were they to be aligned with the District Line running parallel with Whitechapel, but because of the constraints of the line coming in from the Hanbury Street shaft it makes this not possible. We feel that have we to suffer a station at Whitechapel, it is in the wrong spot, the works are wrongly defined. There are sites on the other side where the post

office is moving out, that if it were aligned with Whitechapel all of these works could go on without causing disruption to the school, to our supermarkets, and businesses which all exist on the other northern side of the road. This was a smaller issue I wanted to refer you to with Whitechapel but was one of the reasons why we petitioned because we still feel that Whitechapel is wrong and just tinkering about with a little road and giving the school a little more comfort is not the way to do it and the alignment should be looked at.

18687. It was with the alignment that we really wanted to concentrate on and why we petitioned because when it came to the alignment, when we read the SES3 and saw that during the hearings the Committee had asked Crossrail and Crossrail had undertaken to look again at the relative merits of the tunnel alignment and associated shaft south of Hanbury Street and in particular an alignment that maximises the potential to run beneath existing major roads, for example Whitechapel High Street, and for those to be examined, we were very pleased and we thought common sense might prevail. Of course when SES3 came out we were not too happy about it because we thought, well, really have they looked at other alignments? Are these other alignments real? If I can have up what is my plan up marked one which is simply a blown-up extract of a Crossrail plan.²⁷ This is the plan of a drawing that Crossrail have come up with in saying that they have looked and done what the Committee said and looked at more southerly alignments, not quite running down Whitechapel but I think this one does hit Whitechapel and several of the others do too.

18688. I choose this because this seems to be the one that they have gone with on another plan and this seems to be the one that they favour. Here you can see that there are four options marked for where the vent shafts might be. In fact, having found this I thought, fantastic! Then I looked at the documentation that went with this to give an analysis of these lines but I could not find anything, and in fact yesterday I had confirmation from Crossrail that in fact there were no reports, that this is simply a diagram of southerly route alignments, which, okay, is fair enough, but even I—even I, as somebody who was brought up in the days when railways went in straight lines—can see that this is not a very good route for a railway. As you can see, one feels one can be quite sick being on these trains, I am sure, because there are curves and whatever, and clearly it does not work—it does not work. Apart from hitting probably every building in the district or every proposed development site in the district that might have piles on it, which they seem to have maximum points on, it does nothing else; and it certainly does not work as a railway route. So clearly I am not surprised that they are saying that these are not

²⁵ Committee Ref: A212, Whitechapel Station Conclusions, Mott MacDonald Report 2002 (SCN-20070130-017).

²⁶ Committee Ref: A212, Crossrail—Alternative Alignments (SCN-20070130-018).

²⁷ Committee Ref: A212, Hanbury Street Shaft—Alignment Options (with local buildings marked) (SCN-20070130-019).

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favourable options, although there is absolutely no analysis other than what is drawn on this drawing, and a few comments which in fact are in the AP3. It does tell us that these lines do not meet any of their standards and there are four potential shaft sites and all of these shaft sites are going to affect the Canon Barnett Primary School and the Whitechapel Art Gallery and the East London College and Toynbee Theatre and the Metropolitan Authority. In fact, the results of those holes are such that significant construction noise impacts will be on the residential properties around it, as well as those properties. I am quite surprised that the significant noise impacts that will come from these holes are not deemed to be coming from our Hanbury Street hole or the holes on the construction sites around the secondary school. I can only assume that our kids, by the time they get to secondary school will have such bad hearing because of all the land noise that they are not going to be disturbed. I feel that they are quite right, there are terrible noise impacts on residential properties, as there will be in Hanbury Street and certainly as there will be at the secondary school, which their work sites are next to, which concerns us greatly because you have to understand that the majority of my members, who are in fact from black and ethnic minority communities—even though I am not—have children who go to these schools. So not only are they concerned about their businesses but they are concerned about their livelihood, their children's health and their education.

18689. So having thought that this is not a very good southerly route, and there seems to be no analysis, and when I read the bits that are in this SES3 I thought they looked very familiar. So I went back through the records—I thought I would have a look at what southerly routes had been looked at—and I went back to June 2004. If I could have my plan 2, please?²⁸ You will see that this is less curvy, closer together—in fact following a very similar route to those very curvy ones but they are closer together. In fact there are not shown to be a great deal of pile drawings on the western side of the building, and they certainly do not go through Cutlers Gardens, which we are told in the analysis of this one . . . This was done, if I can explain, for a report in June 2004 when the community and I think in fact Spitalfields Society and Tower Hamlets asked Crossrail to look at other alignments and other hole positions, and this was produced as a part of a report that in fact was settled around looking at the Woodseer Street site. But this was the only southerly alignment that I could find that Crossrail had produced, and in their analysis of the route on the south, which they call Option D, they told us—if I could just read this—“ . . . that the tunnels immediately east of Liverpool Street Station are directly southwest behind Cutlers Gardens and heading northeast to Whitechapel Station. A new shaft position is required between

Liverpool Street Station and Whitechapel Station. The location of the shaft is defined by the specification of the intervention points being spaced at distances of a maximum of 1000 metres to satisfy the London Fire Brigade and Her Majesty's Inspectorate. The adjacent intervention points are located at the ends of the station.” So in fact the ventilation shaft here is shown—and it is very difficult on this map—and it is at Osborne Street, I think. “Therefore, a new shaft must be positioned between Aldgate East Station and the electricity sub-station off Gunthorpe Street, with the ideal location in the grounds of the East London College, Toynbee Theatre, Canon Barnett Primary School and the demolition of buildings would be required.”

18690. So it seemed to me, when I looked at this drawing, that this was not actually very different—in fact, it was the same thing that had been produced under the SES3, this latest Supplementary Environmental Statement. So it seemed to me that in fact no analysis had been done at all. In fact, the Committee had instructed them to look at new southerly alignments but what they have done is produced the alignments that they had looked at before, which did not seem right to me. The routes that they have produced are not a genuine assessment of where lines can be going on a southerly alignment. These were ways of eliminating looking at anything south.

18691. So then I went back and I thought okay, okay, maybe there should be something else because they told me that the advantage of this alignment, alignment D, as they say it is, is that the tight horizontal alignment curvature at the eastern end of Liverpool Street Station is avoided, i.e. the sub-standard curves coming out of Liverpool Street on the Hanbury Street route are actually avoided on the southerly route. But its disadvantage is that between Cutlers Gardens and the Swiss Re Tower there is significant development, which will obstruct the tunnel drives to a depth below ground levels of around 20 metres to 25 metres for all the tunnels. So according to this, there are not that many developments. We are told that Cutlers Gardens is a problem and it has 25 metre foundations, yet even yesterday when I asked them could I have the details of what the Cutlers Gardens foundations were we are told that their estimated level is 25 metres. They have no evidence. Nobody seems to have any evidence; the City Corporation cannot even let you get near their records to find any evidence, and, to boot, I hear that in fact the City are now talking about redeveloping Cutlers Gardens, but we cannot find what the levels are. But this line certainly does not even go out of it, and it is true that it does go under developments that may have happened since then—maybe, I do not know.

²⁸ Committee Ref: A212, Tunnel Alignment— Liverpool Street Station— Alternative Alignment (SCN-20070130-020).

18692. The other thing of course, and why they never developed this as an option in terms of really looking at it as a line was the fact that the Pedley

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Street spoil site was much too far away and it was going to be much too costly and everything else. So in fact this drawing also never got further than a drawing; it never got into a detailed analysis of whether it was a viable option or not. So I thought, well, surely there must be—there must be—some more viable options. If you go to drawing 3?²⁹ I am not sure whether this was from the first analysis or the second analysis but I think that this is the second analysis, and as you can see we are back to the intermediate shaft at Osborne Street, I think. And all these red bits, which presumably are all these buildings that have developments on, these lines look as if they are running down the road, so I think this is that the drawing they came out with was running down the roads down Houndsditch, between the red blob, but then they were trying to run to Whitechapel, but of course they could not run down there because they have to get up on a level alignment to go into the Whitechapel Station position as it is now, rather than actually coming down Whitechapel Road and just tweaking the station around.

18693. So having looked at that I thought that at some stage there must be somewhere that these southerly alignments, if the station is in a better position parallel with the road, somebody must somewhere have looked at these and eliminated them for perfectly valid reasons. So I then asked for more drawings and I found references in most of these reports and I then discovered that there were references to previous materials. In fact, in the Mott MacDonald report they made reference to doing survey work; they did a paper survey of the routes that had happened on other schemes, and in fact the Tunnel Alignment East of Liverpool Street Station Crossrail Report, Mott MacDonald, which I think is the second report I gave you, first of all considers what routes had been looked at, and one finds in that report that a review of existing Crossrail eastern portal solutions, and we discover that when the authority before Crossrail, which was the Shadow Authority for Crossrail—I am sorry, I forget the name—was in place they in fact looked at three alignments: one which is what they called the A alignment, which is very much the route that the line takes now; they looked at a B alignment and a C alignment, and the Mott MacDonald Report of July 2002, which set the A alignment to the one that we are all considering now actually said that the strategic . . . If I could just look at my papers?

18694. **Chairman:** Ms Jordan, how much more on the alignment do you have?

18695. **Ms Jordon:** Not much more; I can assure you I will not be very long.

18696. **Chairman:** Because we really need—

18697. **Ms Jordon:** I just want to take you through the fact that when Mott MacDonald in 2002 set the route alignment—which in fact it is quite true that there have been many different lookings at vent shaft positions, station positions and vertical and horizontal alignments—the route itself has remained route A, with the exception, which in fact Mr Elvin made reference to earlier on, that it slightly tweaked itself north and it moved going through Princelet Street, to going through Hanbury Street, so it slightly lifted itself. But that route alignment has been there since 2002 and no other southerly route has ever been considered at all by Crossrail. And the people who considered it were whoever the body was before Crossrail.

18698. In fact, in doing that the three route alignments they looked at were A, B and C. Can we go to drawing number four, please?³⁰ These were in fact the three route alignments that were looked at. The red one is the northerly one called A, which everything has been around since 2002—all the assessments have been around A. Route B goes to Whitechapel and route C ignores Whitechapel and goes south. All three lines go up to Bow Common and, at this stage, there was no consideration of a leg down to Canary Wharf. I will not go down route C but I will just look at A and B.

18699. A and B were two valid route alignments that were looked at in that 2001 report, which was then passed on to MacDonald's and MacDonald's reviewed, and because of the results of the 2001 report they said: "B and C, we are not going down; we will stick with route A". In fact, route B was considered to be possible. It had the same speed as route A, it did not have this funny twist at the end at Liverpool Street Station, so there is no problem. One of its problems was the fact that there was a major development coming up called the Heron Tower.

18700. If you could go to plan 5.³¹ This shows alignment A and alignment B. Alignment A is the one that predates the one that Mr Elvin was talking about and it goes down Princelet Street, not Hanbury Street, but you can see the Hanbury Street shaft marked at the end. The southern route is route B, and you can see the box at the end which is the station box. It has been swung round.

18701. This is a composite drawing.³² We have transposed the line B on to the drawing of line A, which was the one which was the chosen route. Line B, which is shown there, was dismissed because it was concerned about the Heron Tower,

³⁰ Committee Ref: A212, Liverpool Street Station—Alternative Alignments A and B (SCN-20070130-022).

³¹ Committee Ref: A212, Liverpool Street Station—Composite drawing of Alternative Alignments (SCN-20070130-023).

³² Committee Ref: A212, Eastern Portal—Pudding Mill Lane option—alignments (SCN-20070130-024).

²⁹ Committee Ref: A212, Tunnel Alignment— Liverpool Street Station— Alternative Alignments A, B and C and existing alignment, Mott MacDonald (SCN-20070130-021).

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which is the building on the lower left-hand side of the drawing, which you can maybe see just outside Liverpool Street, which was going to be a 50-storey development. The other reason that it was concerned about it and they dismissed it was because it did go under—this line is the one that does go under Cutlers Gardens, that they are all going on about—this one does go under Cutlers Gardens, but at that time they felt that the whole of Cutlers Gardens was, in fact, piled. Now they are admitting that the southern half of Cutlers Gardens is not piled because it is a listed building and it was before piles were invented.

18702. So you can see the southerly alignment is possible from Liverpool Street to Whitechapel almost going down Whitechapel Road, as the Committee said, and it does not have three swings and a roundabout on it; it is almost in a straight line. It is a viable route, but it has never, ever been considered because that development by Liverpool Street Station, which in fact did not have planning permission—that 50-storey tower block—until July 2002, whereas this report was February 2002. It was decided that it would avoid all this and we would take route A. We have taken route A ever since.

18703. What I am trying to say to the Committee—I know it is terrible—is that there is a perfectly viable southerly alignment, that in fact the people before Crossrail came up with. It is not severely obstructed with buildings. If you can get the Jubilee Line between Big Ben and Portcullis House, you can certainly get these lines through and along Whitechapel to a Whitechapel Station position that would be far better for everybody concerned, including the station.

18704. These lines have never been looked at. There has never been any analysis done by Crossrail at all of any southern alignment, and that is what we are saying to you; we agree with you, we were exceedingly pleased when you asked them to consider this. We think that what they have done in coming up with a diagram, with no report behind it whatsoever, is an absolute snub, not just to you but to us as well. We feel that this analysis should be done properly; it should be looked at because it could be a lot better for them, but they are not prepared to do it. The only way that we can get them to do it is to ask you to ask them to do it. I have drawn on here, you can see, halfway along the line, off Whitechapel Road, there is a building, which is called Black Lion House, I think. It is a government building—even better—they might pay you some money for it. There could be site access from it. I am sure there are lots of options along here, but what we are saying is the southerly alignments have never been looked at, ever, and we think that they should be looked at before you decide that what they are proposing is good for us. That is what we are really asking you to do. In fact, if I just show you my next drawings—

18705. **Chairman:** Are there many more drawings?

18706. **Ms Jordon:** Two more. This is just to show you that, in fact, it is not a figment of one's imagination. Seven.³³ This I will show to you. This was the first ever southerly route considered and it was considered by the other people that sat in your position. It was considered by Crossrail when it was being considered in 1994 and, believe it or not, I, too, was there then. When we were having a portal in Allen Gardens, the Committee did go back and have a look at taking a tunnel further out and not coming out at Allen Gardens. This route was dismissed because it was felt it was too expensive, too time-consuming and it was suggested that the portal be in Allen Gardens. I will say to you that the red line on this drawing was done in 1994 and, in fact, is route B alignment, as near as dammit. It was suggested the location be in Green Dragon Yard. Green Dragon Yard has now got a housing development on it, but Black Lion Square has a car park and a building at the front that I am sure could be opened up and lorries got in Whitechapel Road—and none of the disruption and the absolute aggravation and the difficulties that are now facing us with this hole in Hanbury Street could be avoided.

18707. My last drawing, which is a photograph, thanks to Tower Hamlets Council and its considerations of Whitechapel—number eight.³⁴ Obviously, you must realise we are having to take one line and try and be as true as possible to this, but you can see where that red circle is, the white area is, in fact, a development that happened on Green Dragon Yard, and that was an opportunity missed, but there is a yard next door to it that is not missed, and the road, which I know is Whitechapel, this does exactly what you, the Committee, asked these people to do.

18708. I am not a railway engineer—although I am beginning to think I should join them after this exercise—but I can see opportunities; I can see from all the reports that have been done, when I really look at them and I go back, that there are southerly route alignments that are perfectly feasible, but there is no analysis done of them; there is nothing that has been brought to you to say “Having considered three or four options that are valid and looked one against the other, we feel that the route going through Hanbury Street is the best”—none of this has been done. You have been given one option and one option only, and we want you to say to Crossrail that we want these southerly routes looked at properly before you decide on destroying our community. I know you do not think it is going to do it, but we believe it will do

³³ Committee Ref: A212, Aerial photograph of the Whitechapel area with proposed Crossrail route (SCN-20070130-025).

³⁴ Crossrail Ref: P136, Supplementary Environmental Statement 3, Revised Tunnelling Strategy, Southern Alignment—Route Options, Map RTS C8(iv), billdocuments.crossrail.co.uk (LINEWD-SES3RTS-007).

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that to us; it will destroy our economy, it will destroy our homes, it will certainly destroy the kids' sleep and their opportunities at school. We do not want this to happen. There are ways of stopping it. This can be put on routes and in areas where those destructions will not happen, and we want Crossrail to do this properly.

18709. **Chairman:** Thank you very much for that gazetteer of history of Crossrail. Very, very interesting. Mr Elvin?

18710. **Mr Elvin:** I think I can be short. Firstly, the issue of alignment was not the subject of a request by the Committee. We said we would produce in the SES some additional information which we have done, and we produced the plan, just to remind you, which shows a number of possible alignments that were considered, and you will see they correspond reasonably well to a number of the historic plans that Ms Jordan has showed you.³⁵

18711. You will bear in mind, of course, one of the reasons for the alignment is not only do you have the constraints of, probably, the deep pile foundations of Cutlers Garden. I have to accept they are not measured but they are based on estimates of construction methodology, and what is known about them, but without intrusive works it is rather difficult to tell.

18712. You also have Christ Church up here, which is probably one of the most important listed buildings in East London which we have to miss as you know. So those matters have been considered. If nothing else, Ms Jordan's tour through some of the historic reports on Crossrail shows you that the alignments have been considered from a very early stage. One of the plans you were shown was a plan produced three months into the new iteration of the project in March 2001.

18713. Just to show you Mr Berryman was not talking through his hat when he told you that many man years have been spent looking at alignments. This is another section from the report which Ms Jordan has provided us, dated March 2001.³⁶ It goes with the plans which show you A, B and C. Just to show you the matter has been under active consideration for six or seven years, you see the first words are (para. 3.2): "Three alternative alignments, A, B and C, have been considered", and it goes on to deal with them. As for the Heron Tower, it may have been only a glint in the City of London's eye at the time but it is now under construction.

18714. Sir, these issues, I am afraid, have been looked at and in enormous detail. Ms Jordan has been supplied with six heavy reports which are not the full set but they show the iterations that have been looked at. The issue is as Mr Berryman described to the Committee back in June, an issue which has been looked at at great length over many years and there are practical constraints of alignments due to foundations, trying to do the best to avoid important buildings, and the like, and achieve an alignment which will allow, as you will recall, a proper interchange at Whitechapel so that it can interchange with among others the East London Line and the London Underground.

18715. Final point: so far as the original Crossrail was concerned in the early 1990s, no station was proposed at Whitechapel. There was no constraint to have to achieve an alignment that would link with Whitechapel and provide interchange services because there was no station proposed. I do not propose to say any more than that, unless the Committee requires further assistance.

18716. **Ms Jordon:** Could I just come back on that?

18717. **Chairman:** It is now back to you to sum-up.

18718. **Ms Jordon:** I will comment on those things, but the comment you have just made about the alignments B and C being considered and dismissed, in fact, that particular sheet was from a summary of previous documents having been looked at. So, in fact, it was summarising what was said not by Mott MacDonald but by the 2001 report, which predated what Mott MacDonald considered, alignments B and C were never considered by Mott MacDonald.

18719. **Mr Elvin:** I am sorry, Ms Jordan. Can I say, I am taking this from the later report which says (p. 4, section 3) "This option has been developed by the Crossrail Safeguarding Team in response to the Client Brief and alignment and a portal have been developed."

18720. **Ms Jordon:** The Crossrail safeguarding team, as I said, was the team that was operating in 2001 and predated the Mott MacDonald report which set alignment A as the line that Crossrail has consistently looked at, and never looked at either B or C because they said, in fact, because those have been dismissed we will not look at them, and so these have not been looked at at all; they were looked at in 2001 and never looked at again. There is absolutely no evidence from Crossrail's paperwork to show that they have ever considered any of those alignments. I would point out that in fact the line that was not taken off, you are right, Mr Elvin, it was not said that there should be a station at Whitechapel on the route shown on that dotted line, or considered that there could or could not be a station at Whitechapel, but it was felt that it was going to be too expensive and, therefore, not considered. However, I would still maintain that

³⁵ Crossrail Ref: P136, Supplementary Environmental Statement 3, Revised Tunnelling Strategy, Southern Alignment—Route Options, Map RTS C8(iv), billdocuments.crossrail.co.uk (LINEWD-SES3RTS-007).

³⁶ Crossrail Ref: P136, CrossRail Eastern Portal—Bow Triangle Option, CrossRail Tunnel Alignments between Liverpool Street and Bow Triangle (SCN-20070130-026).

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Crossrail have taken no look at any southern alignments whatsoever and what they have done, yes, they have looked at options around alignment A and alignment A only, vertical, horizontal holes and tweaking it up or down or whatever, but no other line or route options have been considered by Crossrail.

18721. **Chairman:** The point on the alignment, you have made considerable progress on that, but could you tell us if you have anything else on SES3 which concerns you in relation to the Petition?

18722. **Ms Jordon:** There are lots of things which my other colleagues have talked about in the SES and we decided, after last time when you had to listen to all of us all the time, that we would simply concentrate on one particular thing, so my colleagues have talked about other things and we endorse everything else which has been said about all the other issues and in fact I will not repeat them to you and I will just leave it at that. We have said

in a summing-up document that in fact we all endorse the points which have been made by the Society, by Jil Cove and no doubt people that will be following this.

18723. **Chairman:** Thank you very much. That concludes today's hearing. We next convene tomorrow at 10.00am.

18724. **Mr Elvin:** Sir, we have Mr Carpenter coming from the Woodseer Street and Hanbury Street Residents' Association. Is it anticipated to fit in Mr Adams, who left unexpectedly, at that time?

18725. **Chairman:** Yes.

18726. **Mr Elvin:** Could I ask that that indication be given to me because I am going to come to deal with the remainder of the Spitalfields matters tomorrow and then I am going to leave you in the capable hands of Ms Lieven and Mr Mould.

18727. **Chairman:** We will, yes.

Wednesday 31 January 2007

Before:

Mr Alan Meale, in the Chair

Mr Brian Binley
Mrs Siân C James

Kelvin Hopkins
Mrs Linda Riordan

Ordered: That Counsel and Parties be called in.

18728. **Chairman:** We begin this morning's session hearing the Petition of Jessica da Silva and others and it is presented by Roy Adams. I would like to remind people that we will suspend around 11.45 so that members may either go down to Prime Minister's Question Time to participate in that or to go to Kensington Palace Gardens where they will be photographed on *National New Today* where there are photographers there to take publicity shots.

18729. Mr Adams, before we start and I bring in Mr Mould, you very kindly stayed yesterday to petition, but you left too early. It caused a little bit of a problem because we had to bring the lawyers back today. If you are going to go off, it really is not good enough just to tell your neighbours; we need to know about it. I think we are very grateful, as a committee, that the lawyers have been willing to come back today for this Petition, so we will just now give Mr Mould that opportunity and then I will bring you in.

18730. **Mr Mould:** Sir, following on from that, we were told in Ms Cove's letter that Mr Adams was going to speak about construction methods and it may be helpful to him to just mention that yesterday we went over, I think, really all the substantial points that have been raised before in that respect back in June and, in particular, we reminded the Committee of the position in relation to noise and in relation to settlement impacts, and of course Mr Elvin made a very succinct rerun of the case in relation to alternative alignments and Woodseer Street over Hanbury Street, which of course was the subject of an interim decision by this Committee in July to which we responded in October, so it may be helpful just to set the scene in that way as I know you are keen to avoid any unnecessary repetition of the points which the Committee is now very well aware of.

18731. **Mr Adams:** Thank you, Mr Mould, for that and thank you, Chairman, for your forbearance yesterday. I do apologise for my absence which was necessary for a reason which I explained briefly, but I thought you had been properly advised and I am sorry that you were not.

18732. If I could just say by way of introduction, my representation will be relatively short and I promise not to go into too much detail. I am a Member of the Royal Town Planning Institute. For ten years I was Chief Executive of Building Design Partnership, an architect design firm, and for the last two years I

have been Director of one of the UK's largest companies and Chairman of the Ministerial Advisory Panel for the regeneration of a part of north Belfast and it was in relation to some issues around the shared future that I had to leave the meeting yesterday in preparation for a meeting with your parliamentary colleague, Mr Hanson, in about 30 minutes.

18733. **Chairman:** We will blame him!

18734. **Mr Adams:** I would rather that you did not! It is not his fault. Anyway thank you. I do not expect this very patient Committee to do other than make decisions on the evidence put before it. I believe that some of the evidence which has been put is flawed and partial and, in a previous appearance before this Committee, Chairman, I said that my experience over three decades in urban design and urban regeneration and in the implementation of capital projects led me to feel that much of the evidence put before this Committee smacked of retrofit. In other words, facts were tailored to suit an initial proposition so that it did not change rather than to help evaluate options dealing with shortcomings in the initial scheme.

18735. New facts emerging since our last appearance in this forum show in the clearest possible light that Crossrail's evidence, in my opinion, is not just retrofit, but it is now flawed retrofit and I would contend that the case for Hanbury Street is now substantially weakened. I know that you have made a decision on this, but I wish to make a few short points around the decision and particularly in the light of the impact of the decision around AP3.

18736. When we review what has happened, there were shortcomings in the community consultation, in the race impact study, in the noise impact study, in the condition survey of listed buildings and there was, in my view, a failure to disclose an iteration of a route line which showed how the foundations under Bishops Square could be avoided, for example, in a Woodseer Street option. I just find that the accumulation of these things has placed a huge priority on engineering issues and a much lesser priority on community rights. I would ask the question as to why the solution is so focused around dealing with effect rather than cause. We have heard a lot about mitigation. Every time it comes to mitigation. We even have a clause which promises to

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mitigate the mitigation if the mitigation is not enough, and I would just say that it is better to have a solution which avoids mitigation at all.

18737. Just by way of comparison about what I regard as best practice, I mentioned on the previous occasion my current involvement in a major development scheme in the city of Brighton, just one example. The process followed is being described by Brighton and Hove Council as exemplary. There is no magic to it; it simply involved widespread consultation not once, but three times and the representation in those consultations of schemes have developed and changed in response to issues and concerns raised by local people. In other words, we listened and we did something to respond to what we heard. I do not think that has happened here, except on issues of mitigation.

18738. In addition, on that very scheme in Brighton, we were being challenged, and we voluntarily accepted the challenge, to show what measures we will take to improve the health of the citizens through the implementation of the project, not simply to mitigate against health impacts because of detrimental factors.

18739. I am trying to make the point that I believe that Crossrail's approach to this project is far from exemplary. The proposal is damaging, and still is, to the people in the Spitalfields communities and this is insufficiently acknowledged.

18740. I do accept that strategically this project is extremely important for London, but not at the price we are currently being asked to pay. I believe that Mr Elvin, in his words yesterday at ten to eleven, said that the choice of Hanbury Street over Woodseer Street did not turn on environmental issues, but was made on engineering grounds.

18741. Now, I would make two points in relation to that statement. The first is that I do not believe that Crossrail have ever been concerned about the above-ground impact of what they are proposing. The solution was never based on an examination of the above-ground impact. Secondly, when we talk about the case being made on engineering grounds, we have a view from two eminent firms of engineers that Crossrail's case for the dismissal of Woodseer Street as an option and other options was not proven, and I would just say: how can an argument turn on engineering grounds when challenging questions by eminent engineers remain unanswered?

18742. Finally, I would just like to say that the decision, based on flawed evidence, cannot be a sound decision and some of the evidence with which you have been provided is, in my view, seriously flawed, and I urge you to insist on reconsideration of some of these routing issues, even though they seem to have been past the post, because we are fighting for our quality of life and the physical legacy of these areas against a pretty anonymous machine and we urge you to help us in this respect.

18743. **Chairman:** Mr Mould?

18744. **Mr Mould:** Sir, insofar as Mr Adams has made submissions about the alignment strategy and the selection of the appropriate alignment through Spitalfields for the route and indeed the selection of the site for the intervention shaft, I simply remind the Committee that yesterday the same points were raised by Ms Jones and Ms Jordan (Ms Jones on behalf of the Spitalfields Society, and the reference in relation to Ms Jones is Day 68, 18628 to 18634). Mr Elvin responded to the assertion that the Committee's interim decisions had been made on a false basis and I will not repeat what he said to you about that. That, in turn, was a rerun of issues which were ventilated by Mr Adams himself giving evidence on Day 39, at paragraph 9777 to 9783, those points being answered by Mr Berryman in evidence later on that day and dealt with in detail by Mr Elvin in his closing submission on Day 43 between paragraphs 11710 and 11730. Again I simply give the references and I do not trouble the Committee with a repetition of the substance of what was said. It was in the light of that material and other relevant material that the Committee reached the interim decisions that it did in July to which we responded in October, the relevant dates being Day 56 and Day 58.

18745. Insofar as above-ground impacts are concerned, we have already responded to the assertion that we have carried out a flawed assessment process in that respect. Mr Elvin addressed that in his closing submissions on Day 43 and the references which I have given you embrace those points. I am not seduced by the invitation to try to compare our scheme in scale and assessment of impacts with a scheme with which the Petitioner has been involved in Brighton. Suffice it to say, the assertion that Crossrail has never been, and is not, concerned to assess and appraise the above-ground impacts in respect of settlement and noise of its proposals in Spitalfields, I would respectfully submit, is plainly without any merit. We have given you detailed evidence and submissions in relation to the two particular matters of concern which Petitioners have raised, that is to say, the issue of settlement, particularly in relation to listed buildings, and the issue in relation to noise.

18746. The other matter, I think, that Petitioners have raised in this respect is the question of traffic impact and again you have heard detailed submissions from us in relation to that. They have also been the subject of interim decisions and we have set out our responses to you and elaborated a little on those during the course of evidence yesterday, as you will recall, in response to Mr Wheeler's submissions.

18747. Sir, that is all I propose to say in response to what has just been said, unless there is any particular matter that you would like further help from me on.

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18748. **Mr Binley:** We have a submission which is dated 29 January which seems to concentrate wholly on the consultation process, as I understand it, from reading through it very quickly. No, sorry. We have so many papers that I am getting mixed up. I am told that my point is relevant to the next Petitioner, who is the same Petitioner, but in another guise.

18749. **Mr Mould:** Yes, I think that is probably right and Mr Elvin is trying to assist you with that, says he, throwing caution to the wind!

18750. **Mr Binley:** In that case, I will ask my question then.

18751. **Chairman:** Brian is ahead of the game! Mr Adams, do you want to come back?

18752. **Mr Adams:** Can I just make one small point in relation to what Mr Mould has said? The contradiction between a desire to take the above-ground impact truly into consideration and the choice of the route which passes under more dwellings, places where people live, than would have been possible to do otherwise, still no one can guarantee that there will be no collapse here. We have talked a lot about settlement, mitigation and so on. People remember the collapse which took place in the construction of the CTRL line at Lavender Street. Nobody knows why that collapse happened and I can tell you that, if this proposal goes ahead, as it may well do, in eight to ten years' time or whenever it is people start boring, I will certainly not be staying in my house while those operations continue or anywhere near the property and I doubt if anyone will live, or be prepared to stay, in their house with their families while the boring operations are proceeding. Those dangers are existing and they cannot be guaranteed against, and I would just ask the question: if you can avoid them by choosing the route which passes under fewer dwellings, why not do it? There may be a cost on engineering grounds, but, in my view, it is a cost worth bearing.

18753. **Chairman:** Do you want to elaborate a little bit more on your use of the word "flawed"? Is it simply because of the amount of buildings that the tunnelling goes under or is it some other specific engineering reason?

18754. **Mr Adams:** No, when I say "flawed", I believe that there are a number of points, a number of criteria, all of which are above-ground issues where Crossrail have not got it right the first time round, and these are things that have built up a case for a particular route. They have been used to substantiate a case for a particular engineering route. When you see the accumulation of things which have gone wrong or which have been mistaken in terms of the above-ground impacts related to that route, you begin to say, "Surely, surely there is an argument for looking at an option which avoids the problems in the first place instead of continually talking about mitigation".

18755. **Mr Mould:** I am allowing myself to be drawn into repetition again.

18756. **Mr Binley:** Hold on a second because I am not even sure I have got the right paper. My colleague and I have got the wrong paper.

18757. **Mr Adams:** I have not supplied a paper; I am just reading from an *aide memoire*.

18758. **Chairman:** Mr Mould?

18759. **Mr Mould:** Just putting the point very simply, you have heard a great deal of assertion and contention about the perceived advantages of one location for the shaft over another, Woodseer Street and Hanbury Street. We have made it clear time and again that the decisive consideration in relation to the merits of Hanbury Street as the location over Woodseer Street are the engineering and operational advantages which Hanbury Street, as the location for the shaft, enjoys over Woodseer Street.

18760. We have made it equally clear that, insofar as above-ground impact is concerned, one can test the matter robustly by saying that broadly, if you will, their impacts are comparable, so that lends strength to the argument that we have advanced to you consistently and, as we understand it, you have accepted, that it is the engineering and operational advantages which are the decisive factor in the selection of Hanbury Street. To suggest that that is a decision which has not been made on the basis of a careful comparative analysis of the merits of those sites is simply unsustainable. In the light of the information of the reports that you have had referred to you and which, for example, Mr Berryman explained in detail in the evidence which he gave to you in sessions last year and to which Mr Elvin referred again with his customary succinctness and brevity in responding to the further representations of the Spitalfields Society yesterday, nothing has changed significantly, in relation to that analysis, the conclusions that were drawn from it, which conclusions, as I say, you have indicated in your interim decisions that you accept. That is why we have found it an exercise essentially in repeating a case which has already been found to be meritorious in dealing with these points over the last two days.

18761. **Chairman:** It is true, everything that you have actually outlined there, but Mr Adams has come here as a Petitioner quite correctly and he has been given the opportunity to state his views, that he believes, under the new round, that there are still considerations that he wants to point out to us are wrong. What he is saying is that he still believes that he wants to test the theory that there were other considerations not fully taken into account. He has every right to do that.

18762. **Mr Mould:** I do not take issue with that point. I do not think we have taken an overly technical approach to the procedure, but I accept what you

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say and indeed we approached these hearings yesterday and today precisely on that basis, but I think it right that we should, in seeking to remind the Committee of our position in relation to a sustained repetition of essentially the same point, I think, three or four times now over the course of the last couple of days, that is the essential analysis—

18763. **Chairman:** With due respect, it is slightly different because what Mr Adams did actually point out which was new is that there were certain dangers which may be connected with the route which has been chosen, and that is why I asked him the question about his use of the word “flawed”. He used the word “flawed” quite a lot and I am trying to tease out of him where those dangers are.

18764. **Mr Mould:** I understand, and we gave you our response on that through Mr Elvin’s submissions yesterday and indeed he drew your attention yesterday to Professor Mair’s presentation on the tried and trusted approach to the avoidance of settlement damage, and I say “tried and trusted” advisedly because that was based on his successful experience in relation to the Jubilee Line Extension.

18765. **Chairman:** Could you give us a minute because I just want to ask Mr Adams one or two questions myself. Mr Adams, this really is quite important because what you have intimated in your latest response is that there were certain dangers to the general public in buildings above ground which may transpire because of the chosen route. Can you elaborate a little bit more because, as you yourself said, your fears were that some catastrophe may occur because of the chosen route?

18766. **Mr Adams:** Well, I do not want to repeat a lot of detail, Chairman, but Mr Wheeler covered issues around the fragility of the buildings yesterday. My simple thesis is that there will always be an unknown element in tunnelling. There was an unknown element in the creation of the CTRL and there was a collapse in the construction of the Heathrow link, although we do accept that the new Austrian tunnelling method is not being used to build this line, but these collapses occur. If I ask Crossrail for a guarantee that my house will not collapse, I doubt if they could give it to me and they would be foolish to do so because there is an uncertainty about whether or not that could happen.

18767. All I would say is that, if you can avoid the problem, it is better to avoid it rather than to seek mitigation, that is all, and it was one of the issues, for example, in this comparison of Woodseer Street and Hanbury Street which, to us, is very important. The Woodseer Street location largely occupies territory which is under a brewery, a brewery which ceases to function in its original use and it has had a protected line through it for many years before it was changed a couple of years ago, I think. That is all. If you can avoid the problem, why not avoid it?

18768. The second thing I would say is that, despite what Mr Mould says about the engineering arguments, Tower Hamlets commissioned the reputable firm, Ove Arup, to look at the material which had been provided to them by Crossrail on the Woodseer Street option and on the southern options. We asked the reputable engineer, Whitby Bird & Co, to do the same thing. Both of these sets of engineers said that the case made by Crossrail against Woodseer Street was not proven on engineering grounds. I do not want to take us all through that again, but those are things that motivate us if there is a viable alternative. We have studied, and we do take, the point about an extra maintenance cost, that there might have to be a slightly deeper line which is slightly more risky in the Woodseer Street option, but these are relatively straightforward engineering issues which could be dealt with. They may have a cost implication, but there are cost implications also in potential collapses. We do not know what lies under these buildings that we occupy within the Spitalfields Conservation Area and around. Many people have dug wells to get water. We do not know if there are any undiscovered wells in this site at all and, if I can refer back to Lavender Street, the Health & Safety Executive, after inquiry, could not discover a reason why there was a major collapse at Lavender Street. Therefore, there is uncertainty and our contention is that it is best to avoid risk rather than seek to mitigate it.

18769. **Mr Mould:** The thrust of the argument which has just been put is that you simply should not build projects like this because they go underneath buildings and there is at least in principle a risk that it all might go wrong and there might be a catastrophic collapse. That analysis, as far as it goes, is irrefutable, but it is not of course a realistic and sensible analysis.

18770. **Chairman:** That does not mean to say, Mr Mould, that it should not be made if the Petitioner wants to make it.

18771. **Mr Mould:** As Professor Mair told you when he gave his presentation to you all those months ago in early February, I think it was, last year, it is precisely because we have experience of controlling the risk of settlement and of taking such measures as are required to avoiding that risk becoming a reality (and successful experience of that in relation to building underground railways in London, the Jubilee Line Extension being the example that he particularly alighted on, and you will recall that he mentioned the successful performance of the works at the Westminster Underground Station in close proximity to Big Ben, a challenge which was far and away greater in magnitude than what is involved in relation to the construction of a tunnel and vent shaft in the Spitalfields area) it is because we have that experience and we are able to form measured, cautious and reliable judgments based upon it that we are able to say to this Committee that we have considered these matters with great care and that we

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have carried out an assessment process which builds upon that experience and upon the technical ability, judgment and experience of people like Professor Mair, a process which will continue, as we have told you many times, to be developed and to apply as the iterative assessment process is carried through the detailed development of the project and then into the construction phase itself. It is because we are able to bring those points to bear that we can address those in-principle risks which the Petitioner places before you.

18772. The point that I make to you is this: that those risks apply in relation to an alternative alignment via Woodseer Street just as they apply to the alignment through Hanbury Street. In both cases, one is tunnelling underneath buildings, including historic buildings, so that basic concern that one needs to guard against the risk of potential settlement damage is common to those. The question then is: is there any reason to suppose that that risk is going to be realised in terms of damage, whether it be partial, catastrophic or whatever? The evidence we have presented to this Committee, which has not been the subject of any substantial challenge from any person who has experience or expertise in relation to the issues which are involved, our evidence demonstrates that that risk is entirely manageable and we are confident, from the work that we have done and the process that we have set in train, that it is a risk which can be managed and can be avoided.

18773. Sir, that is the correct analysis and the full analysis of the situation, and we have explained the position to you in relation to that very clearly, I hope, and indeed we comfort ourselves with the fact that, in your interim decision, your judgment has been to accept that what we have said to you is reliable, so, in reporting to Parliament at least so far as your interim decision is concerned, you are able to make a favourable judgment on it. Nothing which

has been said today adds substantially to the argument in relation to that; it is simply an expression of generalised concern, none the worse for that, but that is what it is and, in order to address it, you have to look at matters systematically, carefully and in detail, and that is what we have sought to do.

18774. **Chairman:** Thank you for explaining the position that you held, but that does not move away from the fact that Mr Adams has the right to make the case and he is making it. You have the final say in this, Mr Adams.

18775. **Mr Adams:** I have just one small point. I have absolutely no dispute with what Mr Mould has just said except for one small, but important, fact which is that that the route which is currently chosen passes under early-18th Century houses in a Conservation Area which is totally unique anywhere.

18776. **Mr Binley:** Mr Adams, I understand your great concerns for this specific area, but would your argument not pertain over many sites that Crossrail has to go through and, therefore, is your argument not primarily about whether this project ought to take root or not rather than using the argument for a specific area in terms of this particular Petition? It would apply to many areas, would it not?

18777. **Mr Adams:** Well, I have obviously not studied every area on the route, but what I would say is that it is important for London that the project goes ahead, but, in doing so, it should take account of, and respond to, the most sensitive bits of our heritage, that is all. I am sure that there may have been measures in other places which had to be taken for similar reasons, but I can only make a case for the area that I know best.

18778. **Chairman:** Thank you very much, Mr Adams. We now move on to the second Petition.

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Mr Guy Carpenter appeared on behalf of the Petitioner.

18779. **Chairman:** Mr Carpenter, I understand you have two witnesses and both have been sworn.

18780. **Mr Carpenter:** Yes.

18781. **Mr Elvin:** Sir, according to Ms Cove's letter, Mr Carpenter is speaking for the Woodseer and Hanbury Residents' Association and he is speaking on the scheme in its present form on conservation issues. We have received, dated 29 January—I do not know whether this is the document Mr Binley was referring to—a lengthy submission on the issue of the community liaison panel. So far as that is concerned, I simply refer the Committee to the lengthy debate that was had on that issue yesterday morning with Jil Cove and the evidence that I called yesterday to deal with that issue. I would suggest

that if Mr Carpenter is proposing to speak to that note we do seek to avoid a repetition, since this issue took two hours of Committee time yesterday. If it helps, it is headed "Woodseer and Hanbury Residents' Association".

18782. **Mr Binley:** We have got so many papers, it is difficult to follow.

18783. **Chairman:** Mr Carpenter?

18784. **Mr Carpenter:** Thank you. Just with reference to that, I am not going to talk about the letter that we sent in on the community liaison panel. That is why we sent in a letter about it to you, so that I do not cover it here. I am here today on behalf of Woodseer and Hanbury Residents' Association and

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the wider Spitalfields community. In order to keep my opening speech short I would ask that the Select Committee consider the accompanying written submission in relation to the Association's concern about the project, which you have received just now.

18785. **Chairman:** We have that. We will give a number to that in a second. I was a bit confused because on the note which was sent by Ms Cove it had you down as speaking on the scheme in its present form on conservation issues. So it was not really on the liaison panel issue.

18786. **Mr Carpenter:** No, it was not.

18787. **Chairman:** That was why I was a bit confused when Mr Elvin said you were likely to be dealing with that.

18788. **Mr Elvin:** I only raised it because we have had no communication from Mr Carpenter at all on what he is going to say; he has not given us a copy of his submission, and we received a letter two days ago which seemed to be suggesting he would be raising liaison panel issues, which he is not, and I am delighted.

18789. **Chairman:** Mr Carpenter, have you provided this documentation to Crossrail?

18790. **Mr Carpenter:** No, I have not. You have got the letter from Jil Cove yesterday and we did not finalise the document until yesterday, I am afraid, because of what people have talked about and I wanted to keep my submission short and not cover what other people have said. In a way, that is why, I am afraid, it arrived today.

18791. **Chairman:** Can I ask, have they got a copy now?

18792. **Mr Carpenter:** No, they have not.

18793. **Chairman:** Have you got a spare copy there?

18794. **Mr Carpenter:** No, I am sorry, the photocopying places were shut this morning. That was my problem. I am not actually going to refer to this submission in my presentation. I do not have to refer to it, if you see what I mean. Those are the issues that Woodseer and Hanbury Residents' Association are concerned about, but I only want to make three points now.

18795. **Chairman:** I understand. We are very grateful to you. It is just that if you are submitting anything to this Committee then the opposition needs to have a copy. Those are the guidelines. We will get them copies of what you have submitted, and you can proceed. If you are putting any papers forward which would require being numbered, then we have to get them to Mr Elvin and Mr Mould.

18796. **Mr Carpenter:** I understand that. It is just a failure this morning to find a photocopy shop open on my way here.

18797. The WHRA wants to cover today three specific concerns relating to Crossrail in Spitalfields. The first is the impact of the AP3 Hanbury Street shaft on Hanbury Street, and to explain the significance of these impacts I call my first witness, William Palin.

18798. **Chairman:** Before you start on Mr Palin, could I say if you have notes it would be very helpful if, at the end of the session, when you have concluded, you could give them to the stenographer (we will send the originals back) because it would be helpful.

Mr William Palin, sworn

Examined by **Mr Carpenter**

18799. **Mr Carpenter:** William, could you tell us a bit about yourself?

(Mr Palin) Sure. My name is William Palin, I am a curator at Sir John Soane's Museum in London and I am also an architectural historian, journalist and a Spitalfields resident. I am Chair of the Woodseer Hanbury Residents' Association and a Trustee of the Spitalfields Historic Buildings Trust.

18800. My first question is why is conservation in Hanbury Street so important?

(Mr Palin) I think the Committee has probably heard a lot about conservation in relation to historic buildings or buildings of architectural significance. The point I wanted to make was that it is not just about bricks and mortar; these areas of special historic interest are, of course, also defined and energised by the people in the communities they contain. In this respect, Hanbury Street is a perfect example. Such communities sustain the life of our towns and cities and are part of a continuity of occupation, stretching back, in the case of Spitalfields, some 400 years. A sense of place is a subtle thing and can only be built up and developed over long periods, creating a texture or an "urban grain" as it is sometimes called. The conservation and protection of special areas such as Hanbury Street helps sustain the character and diversity of our urban environment, as well as providing beautiful, humane places where people feel happy to live, work and visit. That is why, in my mind, it is important to care for, value and conserve these areas.

18801. **Mr Carpenter:** Specifically, why are Spitalfields and Hanbury Street so unique and important?

(Mr Palin) Again, I think the Committee has already heard a historical account of the development of the area by Gareth Harris of the Spitalfields Trust, so I will try not to go over the same ground. The key point to remember about Spitalfields is that it grew up as a new suburb at the

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beginning of the 18th Century, centred on the wonderful baroque church by Nicholas Hawksmoor and included several streets of fine houses. One point which I do not think has been made is that these houses were comparable to and, in some cases, superior to the most prestigious new developments in the west of London. The area was settled by wealthy Huguenot weavers and then the area descended rapidly in status in the late 18th Century owing to the volatility of the silk industry. Since then the area has been settled by successive waves of newcomers, including Jewish, Irish and most recently Bangladeshi immigrants. Until the 1950s, the area was not only poor but very densely populated; the old houses being maintained and adapted rather than replaced. The larger houses went into mixed use, becoming boarding houses, storerooms and manufactories. Panelled dining rooms were occupied by furriers, and silk weavers' attics were occupied by modern textile workshops. The re-use and adaptation of the fine 18th Century houses was part of the irrepressible vitality of the area as communities and trades arrived and departed, each leaving their mark behind. In 300 years Spitalfields has been a remarkably harmonious place where people from many cultures, religions and social classes have rubbed along, leaving us with a rich social, religious and industrial history, as well as a great architectural legacy.

18802. **Mr Carpenter:** Specifically, why is Hanbury Street an important example within Spitalfields?

(Mr Palin) Again, I know the Committee has been told about the importance of Fournier Street, Wilkes Street and the other best-known, early Georgian streets of Spitalfields. However, I am here to talk about Hanbury Street, which is by far the most historically significant. Hanbury Street, formerly Browns Lane, is the oldest of all these thoroughfares once linking St Dunstan's Church in the old manor of Stepney with the Priory of St Mary Spital, the route is 1,000 years old, predating even Brick Lane. Along its length virtually every era of architecture is represented from the 17th to the 20th Centuries. It represents, in my mind, a cross-section of everything which makes the area so distinctive. Furthest west there are houses from the early-18th Century, mostly restored, including two built as a corresponding pair with houses on the adjacent Princelet Street. These went up in 1704 and form the oldest group in the area. They exhibit a classical formality which would have been startlingly modern and sophisticated for the time. The street also exhibits a diverse mix of uses. There is private and council housing, including flats in the carefully converted Epstein furniture factory and, in the Dutch-gabled buildings adjacent to the site of the proposed ventilation shaft, social housing, workshops, retail and restaurants. If you want to visit a solicitor, a Bangladeshi wedding shop, a cash-and-carry, a restaurant frequented by the Mayor of London, join in a demonstration or even buy a ukulele then look no further than Hanbury Street. It is absolutely at the heart of Spitalfields life. Given this fact, it is not surprising to find no

less than three community centres on Hanbury Street; Christ Church Hall, which occupies the old Huguenot chapel (and, incidentally, the site of the celebrated match girl strike); the Kobi Nazrul Centre, an important centre for the Bangladeshi community, situated in a Victorian building which sits happily with its Georgian neighbours, and the Brady Centre, further east, on the site of a World War II women's air raid shelter, where many activities including public consultations take place. In many ways, Hanbury Street is a model of a successful urban street, but, I fear, that in the cool eyes of Crossrail this messy diversity, and the fact that the east end of the street is predominantly occupied by council blocks, is seen as expendable.

18803. **Chairman:** I think we have got the message on Hanbury Street.

(Mr Palin) The Crossrail proposals will put a dagger, in my view, in the heart of the oldest and most diverse street in Spitalfields, dividing it from east to west, and filling the narrow surrounding streets with dirt and noise. In common with many of the older buildings in the area, those on Hanbury Street west of the proposed site open directly onto the street, with no railings or front areas to protect them and are served only by narrow pavements. Most of these houses, built of brick, timber and lime mortars, vibrate even under light traffic. With a major worksite on their doorstep served by heavy construction traffic, the effect on their amenity will be devastating. Crossrail, in my view, have misunderstood and wildly underestimated the value of this street and the area. For them it is a place on a map but to any visitor it is a bustling, multicultural centre and a refreshing antidote to, for example, the corporate sterility of the new Bishop's Square development just a few hundred years to the west.

18804. **Mr Carpenter:** I think you have painted a very interesting picture of what Hanbury Street means to residents, and I think that has been very important. I also wanted to ask you about enforcement in Tower Hamlets. My question really is, as a resident of Spitalfields and Hanbury Street, do you have confidence in enforcement by Tower Hamlets Council?

(Mr Palin) Judging from past experience, the answer is categorically no. It is quite clear that Tower Hamlets seems unable to cope with the task in hand. Thirty per cent of all new build in London is taking place in this borough, and this is only set to rise as the Olympic development takes shape. At a recent Conservation Area consultation meeting the audience was unified in its despair over the lack of action in even the most obvious cases of unlawful development. In terms of environmental enforcement, the WHRA has been fighting a five-year battle involving the Ombudsman to force Tower Hamlets to take enforcement action over

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unlawful air-conditioning units. With this in mind, how on earth can we have any confidence in Tower Hamlets effectively controlling and monitoring a project on the scale of Crossrail?

18805. **Mr Carpenter:** Finally, I would like to ask you, we have actually heard earlier concerns from Roy Adams about tunnelling under the houses. He mentioned how tunnelling might affect the houses and how there are voids and unknown things underneath the buildings due to its history. I just wanted you to touch on that and talk about uses over time.

(Mr Palin) In my view, the threat from Crossrail is two-fold. First, of course, there is the environmental damage and loss of amenity caused by the excavation of the ventilation shaft. Of course, the scale of this project and siting in this very densely populated area of narrow streets and its proximity to Brick Lane will inevitably mean massive disruption and hardship for those living and working in the area. There is a tension and stress within the community, a situation that threatens a delicate bond of trust within the various racial, religious and economic routes. The location of the worksite at the poorer end of Hanbury Street has caused further resentment and foster a sense that whole sections of the community are being overlooked because they do not have the money or power to resist Crossrail. The other concern, and I think, Guy, this is what you were leading to, is how the tunnelling might affect the houses in the area, including (the previous speaker mentioned this) the precious and unique early-18th Century houses. Again, Crossrail have not reassured the community, in my view. They say settlement will be minimal, unless tunnelling, of course, encounters any unexpected voids. The area, as we know, is rich in waterways and wells that help service the houses and the large brewery which moved there after the Great Fire. Recently, the builder who paved my basement told me that he had been working in a house in Wilkes Street, they had dug a hole in the basement and within ten minutes the hole had collapsed into a stream running underground. This reminds us that this is uncertain ground and, of course, we have all heard what happened at Stratford with the Channel Tunnel project. How can Crossrail justify taking such a risk with one of the most important, historic areas in the country? I go back to my first point, the buildings only represent part of the story. Spitalfields owes its vibrancy and beauty to the fact that, against all the odds, it has survived as a place. Its layers of history are there for all to see, from the earliest houses to the post-war housing estates on the eastern side. Binding these layers together is an extraordinary mix of people living there—a tradition as old as the area itself. In this respect, it is Hanbury Street most of all that encapsulates the spirit of Spitalfields. In my view, Crossrail threatens the success story of Spitalfields, the scale of the work proposed and the positioning of the worksite will disrupt the delicate

harmony of the area that has been maintained and enhanced organically by residents and businesses alike for 400 years.

18806. **Mr Carpenter:** Thank you.

18807. **Chairman:** We fully realise, Mr Elvin, that this presentation is slightly outside the Petition.

18808. **Mr Elvin:** I will ask a few questions.

18809. **Chairman:** Just before you do, we have had passed to us two papers from Woodseer and Hanbury Residents. Can I, just for the record, list them as document A213 and A214.
Cross-examined by Mr Elvin

18810. **Mr Elvin:** Mr Palin, this was described as an AP3 project. Can you tell me, in your understanding, what has changed between the proposals as they were considered by the Committee in June, when you did not benefit us with your presence, and AP3? What has changed in terms of Hanbury Street since June as a result of AP3, please? You described this as an AP3 project, and I would like to know what your understanding—

(Mr Palin) I am sorry, I did not describe it as an AP3.

18811. **Mr Carpenter:** I did. I would like to answer that. It was specifically to do with the foundations in Hanbury Street—

18812. **Chairman:** Mr Elvin is asking the witness.

18813. **Mr Elvin:** You were asked a question which you agreed with that this was an AP3 project, which you said gave rise to a number of concerns. Do you understand there to have been any change from the position as it was last year? Hanbury Street has been in this scheme since the Bill was deposited.

(Mr Palin) It has, yes.

18814. The only change which has occurred over the last year is that Hanbury Street has been reduced in its impacts because the conveyor to Pedley Street has been taken out and, therefore, the shaft no longer requires to take Britannia House but can be located in a much smaller location within the yard. That is right.

(Mr Palin) I am aware of that, yes.

18815. All that has happened over the last year is that the impacts have significantly reduced?

(Mr Palin) That is correct, but it is still a significant impact.

18816. So the position today is no different from the position when Mr Carpenter and your Association presented evidence in June.

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(Mr Palin) That is correct, yes.

18817. Can I ask you about the conservation area and the density of population. Are you claiming that Crossrail has somehow acted in ignorance of the rich cultural diversity both in historic architectural and community terms in this area?

(Mr Palin) It is my view that Crossrail has not properly understood the area, or taken time to consider it.

18818. So where we deal with this in the Environmental Statement (Mr Fry, can you put up one page—I am not going to go through all of this), on page 256 of volume 2 of the Environmental Statement dated February 2005.¹ The reference to the historic richness of the locality in 8.10.42 you simply do not take as being indicative that these matters are fully known to those promoting the project and have been taken into account already by the Committee in its interim decisions.

(Mr Palin) I think they have been paid lip service to, but no more than that.

18819. In terms of your area, I understand your special pleading is as a resident and someone who is particularly interested in the area, and no one doubts for a moment its cultural diversity, its historic and architectural significance and that that, like many areas of London, is important. The fact is, is it not, Mr Palin, that Crossrail, as a project connecting east and west through central London inevitably goes through many areas of conservation interest, goes under many listed buildings and goes through many business and residential communities which are of unique value, not only to the nation but in world terms.

(Mr Palin) That is correct, but my point would be that Spitalfields and, particularly, this area affected by Crossrail are of particular significance.

18820. Let us just test that. Map C7(i).² This is from the main Environmental Statement, volume 4A. Let us look at the area of Liverpool Street as it goes towards Hanbury Street. We can see Hanbury Street is at the far right of the picture. We can see that the alignment of Crossrail as it comes through here goes under a vast area of listed buildings: it goes under the Barbican, it goes under Finsbury Circus, it goes in close proximity here in Finsbury Circus to a Grade II* listed building. The categorisation of listed buildings in the Hanbury Street area are majority Grade II, are they not?

(Mr Palin) Yes.

18821. There is one Grade II* building in the middle.

(Mr Palin) And there is a church.

18822. There is Christ Church, which is Grade I. I explained yesterday that the alignments have to avoid Christ Church, for obvious reasons. This is a project which has to go through a dense area of conservation and historic residences. It is the point Mr Binley made earlier. You cannot just say Hanbury Street is more unique than the rest, if that is a correct use of language. You have only two listed buildings which are not regarded as so special, by and large, in historic and architectural terms that they get either II* listed or Grade I. Of course, Christ Church is Grade I because it is of the highest quality and importance. You have one Grade II* building, which means it is exceptional, but in terms of its national significance it compares to many of the areas the rest of the track goes under, does it not?

(Mr Palin) The exact point I was trying to make is that it is not simply about listing and the grading of these buildings; it is about the fact that Finsbury Circus is occupied entirely by office buildings, but the area in question, Spitalfields, is a residential and mixed community. That gives it value which, in my mind, raises it above certain other areas that you have pointed out.

18823. I am content to stand with the Secretary of State's national listing programme, which assesses buildings on a national scale, because we are not just dealing with a local project here, we are dealing with a project which we have consistently said is of national significance. Of course, if the alignment were changed (can we go to map 8(i), please), this is Hanbury Street here, going into Whitechapel Station.³ If it went a little to the north it would hit the Fournier Street Conservation Area; if it went to the south it would go through other residential areas as well as business areas. There is nowhere, if we are going to build a railway station which connects with Whitechapel Station, which everyone else seems, apart from a number of associations in this area, to think is a desirable feature for interchange and in order to make the project work, including the London Borough of Tower Hamlets, unless we are going to say Whitechapel Station is not to be preferred at all and Parliament has decided it should be, then we are going to have to take the tunnels under a densely-populated area. We are in central London. That is inevitable, is it not?

(Mr Palin) So that explains why you are building a ventilation shaft in the heart of a narrow network of streets rather than in many more open areas or wider thoroughfares.

18824. Have you read the reports as to how the sites were comparatively assessed?

¹ Crossrail Ref: P136, Crossrail Environmental Statement, Route Window C8: Whitechapel Station, Impacts on Townscape and Built Heritage Baseline, billdocuments.crossrail.co.uk (LINEWD-ES10-232).

² Crossrail Ref: P136, Crossrail Environmental Statement, Liverpool Street Station—Key Environmental Features, Map C7(i), billdocuments.crossrail.co.uk (LINEWD-ES16-031).

³ Crossrail Ref: P136, Crossrail Environmental Statement, Whitechapel Station—Key Environmental Features, Map C8(i), billdocuments.crossrail.co.uk (LINEWD-ES16-034).

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(*Mr Palin*) No, I have not.

18825. **Mr Elvin:** Thank you very much.
Re-examined by Mr Carpenter

18826. **Mr Carpenter:** I would like to ask Will if there is anything that has been said that he would like to comment on.

(*Mr Palin*) Not other than to make the point that, as I said, we are not merely talking about grading and listing and historical significance of architecture, we are talking about something, in my mind, far more important and deeper than that, and that is a community that has been established for over 400 years.

18827. **Mr Carpenter:** Thank you.

The witness withdrew

18828. **Chairman:** You have dealt extensively there with the locality of Hanbury Street. Are we going to deal with matters in the new round of amendments which have been made, or are we going to repeat—

18829. **Mr Carpenter:** No, all I wish to talk about is on conservation issues. My second concern is that the Promoter only made certain information available about alternative tunnel alignments recently. After the existence of these documents was discovered we requested them, once we worked out their significance, as they showed the Promoter making contradictory and unsubstantiated claims about the southern route, which we feel cannot be relied upon. I appreciate the difficulty of the Select Committee to accept the views of people like me, who are non-expert, and for this reason and for clarity our Association has asked if we can call an expert on this issue, and I would like to call my next witness, who is Michael Schabas.

18830. **Mr Elvin:** My only point is this; he is an entire surprise so far as the Promoters are concerned. We have had ample communication with these residents over the last week or so. Not only do they not have the courtesy to send us a copy of their submission but they do not even have the basic courtesy, given how much they have complained about lack of communication in the past, it does strike one as a little odd, that we have not even had any indication that an expert would be called, nor what the subject matter would be.

18831. **Chairman:** I have to say, Mr Carpenter, it is extraordinary that you will be bringing an expert in prior to doing any You have requested documents and having found you needed the services of an expert you have not actually relayed that kind of information to . . . Any court of law, let alone here—

18832. **Mr Carpenter:** I think the difficulty is I did inform the Committee yesterday I would be calling witnesses but I did not realise I had to say they were expert or not.

18833. **Chairman:** You have got an expert, you have clearly had in your mind questions which you need to refer to a document, and you have hired an expert to do it. It is normal practice to exchange, discover and reveal papers that you are going to bring up in the course of a hearing like this to the other side. It is not “Catch us if you can”; it is really trying to give both sides the opportunity to examine, refute or agree.

18834. I am going to allow you to go forward today with this but I may give the Promoters time to review any questions which are raised and then come back to the Committee at some point.

18835. **Mr Carpenter:** Certainly, that is fine. I do apologise.

18836. **Chairman:** I just want to hear Mr Elvin.

18837. **Mr Elvin:** Can I just add that this, quite apart from the fact it is going back on the material which was dealt with in the summer, is departing from the principle of the Bill. The House has approved the limits of deviation at Second Reading; alignments along the lines that seem to be suggested and the issue of the southern alignment is completely outside the principle.

18838. **Chairman:** Can I just respond to that? I made it clear yesterday that there is no question of us rerouting at all. I made it absolutely perfectly clear that decision has gone but we will hear evidence where there were mitigations in relation to the AP3 changes. We have heard some of that but much of what is just about to be put forward is on matters concerning realignment or possible realignment. This is outside. Where I am interested is there has been an accusation that wrong-doings are afoot, and I would like to listen to that, albeit briefly, and then make a judgment. If it is being presented to the Committee I do not want us to say we are not going to accept it and then give recourse to the courts.

18839. **Mr Elvin:** I understand that completely. I am only seeking to remind you of the context.

18840. **Chairman:** Can I also say I am unhappy about the arrangement which we are having to make—

18841. **Mr Elvin:** I will say no more at this stage.

18842. **Mr Carpenter:** I would like to put that on the screen, which is the map you are familiar with from yesterday.⁴

⁴ Committee Ref: A212, Liverpool Street to Burdett Road—Alignment Options A, B and C (A and B under Ansell House) (SCN-20070131-001).

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Mr Michael Schabas, recalled

Examined by **Mr Carpenter**

18843. **Mr Carpenter:** This is the map which shows the alignment A, B and C from the 2000 report. I would like to ask Michael Schabas to tell us a bit about himself.

(Mr Schabas) I think you know me already.

18844. **Chairman:** If your witness is an expert I would like to know the depth of that expertise.

(Mr Schabas) I will refresh the Committee's memory. I was here earlier. My training originally was as a Masters in Transport Planning at Harvard University and worked in a major role on rail projects in Vancouver, London, the Jubilee Line Extension—

18845. **Mr Elvin:** I do apologise. I cannot hear what the witness is saying.

(Mr Schabas) I will speak louder. My name is Michael Schabas, I have a Masters in Transport Planning from Harvard University. I worked on rapid transport projects in Vancouver, the Sky Train, Honolulu, came here to work on the Jubilee Line Extension, actually, to conceive and develop the project and promote it in this Committee room. I have worked on the Channel Tunnel Rail Link, I am a Director of two operating railway companies in Britain, but I am not speaking on behalf of any of those organisations, I am speaking in a personal capacity as an expert witness for the WH Residents' Association.

18846. **Chairman:** I think that is sufficient. You have been before but it is a question of we have got to have this down because there are sometimes people with the same name, you see.

(Mr Schabas) I have not found anybody with the same name yet, but you are absolutely right. I am sorry, I do not have a prepared speech because I believe the Committee does not want people to read long statements, so I will try to keep it as brief as possible.

18847. **Chairman:** That is always our hope.

18848. **Mr Carpenter:** Could you tell us how the CTRL, the Channel Tunnel Rail Link, compares with Crossrail in your experience?

(Mr Schabas) Sure. I got involved in CTRL in this room actually. I was advising Newham Council on the Channel Tunnel Rail Link project and observed that one of the most expensive and difficult parts of the project was the terminal station which was then going to be at King's Cross. It was a separate building promoted by British Rail in this room. The Channel Tunnel Rail Link project at the time was like the Crossrail project, it was a project that had strong political support but no money. I observed that you could make the project cheaper by going into St Pancras. The King's Cross residents were quite keen on that idea because it would save their neighbourhood. The British Rail

QC was very critical and said it was impossible, they had looked at alternatives and you could not do it. I think people know what actually happened. Channel Tunnel Rail Link was run by a separate part of BR, it was not an organisation that had someone at the top who ruled everything with a tight fist.

18849. **Chairman:** Can I just stop you there. It is very, very important that we stick to two things. One is we have got to relate it to Crossrail directly.

(Mr Schabas) I am just getting there.

18850. **Chairman:** I could look at the French railway system and link that to the Channel Tunnel, you can go as far as you want to go. You need to stick to what we are discussing. The reason why I applied the ruling to allow this case to be made was that there were certain statements, accusations made about the wrongdoings that have occurred in relation to this project. That is what I want to concentrate on. I want to concentrate on the AP3 and those accusations. We cannot go wider on that.

(Mr Schabas) Mr Mould said a few minutes ago that they studied alternatives carefully and in detail. I believe that is not correct. They should do that and on CTRL we did that. We knew we were fighting an uphill battle to get our scheme through Parliament and to get it funded, just like Crossrail, and we said we did not really care that much which side of any building we went down, we wanted to get there so we would look at every alternative anybody could think of, and we looked at hundreds, thousands of alternatives.

18851. **Mr Binley:** Chairman, can I just ask through you. so that I understand, are we talking about differences that have occurred since this matter was first discussed before this Committee?

(Mr Schabas) I think we are discussing the relevance of this drawing here.

18852. **Mr Binley:** I would like to know this. Are we talking about matters that have changed since this matter was first discussed or are you having a second bite of the cherry? I would just like to know that.

18853. **Mr Carpenter:** These matters have changed because we had not had AP3 when we last petitioned so we did not know the details and we had not had SES3.

18854. **Mr Elvin:** Mr Binley, if I can assist you, the alignment has not changed.

(Mr Schabas) I think it may be not a second bite of the cherry to the extent about what this drawing reveals and points to about Heron House, it is something about the process. This drawing was not available to them before and they assumed, I guess, that they had carefully and in detail looked at the

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alternatives. They brought me this drawing recently, and the text that went with it, and I was frankly appalled because I could see that—Sorry. In 2001 I met Mr Berryman and said, “You need to look at alternatives” and he said, “No, we are going to build the safeguarded scheme because the politicians want us to start building within two years and there is not time to look at alternatives”. He told me that. He can correct me if he wants.

18855. **Chairman:** Mr Schabas, I am very unhappy with this one. I am very unhappy about this this morning and whether or not it is actually relevant and can be allowed. What I am going to do is suspend this hearing to take advice for a few moments and I would ask the public and everybody to leave the room.

Counsel and parties were ordered to withdraw and, after a short time, were again called in.

18856. **Chairman:** We are a bit perturbed about the presentation this morning of the second witness. What we have decided to do, Mr Carpenter, is this: we have taken your evidence from the first witness and we will not be revisiting that at all; however we are not willing to hear the case which you are making in relation to your expert.

18857. We have listened to the accusations in the statement which you made earlier and we are giving you the opportunity to go away from here and write to the Committee with those accusations in a statement, with evidence which you may have, which the Committee will then review and, if necessary, call a further meeting with you and your witness and hear that evidence.

18858. We view this matter very, very seriously but we have to point out to you that so far the case that you have been making in relation to your second witness seems not to be relevant at all to the AP3. It is up to you to make that case in the evidence which you gather and if you so present it to the Committee.

18859. There are very serious accusations which are being levelled and we cannot avoid that, therefore we are giving you the opportunity to present us with that in the future. We are suspending any further hearing on this matter other than if you wish to sum up in relation to the earlier evidence of the previous witness.

18860. **Mr Elvin:** Sir, I would just like to say three things. In view of what I have just heard, and I have not said this at any stage over these hearings, can I remind Mr Schabas that he is on oath; that he is giving evidence to Parliament and that the penalties for deceiving Parliament are severe. Secondly,—

18861. **Chairman:** Let me deal with that one first.

18862. **Mr Elvin:** Sir, it was not a submission. This is a serious point because of the accusations he has just made about Mr Berryman. We will obviously

consider any response when we see what is produced, but I am slightly concerned that we are embarking on what might become a lengthy diversionary inquiry because if you are going to start looking at this, in order to get to the truth of the matter you may end up having to look at every iteration of every report that was received from 2001-05.

18863. **Chairman:** Mr Elvin, let me be absolutely precise on what I am saying here. The accusations which are levelled are serious, we take them very seriously. We do not intend to be very long on this issue. If there is proof of such accusations we expect it to be presented very, very quickly to this Committee. Whatever evidence, we expect at least a response from Mr Carpenter when he goes away in respect of the accusations being made and the evidence he has. We expect that very, very quickly. We will then deal with it as a Committee in private and then we will decide what to do on that. These are most serious matters and, as I say, we do not expect it to hold up the work of this Committee at all and we do not expect it to reopen the whole of this inquiry either. This is a bill which Parliament wants and we intend to deliver this bill for Parliament, and as quickly as possible, however we have to be aware that what has been presented to the Committee is of a serious nature and we want that dealt with before we proceed with this witness.

18864. **Mr Elvin:** Chairman, to the extent that it is for us to do so, I entirely endorse what you say. It is the seriousness of the accusations that were made just before you rose that caused me to say what I said because it is my task also to look after the interests of my expert witnesses. Mr Schabas has made a serious accusation which was not foreshadowed in a single email or piece of correspondence, which is why I remind him that he is on oath to Parliament in making that response. I take it as seriously as the Committee do.

(*Mr Schabas*) Can I—

18865. **Mr Elvin:** Mr Schabas, you are not being asked questions.

18866. **Chairman:** Mr Schabas, you will not respond at all. Can I say there is an apology from this side because of the very slow nature of our response in relation to getting copies to people present. Our clerks were only given the documentation at something like five minutes to ten, which is quite unsatisfactory and not the way this Committee expects to operate.

18867. **Mr Elvin:** Mr Carpenter has our email addresses and he has been sending us many emails over the last week; the one thing that is conspicuously missing is the statement that he produced this morning.

18868. **Chairman:** Mr Schabas you can stand down. We will reserve our position on yours and the evidence given. Mr Carpenter, if you wish to sum

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up in relation to the evidence you presented in relation to your first witness then we will proceed. If not, then you may sum up at a later point. The witness withdrew

18869. **Mr Carpenter:** Just to clarify: will I have the chance of a fair hearing in front of the Committee? I am not a professional and I do not understand. I understand that I have not given you copies of this but I have provided it to the Committee and I am prepared, from what you said earlier, for the fact that the Promoter will need to go away and read it. I do not understand whether you are accepting the documents I have submitted or not at this stage, particularly the legal opinion.

18870. **Chairman:** I am going to give you an opinion, Mr Carpenter. Number one, you did present papers to the Committee but they were in insufficient time for not only getting them out to our Members but to others present who need sight of that documentation and that is unfortunate.

18871. In answer to your first query about whether or not you are going to get a fair hearing, you most certainly are. This is the British Parliament, this is a select committee of the House and you will get that. The reason why we are suspending any future debate on this matter is precisely because of that. These accusations which have been made are very, very serious indeed and we will expect to receive evidence and a statement on that and we will deal with it in the future. In relation to your case, your hearing is now suspended until we receive that at an early date. I will ask the clerk to liaise with you about how quickly you can put this matter together and get the evidence necessary and get it back to us as a Committee.

18872. **Mr Elvin:** Sir, I have a third reservation.

18873. **Mr Binley:** I am sorry but I think we all need to understand that we are talking about people's lives and people's reputations here and this is why it is so important and I think that needs to be stressed.

18874. **Mr Elvin:** Sir, my final reservation—I said there were three and I have given two of them—is simply this: as you know we have not taken technical points during the course of these hearings, we have not taken *locus* points. I reserve my position as to whether they are entitled to make this point. I do not say any more about it but if this goes any further then I think out of fairness to the Promoters I may have to reserve our position to raise that.

18875. **Chairman:** I fully appreciate that and we accept that. In fact, that is why we are reserving our opinion.

18876. **Mr Elvin:** Indeed, sir. I just thought I ought to state that for the record. Thank you.

18877. **Chairman:** I think what we will do now in order that Members may make their way down to get a cup of coffee before Prime Minister's Question Time or to attend the *National New Today* photo call in New Palace Gardens, is we will suspend until 2.30 this afternoon.

After a short adjournment

18878. **Chairman:** Good afternoon. Can I point out that we will be returning to the question of a wider look at Spitalfields at sometime in the future when Mr Elvin is available and when the diary permits. What I am going to place on the record is that we have received a document, which I am listing as A215, which was delivered by hand from the Spitalfields Community Association, and it deals with matters which pertain to what we discussed earlier about the Liaison Committee in the Spitalfields area. The Committee will deal with that when it sits in private after Mr Elvin has concluded with the winding up.

18879. **Mr Mould:** Sir, we will make arrangements to get a copy of that document.

18880. **Chairman:** It is already sorted.

18881. **Mr Mould:** Thank you very much.

18882. **Chairman:** Can we now move on to the Petition of GE Pensions Limited and they are represented by Bircham Dyson Bell. Ms Lieven.

18883. **Ms Lieven:** What I propose is I will make a short opening statement and some of the Committee may be aware that there is a model, so we were going to suggest that perhaps the Committee would like to go outside with Mr Berryman and he will explain the model, but I think it is probably helpful if I do a short opening and some of the visual material first so you understand what the issues are.

18884. **Chairman:** That would be helpful. What we will then do is we will suspend and then reconvene.

18885. **Ms Lieven:** I am very grateful, sir. This Petition concerns the AP3 work at Bond Street. I think the Committee knows hardly anything about Bond Street because I do not think there have been any Petitions on it before at all. If I can start by putting up the original Bill scheme drawing from the Environmental Statement just to orientate us.⁵ While Mr Fry is getting it on the screen, the Committee will know, I am sure, that Bond Street is a very busy station in the middle of Oxford Street serving a very important function, both in terms of workers in the surrounding area and shoppers. It serves the Jubilee Line going north-south and the Central Line going west-east. The Crossrail scheme

⁵ Crossrail Ref: P137, Crossrail Amendment of Provisions Environmental Statement (AP3), Bond Street Station, Amendment of Provisions—Original Scheme and Context Plan, Map C4(i) (LINEWD-AP3C4-002).

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in the Hybrid Bill involves building a large new station to the south of Oxford Street, where I am indicating, two ticket halls, the Hanover Square ticket hall, which the Committee has heard something about before; and the area we are concerned with this time, which is related to Bond Street Station itself, and the Crossrail proposal, is to build a new ticket hall at Davis Street which links into the Crossrail platforms and with an interchange tunnel running north up into the LUL station.

18886. Where we go from there is that as the project was progressed through the last year or so and further work was done, it became apparent that by building the new Crossrail infrastructure and linking into the LUL Station there was a major problem with passenger flows at the Bond Street LUL Station, particularly focused around the interchange with the Jubilee Line.

18887. If I can have put up the AP3 equivalent drawing which will not mean a huge amount to the Committee at the moment, but just use it as a base.⁶ The consequence of that concern is that in AP3 we are promoting additional works which are intended to relieve congestion within the existing Bond Street tube station. You can see those marked on the plan north of Oxford Street there. The Petitioner's property is a property on Oxford Street and the corner of Stratford Place, which I am indicating now, which will need to be demolished under the AP3 scheme.

18888. If I can explain the background to this. Crossrail has quite a complicated effect on Bond Street Station because it takes people off the Central Line, so it relieves congestion on the Central Line. Of course, the Committee will remember that for a good bit of the route Crossrail is following the line of the Central Line, so many passengers will come of the Central Line and be on Crossrail instead, but it increases the number of people interchanging off the Jubilee Line on to the totality of Crossrail and the Central Line. Self-evidently, for those of you who know London well, people coming from North London interchange at Bond Street at the moment on to the Central Line to go east to the City and the Chancery Lane area, such as that, and that flow is increased by the provision of Crossrail. Those of you who know the station already will know that it is already a very congested station. One of the things I was going to say at this stage is if there are any doubts on this issue I would invite the Committee to go on a site visit and see what I see most mornings of the week, which is a very, very congested station already in the morning peak.

18889. If I can put up the axonometric.⁷ This is both the existing station and the AP3 works, but the existing situation is that we have the Jubilee Line down here with one bank of escalators going up to an intermediate concourse, and the existing congestion is largely focussed around that escalator. Mr Berryman and Mr Anderson can talk more about that. The conclusion reached through the early part of last year was that the Promoter could not promote Crossrail without a scheme for relieving congestion at Bond Street because there was too much risk of major operational problems at Bond Street if we do not relieve that congestion. Mr Berryman can explain the congestion relief scheme in detail and can show you on the model, but just to give the Committee a sense as to where we are going.

18890. At the moment there is this existing bank of escalators. The AP3 scheme provides for additional escalators over here which relieves, very significantly, congestion around the existing escalators and around the existing intermediate concourse, and it also provides for a new ticket hall on the site of the Petitioner's property and for step-free access for people with mobility problems via that new ticket hall.

18891. There are three benefits. The principal one is the need to relieve the congestion and the two secondary ones are a high quality ticket hall to the north of Oxford Street and high quality step-free access via that new ticket hall. The scheme involves the demolition of this one building owned by GE Pensions. Before we leave the axonometric, can I say that it is slightly confusing because it does not show the Crossrail ticket hall. The Crossrail ticket hall is over here and we decided that to try and put on the Crossrail Hybrid Bill scheme on to this as well was going to make the axonometric almost impossible to draw. We have the Davis Street ticket hall up here and a subterranean passage coming in here and linking into the existing infrastructure next to D, where the Committee sees it marked there.

18892. If I can have put up the photograph of the building to be demolished, it is this building here.⁸ I am sure it is dearly beloved and of considerable value to GE Pensions but I think we could all agree not a particularly architecturally beautiful building. An important point here is that we are talking about an extremely congested and constrained location. The Committee may be familiar with Stratford Place which is a cul-de-sac just on the corner of the building going north of Oxford Street, a street which contains a number of listed buildings, including a Grade I listed building at the end, but it also contains two high commissions and

⁶ Crossrail Ref: P137, Crossrail Amendment of Provisions Environmental Statement (AP3), Bond Street Station, Amendment of Provisions—Transport Links, Map C4(iv) (LINEWD-AP3C4-005).

⁷ Crossrail Ref: P137, Crossrail Amendment of Provisions Environmental Statement (AP3), Bond Street Station, Amendment of Provisions—Axonometric (LINEWD-AP3-49—04-001).

⁸ Crossrail Ref: P137, Photograph of GE Pensions Limited, Bond Street (SCN-20070131-002).

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is obviously right on the very busy pedestrian section of Oxford Street and next to the equally busy Oxford Street road with all the buses that go up and down.

18893. We are talking about a very, very constrained location which has made it very difficult to find a solution to the problem at Bond Street.

18894. Before I hand over to Mr Berryman to take the Committee to show them the model there are two points I want to make on the evidence which may help to speed things along this afternoon. First of all, Mr Berryman will give evidence on why we chose this scheme and the degree to which we looked at other solutions to this problem and had to dismiss them, so the options that were considered. Mr Anderson will give evidence on the need for this work in terms of congestion in the station. He has come armed with a number of PEDROUTE runs. The Committee may remember PEDROUTE from Liverpool Street. I am afraid we do not have the wee men running around on this one, the Legion runs, we only have the PEDROUTE coloured drawings, but Mr Anderson has those to show you the nature of the problem. There is one comment that I think should be made about it in advance. The evidence shows considerable congestion by 2016 and wholly unacceptable congestion with plus-35 per cent. The Committee may remember that that is the LUL checking figure that we are designing to. The Committee may remember on Liverpool Street, Mr Spencer said we should be looking at even higher figures. Here we have tested it at 35 per cent and

we can show you the results. There is an argument as to what degree that congestion is the result of Crossrail and to what degree is part of the existing issues at Bond Street to do with LUL alone.

18895. We could probably have that argument for many days as to quite who is—to put it colloquially—to blame for the high level of congestion that we see appearing at Bond Street post Crossrail, but the view the Promoter has taken is that that is largely beside the point. I have to say, with all respect and, indeed, thanks to the Committee, we have learned the lesson of Liverpool Street. We are not trying to say this is a LUL problem and therefore it should not be part of the Crossrail Bill and it is for LUL to pick it up, we have moved on in our thinking from trying to argue that, very much in the light of the way the Committee looked at Liverpool Street. As far as we are concerned, the position at 2016 and onwards is one which is unacceptable and one that the Promoter cannot promote a Bill for Crossrail where there is a risk that the operational problems at, or very soon after, the opening date of Crossrail are so significant. I thought it was useful to say that in advance because it makes our position, I hope, entirely clear. I hope I have outlined the principal points at this stage. Unless the Committee has got any questions for me, I invite you to adjourn briefly and have a look at the model.

18896. **Chairman:** We will do just that.

After a short break

18897. **Chairman:** Mr Thompson?

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Mr Paul Thompson appeared on behalf of the Petitioner

Bircham Dyson Bell appeared as Agent

18898. **Mr Thompson:** As we know, sir, I appear for GE Life Pension for their petition against AP3, that is Petition number 49. GE Pensions Limited is a UK company forming part of the GE Life Pensions and Insurance Group which was recently transferred to the Swiss Re group of companies in 2006. As you have heard, the company owns the freehold interest of the whole of what is 354 to 358 Oxford Street and 1 Marylebone Lane which Crossrail is telling you is now proposed for compulsory acquisition for the purposes of a new London Underground ticket hall and congestion relief scheme. Ms Lieven has helpfully introduced quite a lot of what I might need to say just to tell you about this, so I shall jump quickly on.

18899. The property, if we can just be clear, includes two basement levels: retail units on the ground and the first floor; and four floors of residential dwellings above. It is a Richard Seifert building—if people are interested—and I will not

comment on its architectural quality. The reason this Petitioner is appearing today is three-fold. First of all, because it remains to be convinced that the property is really needed for Crossrail or that the proposed works stack up in engineering terms as the right solution to any congestion issues at Bond Street. Secondly, we are appearing because when we informed the Promoters that we had these doubts, but were content to have further discussions with them about this and reserve our position about the principle of it with a view to returning to it, if necessary, in the House of Lords, we were told that that was not acceptable and if we wished to question the principle of the proposals we had better appear today, and that is why we are here, because we do. Thirdly, we are here because if AP provisions affecting our party become part of the Bill, and we question that, we wish to have the option of entering into what is called an Over-site Development Agreement. Sir, if I begin to stray into OSD, over-site development, a lot of us call it OSD—it will slip out at some stage—we are

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interested in entering into an OSD Agreement along broadly the same lines that are now being entered into by other landowners with property over proposed station works.

18900. I will need to tell you a bit more about that a bit later. In the light of the evidence that we are going to lead we would ask you to conclude firstly that the case for taking the property as part of these AP3 proposals is insufficiently proven. Secondly, the proposals should therefore be dropped from the Bill. Thirdly, if that is not to happen and the proposals are to remain part of the Bill, which we question, the Promoters, at the very least, should provide reasonable access to my client's engineering and property consultants to engage with their Crossrail and London Underground counterparts to answer our reasonable enquiries as to whether these proposals are properly founded and whether they cannot be improved upon.

18901. Finally, sir, Crossrail and London Underground should be prepared we say, if necessary and if required, to negotiate in good faith with us a possible OSD agreement having regard to previous OSD agreements that have been entered into and adjusted if necessary to the particular circumstances of the case. That is what we are asking from you today.

18902. I now need to explain in a little more detail just how we come to those conclusions before calling my witnesses. I have potentially three witnesses although I expect possibly only to call one. My three witnesses are John Stephens from Credit Suisse Management. He manages the property on behalf of GE Pensions Limited and he can provide further information and respond to further questions which you may have concerning the petition. Secondly, sir, I can call Charles Pinchbeck of Jones Lang LaSalle. He has been advising the petitioner in relation to the property. He has also acted for the five landowners who have now entered into OSD agreements elsewhere with Crossrail. He can speak to issues of valuation, the redevelopment potential of this site and the nature of OSD agreements. Thirdly, sir, I have Tim Spencer here of Steer Davies Gleave who has appeared before you before. He has been advising GE Pensions on the engineering aspects and will explain why we entertain doubts about the merits of the proposals as affecting this property.

18903. My current expectation, sir, is that we can possibly skip over Mr Stephens and Mr Pinchbeck and go straight to Mr Spencer but I am in the hands of the Committee and Crossrail if you wish to learn more about the property, the valuation aspects or the petitioner.

18904. **Chairman:** I think we should just proceed with Mr Spencer.

18905. **Ms Lieven:** Sir, can I say one thing on that because obviously when I open I do not know exactly what the petitioner is going to say. So far as the OSD position is concerned, the agreement, we have written to the petitioners in the clearest possible terms saying that we will enter into what is known in the trade as a collaboration agreement on the over-station development in the same terms as the other five landowners Mr Thompson has referred to. That letter is one of Mr Thompson's own exhibits, if we can have it put up, 007.⁹

18906. **Mr Thompson:** I will get to it.

18907. **Ms Lieven:** That position is entirely clear, therefore I am not intending to call Mr Smith on that issue because we do not know what more is wanted from us than is in that letter, if the Committee would wish to quickly look at it.

18908. **Chairman:** Let us proceed as suggested.

18909. **Mr Thompson:** It will become clear before I finish this opening exactly what we are saying, sir. If I can now move on to say a bit more about the property and Crossrail proposals as we see them affecting this property. You have heard it was not within the original limits of deviation. In summary, as we see it, AP3 proposes that the Promoter requires compulsorily the whole of my client's properties in order to demolish the buildings situated on it and to construct the new underground station entrance and ticket hall they propose north of Oxford Street or in London Underground Bond Street Station. Related works, as you have heard, include the construction of a passenger subway and proposals to connect the new ticket hall to the current Underground network. I will not say more on that because I think we were introduced to it outside.

18910. I have to say, sir, the inclusion of these proposals in AP3 came as a surprise to GE Pensions Limited. You might think that is strange since they are the landowner and consultation is considered king these days, but it did come as a surprise to them. They had not been consulted about it in advance so the first they knew about it was when it featured in the AP3 information round in, I think, October of last year.

18911. My client's case as set out in its petition can be summarised under three distinct headings. We have a desire to retain, or if we cannot retain it to have given back to us, the over-site development if property has to be taken for Crossrail purposes, and, if that is to happen, to assist Crossrail in planning, designing and thereafter constructing the over-site development. We question the rationale behind the need for Crossrail's works to this property and we also in our petition seek ancillary

⁹ Crossrail Ref: P137, Correspondence from Winckworth Sherwood to Bircham Dyson Bell, Crossrail Bill—GE Pensions Ltd, 22 January 2007 (WESTCC-AP3-49—05-007).

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protection in the event that these Crossrail works are carried out. I am not going to trouble the Committee about ancillary protection matters, we are going to focus mainly on the matter of principle but I will explain the outstanding issue about OSD before we move to Mr Spencer.

18912. Just outlining our position on the rationale and justification for these proposals, I should explain why we are interested in this in the first place. We are because this is a very valuable asset. It occupies a prime site on one of the most desirable and, in terms of property values, most expensive streets in the world. It is a prime retail site and GE Pensions Limited would rather keep their property, if they can, or at least be able to keep as much of the retail element as possible. You heard a moment ago that the Promoters are contemplating that the whole of the ground floor will be a ticket hall but that is where the retail is. GE Pensions feel, and we invite you to side with us on this, that it is reasonable to expect a clear and compelling case to be made for taking a property before it is compulsorily acquired.

18913. In the first instance when my clients found out about this they were not convinced about the rationale for it. I just need to refer you briefly to the documentation that came out with AP3. The Environmental Statement simply makes the unsubstantiated statement that the works are required to reduce congestion. Could I have my exhibit 3 put up?¹⁰ This takes us to paragraph 4.1.3 of the Environmental Statement.

18914. **Chairman:** Can I just say for the record we have it listed as A216.

18915. **Mr Thompson:** Thank you. This is an extract from the AP3 Environmental Statement. You will see that it boldly states that passenger traffic at Bond Street is forecast to increase anyway between now and 2016, that Crossrail is predicted to increase pressure on the LUL station and bring forward the need for a congestion relief scheme and it is now proposed to construct the works which AP3 provides for. Essentially, together with the drawings and axonometrics, that is what one gets with AP3. Our petition at paragraph eight requested the Promoter to provide full justification for the need for the additional ticket hall and works and we suggested they should be put to strict proof of the decision to locate this on their property.

18916. At paragraph nine of our petition we called on the Promoter to demonstrate that the proposed works actually are required for the purposes of Crossrail as set out in the Bill and are not merely being carried out for the purposes of upgrading the London Underground network without there being any connection with the Bill. This was particularly

important, as we saw it, in view of the fact that the works were not part of the original Bill and GE Pensions was not convinced that the proposals had been properly thought through or sufficiently developed to justify the compulsory purchase and planning powers which are now being sought.

18917. Sir, the Promoter did reply and you have seen before these response documents that have come out for petitioners. We received a response document on 18 January, about ten days ago. If I can have exhibit 4, my next exhibit.¹¹ This is the extract from the Promoter's response document. As I have just mentioned to you, we had sought full and further particulars as to what was the basis for this, how it is justified, and the response is here. I hope it is readable. In essence, paragraph one states that the rationale for the proposals is sound. It repeats the assertion that Crossrail adds to existing congestion and brings forward the need for a congestion relief scheme, particularly by increasing the number of passengers using the escalators to and from the Jubilee Line. The second paragraph states that a number of options were considered without explaining these further and adds that the Promoter considers the scheme has a minimum impact and that total demolition is necessary. Having received that response document, we did not feel that we were much further informed.

18918. My clients then requested copies of the supporting documentation because we reasoned that obviously there would be supporting documentation in relation to something as complex as this. We had a meeting with Crossrail the day after we received the response document, that was on 19 January, and we asked for whatever background documentation we could have because there was none in the public domain. We received a bundle of documents—I should not say a bundle because it was mostly in electronic form—we received their response on Wednesday 24 January last week after further chasing them when they issued to us a report submitted by Transport for London to the Department for Transport dated 28 July 2006. I will come back to that report in a moment. This describes the results of a London Underground review of congestion impacts on Bond Street Station. They also issued to us in electronic form two further reports. One report was prepared for Crossrail on future year conditions at Bond Street dated November 2006 and the second a final version of the RIBA Stage B report prepared for London Underground on the congestion relief scheme proposed by AP3. Incidentally, these three reports we received last Wednesday total 400 pages.

18919. My clients immediately upon receipt of these three reports instructed Mr Spencer of Steer Davies Gleave to review the reports. He undertook an initial review and concluded—you will hear from him in a moment—that the linkage of these

¹⁰ Committee Ref: A216, Crossrail Amendment of Provisions Environmental Statement (AP3), Route Window C4: Bond Street Station, Introduction, Overview, Para 4.1.3 (WESTCC-AP3-49—05-003).

¹¹ Committee Ref: A216, Extract from Promoters Response Document to GE Pensions Ltd (WESTCC-AP3-49—05-004).

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works with Crossrail was far from clear. His preliminary findings, if I can summarise them, were: firstly, the works are only necessary, if at all, which remains to be shown, for the easing of congestion on the London Underground network and not by virtue of the Crossrail powers; secondly, they are not necessarily the right solution for LUL's congestion problem in any event. That gave my client a problem. This is a valuable property and it is being advised that it is not entirely clear that this property should be taken at all.

18920. We discussed Mr Spencer's findings with our client the following day and we met with Crossrail again last Friday and then indicated to them that we were prepared to negotiate the proposed collaboration agreement on OSD, taking as a starting point those entered into by the other landowners, but we were not yet satisfied that the Crossrail scheme was a sound one and we would therefore like more time to consider the lengthy reports as well as the proposed design for the station works on the property. We said, "Let's negotiate the OSD agreement, but we must reserve our position because frankly you have not convinced us or anybody, we think, that your proposals make sense. Let's reserve our position on that, we will negotiate the OSD if you are prepared to give us reasonable access to your team so we can ascertain whether your works are correct or whether they can be improved". Crossrail's response to this last Friday, as we understood it—they will present their own version if they differ from this—was that no further discussions could be taken forward on that and if we had any questions about the principle of the scheme we had better raise them today. In the light of that my clients were forced last Friday to come to a considered view on the merits of the AP3 proposals upon the basis of the reports that we have seen. Mr Spencer has done some further work in the time available for my clients and we have come to the view that they are not justified and we will tell you why in a moment.

18921. Exhibit 5, if I can have it, just to outline the scene.¹² We have tried to help you, sir, by providing a headline summary of what Mr Spencer has told us and wishes to outline to the Committee. Effectively what we are saying is that the design work undertaken to date by LUL is minimal; that appropriate options have not been assessed; that the LUL preliminary modelling, this is the modelling referred to earlier, shows that the proposed scheme addresses forecasted LUL congestion and not Crossrail induced congestion (Mr Spencer will explain that in more detail). The modelling also shows that Crossrail will not worsen but rather improve conditions in the main West One ticket hall. Nothing in the Promoter's case

demonstrates the need as part of Crossrail for an LUL entrance and ticket hall on the north side of Oxford Street.

18922. If I can have my next exhibit, exhibit 6.¹³ I mentioned, sir, that one of the documents that we received from Crossrail on 18 January was the London Underground report to DfT which considers four options. This is a report from July of last year which is effectively a submission to the Department for Transport indicating the basis upon which it was felt that it would be helpful for this scheme to be part of the Bill. Option three we think is particularly interesting; it is not the one that they went for. This is option three that we have put up. As you can see, this option makes it very clear that even London Underground believes that only certain specific elements of its proposals relate to Crossrail congestion relief and that other elements, such as the ticket hall, step-free access and emergency access improvements, would have to be excluded as not relating to Crossrail. That was one of the options. On the face of it, sir, I hope the Committee would agree that this report does begin to demonstrate that there is a real question to be answered as to whether these proposals are genuinely for or related to Crossrail and whether they have been sufficiently developed to be included in the Bill. Mr Spencer, who I will call in a moment, will deal with those things in more detail.

18923. I now turn to the proposed powers and the proposals for the prospective over-site development and the collaboration agreement. Introducing this very briefly, sir, you will know that Crossrail has a land disposal policy whereby landowners will be offered in certain defined circumstances an opportunity to acquire an interest in land which has been compulsorily acquired from them where that land is not required for the operation of Crossrail. That is their land disposal policy.

18924. One of the problems with this from the landowners' point of view is that it leaves the Secretary of State with wide discretion as to what interest would be offered back and, more importantly, it provides no certainty now as to whether in fact an interest would be offered at all. Now, the Secretary of State has given an undertaking, and we actually do have it, it is my exhibit 8, which is the undertaking which he gave to you on 15 February 2006 which states that "planning applications and environmental statements for the proposed OSDs are to be submitted as soon as reasonably practicable and, in any event, no later than two years after the commencement of construction of the Crossrail works".¹⁴ The Secretary of State is saying that, although these properties will be knocked down and their replacement is not part of the Bill,

¹² Committee Ref: A216, Headline Summary of Tim Spencer's Preliminary Findings (WESTCC-AP3-49-05-005).

¹³ Committee Ref: A216, Option 3—Make provisions for the LUL upgrade scheme in part (WESTCC-AP3-49-05-006).

¹⁴ Committee Ref: A216, Proposed Undertaking to Parliament—Over-Site Developments (OSD) (WESTCC-AP3-49-05-008).

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something will be brought forward in the short term, but, as the Secretary of State intends to use private sector experience in progressing the design and planning and in order to be sure that the option for the original landowner, in this case GE Pensions, to ensure that they will be allowed back to do OSD in a manner that is worthwhile, it is very important, you will appreciate, for the landowners to have much more certainty about the eventual outcome than they obtained simply from the land disposal policy which offers a potential option for having the land back and the Secretary of State's undertaking which says that development proposals will be advanced.

18925. What these landowners, in essence, are concerned to do, and it has been the case with the others who have negotiated OSD agreements, is to ensure that further substantial design work is done and it is not always clear that Crossrail is either willing, or will be funded, to do this, but further substantial design work is done so that, if they obtain the opportunity to undertake the OSD, the railway works have been refined, proper consideration has been given to the possible OSD as to how it will be developed and justice is done to the OSD opportunities. If there is not collaboration now, the fear is that they may be offered by Crossrail a development proposal that they can have back, but it simply will not be the one that is appropriate for the site. It will be, if I may be unfair to our railway colleagues, designed for railway purposes when actually we are talking about over-site development on very important sites. That is why the landowners in these cases have sought collaboration agreements and we have in this case.

18926. Ms Lieven correctly points out that Winckworth Sherwood by way of a letter, exhibit 7, did confirm on behalf of the Promoters that a collaboration agreement is on offer to GE Pensions Limited, and I think she is asking me to make clear, which I now will, why we are still saying something about that. When we saw the Promoters last Friday and we said to them, "Yes, we're willing to negotiate the OSD agreement, but we need to reserve our position about the principle of the scheme", the Promoters said, "No, you can't reserve your position about the principle of the scheme", and that was the end of the discussion and people left the room. I think, but it needs to be confirmed, that that letter is still on offer, that we have not done anything effectively for that proposal to offer us an OSD agreement to be negated.

18927. The other aspect of it is that we then made clear that there are special circumstances here which may require a departure from the standard form of OSD agreement that has been agreed in other sites and we were not demanding last Friday that Crossrail agree the principles of these departures, we were merely asking them to confirm that they would negotiate on these with us and that

we would not be told, if we went away, that it was the OSD agreement as it applied to other sites with no changes.

18928. Now, the three aspects that we asked them to confirm they were willing to negotiate on a bona fide basis are as follows. Firstly, on the direct involvement of London Underground: the existing OSD agreements on other sites are simply with Crossrail and they do not involve London Underground, and you will appreciate we are talking about London Underground works here, so it seemed to us reasonable to say that we would want to be able to discuss with them the direct involvement of London Underground in this. Secondly, we indicated that we felt there were some issues about the timing of their prospective development here. There was plainly a prospect of works being undertaken in advance of the main Crossrail works. It is, in a way, a separate London Underground package, is it not, and therefore in principle we felt that the Promoters ought to be able to negotiate with us on that. The third thing is that we have asked if they can negotiate with us on changing the limitations on what is called the 'additional contribution'. Now, sir, I do not think I need trouble you with what the additional contribution is, it is a very complex collaboration agreement which is in prospect, but there are financial terms in it and there is a cap within there, though that may not work quite for this site. We are not asking, and we did not ask last Friday, the Promoters to agree a different one; we merely asked them to confirm that they would negotiate with us on a bona fide basis possibly for a different term on this rather than to say, "No, it's the old agreement or nothing at all". Therefore, when Ms Lieven says to the Committee, "The position is plain, you asked for that letter", we would be entirely happy with the OSD point if it is confirmed, which I think it has been, that that OSD letter is still open and, secondly, that Crossrail and London Underground will be open to discuss these points by way of possible, but not certain, variation to the standard terms. That is where we are on the OSD point.

18929. Sir, I can conclude that my clients are inviting the Committee to conclude that the case for taking the property as part of the AP3 proposals is insufficiently proven, and you will hear from our witness in a moment on that. For that reason, secondly, it just should not happen and it should be deleted from the Bill from the AP3. If, on the other hand, you are not persuaded about that, at the very least the Promoters should provide reasonable access to our property and engineering consultants to engage with their Crossrail counterparts to answer what we consider are very valid enquiries about whether these proposals are properly founded, and whether they cannot be improved upon, whether, for instance, it is not possible not to take the whole of the retail floor because we can lead evidence on this, if necessary, but I do not think it is, but I think we can all

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appreciate that there is a real possibility that, if you take away the entire retail element of a building on Oxford Street, OSD does not become very attractive at all and rather less than viable. Meanwhile, as I say, if Crossrail can confirm this, we will negotiate with them a provisional OSD agreement always assuming that these provisions remain part of the Bill.

18930. In making these requests, sir, we do ask you to consider whether on the documents you have before you Crossrail really have proved that there is a compelling case in the public interest to acquire compulsorily this property. We do believe that is the appropriate test. We would further ask you to consider whether it does not appear that these works have been parachuted into the Bill at this advanced stage on an opportunistic basis merely for the benefit of London Underground. If they are really necessary for Crossrail, why, you may ask and we still ask, were they not included in the Bill from the outset?

18931. Finally, sir, we would just like to emphasise that my client has had really very little time to prepare its case for today. We believe we do have a proper case to make and that we can substantiate it to you, but we have had very little time, and I have to say that that model, for instance, is news to us. I gather it has been around for some time, but we have never seen it before and Mr Spencer has not had it referred to him. We have had to struggle a bit, but we ask for your indulgence if there are a few gaps in the way we present this. That is my opening, sir, and, as I say, I have three witnesses, but I propose to go straight to Mr Spencer.

18932. **Ms Lieven:** Sir, on the over-station development point, you have seen the letter, and we have indicated that the offer in there is still open. Sir, our position is that it is only possible to move forward on the collaboration agreement once the landowner accepts that the property is to be acquired and is needed for the scheme, so we are not prepared to go in parallel negotiations proving it is needed while at the same time negotiating the collaboration agreement. We do not believe that is a sensible way to go forward.

18933. On the three specific points that have been raised in relation to the collaboration agreement, those are really detailed negotiation points which I will call Mr Smith later, if necessary, to deal with, but I would very much question whether or not the Committee was the appropriate place to try to bang out the terms of a collaboration agreement such as this, but, as I say, if, having heard our evidence, the Committee wants to hear Mr Smith on those three points, I will call him, which I suspect would be tomorrow. There have been prolonged negotiations in respect of the collaboration agreement through Bircham's, other landowners and indeed with this landowner and I am quite unwilling to get into the position where those

negotiations do not become exercised through the mirror of the Committee, but Mr Smith can give you evidence on each of those three points. He is not in the room at the moment, sir, which is why I am hesitating, as it were, to give the evidence through me because I do not want to get it wrong.

18934. **Chairman:** Mr Thompson, do you wish to proceed?

18935. **Mr Thompson:** Can I call my first witness, my only witness as it may be?

Mr Tim Spencer, recalled
Examined by **Mr Thompson**

18936. **Mr Thompson:** Mr Spencer, you have appeared before the Committee before, but can you give us your professional details please.

(Mr Spencer) My name is Tim Spencer and I am a Director of Steer Davis Gleave, independent transport consultants and advisers to GE Pensions Limited. I have indeed provided expert witness evidence to the Select Committee on several occasions on behalf of British Land and the City of London Corporation, so I am the same Tim Spencer.

18937. Mr Spencer, when were you instructed by this client?

(Mr Spencer) About a week ago.

18938. You understand the basis upon which you were instructed only a week ago, that the Promoters' response document was received only just before that and the reports that we have asked you to look at were not part of that and were received last week.

(Mr Spencer) I spoke to our clients in expectation of the information becoming available last Wednesday and they received the information last Thursday.

18939. If we can firstly concentrate on the history of these proposals, they were not part of the original Bill, were they? Were they in response to any of the Committee's considerations or anything which has happened on the Bill, can you just confirm that?

(Mr Spencer) As far as I am aware, there has been virtually no discussion whatsoever about Bond Street ticket hall as part of the Select Committee's considerations and certainly there has been no decision by the Select Committee which led to the need for Crossrail to submit AP3.

18940. So what can you tell us about the origin of these provisions?

(Mr Spencer) I would like to cross-relate the evolution of the scheme. Basically, there is a publication which is called 'The Business Plan for Transport for London' which is published by the Mayor on an annual basis. Basically, it is documentation of all of the investment work that

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TfL are undertaking within London over a five-year period and it is updated on an annual basis. Each year, the status of the individual projects that make up the investment programme is updated and I would just like to take you through what has been presented as far as Bond Street congestion relief is concerned as of October 2004, 2005 and 2006. In 2004, which was published in October 2004, which was a matter of a few months before the hybrid Bill was published which was in February 2005, the strategy of 2004 related to the spending during the period 2005/06 and 2009/10. The Bond Street project did not appear in the main congestion relief scheme schedule published by TfL. I can take you through the schemes in there. There is a large number of them and they are silent on Bond Street as being a priority. The justification for the indicative Bond Street LUL Station scheme was meeting demand growth which has not changed in any of the subsequent TfL updates. The scheme at this time did not envisage a new ticket hall, but only improvements to the existing ticket hall through relocating the existing station control room, a facility you will be familiar with with regard to Liverpool Street. At this stage, there was no procedural planning issue beyond the financial authority to proceed. That means it was not anticipated that there was a need to engage in any form of planning to actually be able to proceed with the works which were anticipated in 2004 and the other point to make is that there was no mention whatsoever of the Crossrail project in the definition of the reasons for the scheme, the justification for the scheme. By 2005, it was recognised by TfL that Transport and Works Act approval was a necessity. This is probably related to the fact that the scheme evolved during that period of time and became quite a bit more complex and to the extent that they would need some acquisition of land which would be the reason to submit the Transport and Works Act application. The specification for the project outputs was completely unchanged from 2004, but the benefit:cost ratio, which is the economic performance of the scheme, had improved dramatically from 1.3:1, in other words, £1.30 of benefits for every £1 of expenditure, to 14.1:1, in other words, £14.40 worth of benefits for every £1 you spend, which is an extraordinary change in the economics of the scheme. The outcome was stated to have a £200 million present value which effectively is the benefit stream of social benefits mostly related to reduced journey times. Now, if you do some fairly simple mathematics, you can work out that the cost anticipated at that stage was something in the region of £15 million if you put the net PV and the 14.4 benefit:cost ratio together. By 2006, the planning route had switched to incorporation within the Crossrail Bill. The rationale for the project remained unchanged as meeting demand growth, which is somewhat at odds with the Crossrail justification of accommodating London's growth. There was at this stage no reference to the new ticket hall by

LUL in the LUL specification and also the cost:benefit ratio had fallen dramatically to 4.9:1 as opposed to 14.4:1, probably due to increased costs.

18941. **Mr Thompson:** At this point can I take you to the LUL letter to the Department for Transport which we referred to in opening? I do not know that the Committee has this, but we can provide copies. As I explained in opening, this is the paper we received last week.

18942. **Chairman:** For the record, this is A217.

18943. **Mr Thompson:** As I explained in opening, sir, this is the paper that we understand was submitted to the Department for Transport as the basis for including proposals in the Bill last summer which we received as part of the explanation for events last week from Crossrail. Now, Mr Spencer, I just want to pull some particular elements out of this. Can you draw attention to the Transport & Works Act Order proposals?

(Mr Spencer) As an option, it was regarded as being more risky and time-consuming than the alternative option of taking the project through Crossrail powers.

18944. But at the date of this report, that was London Underground's position, that if this could not be parachuted, to use my phrase, into Crossrail, it had to proceed as they had conceived it as a Transport & Works Act Order application?

(Mr Spencer) Absolutely, and in 2005 they were of the intention to submit the Transport & Works Act Order.

18945. Does it indicate, this report, that the design work had simply not been worked up in detail? Can you take us to that?

(Mr Spencer) It certainly does. Essentially, this is effectively a ministerial briefing document which led to the Minister deciding that he would promote AP3 with regard to the Bond Street Station. Clearly at that point in time, a certain amount of work had been done on design and a certain amount of work had been done on appraisal and what the briefing document to the Minister does is reach conclusions on the basis of the information they had available at that point in time and also established the process by which the AP would be published in terms of the additional work that would need to be done. Now, my position as far as the design work is concerned is that the conclusion was that the design would advance to what is called 'RIBA Stage C', and that that would be necessary for the proposals to be incorporated within the hybrid Bill. Now, that has not happened. The design of this project, as presented in November of last year, is that it has only reached RIBA Stage B.

18946. I think you are referring us to the last sentence of section 4.¹⁵

¹⁵ Committee Ref: A217, Transport for London Report, 28 July 2006 (SCN-20070131-003).

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(Mr Spencer) Correct.

18947. It is intended that, “Whilst the immediate focus will be on securing designs sufficient to support the hybrid Bill, it is intended that LU will develop this option through to RIBA Stage C over the coming six months”. To help me and the Committee, Mr Spencer has kindly given me the RIBA chart about stages. It may be helpful, sir, if I just remind us all about what RIBA Stages B and C are in case we have forgotten. RIBA Stage B is strategic briefing preparations by or on behalf of the client, confirming key requirements and constraints, identification of procedures, organisational structure, a range of consultants and others to be engaged with the project. Then RIBA Stage C is outline proposals to commence the development of the strategic brief into the full project brief, preparation of outline proposals and an estimate of cost and review of the procurement route. That is the RIBA guidance. Mr Spencer, can you just identify for us what is the great distinction between RIBA Stage B and Stage C, for our purposes?

(Mr Spencer) Stage B is basically that the client has done enough work to establish what he thinks the project should encompass, such that he can commission a design team to actually do the work to translate that into physical proposals. RIBA Stage C is clearly a scheme where the engineers and architects have brought forward the designs to the extent that it can be costed with a high degree of certainty and that it can be fully appraised in terms of the capacities and the buildability and, if you like, the certainty that is associated with the Promoter actually knowing that he will be able to do this thing in the way he has set it out, so there is an enormous difference between B and C.

18948. What would you expect at the time that a proposer seeks authorisation powers for a scheme?

(Mr Spencer) In this instance, I would definitely expect RIBA Stage C and that is what the ministers were told would be the case.

18949. Moving on then or, rather, back in terms of this paper, can I take you to section 2.¹⁶ This section of the paper, to which you have given the background, I think you wanted to tell the Committee makes certain claims which you feel are not fully demonstrated.

(Mr Spencer) I certainly do. The evidence that we now have does not support the conclusions which were presented in July of last year. There is a proposition that the increase in passengers at Bond Street will be much higher following the introduction of Crossrail, but that is not the case. The introduction of Crossrail results in higher levels of interchange within the station, but really very modest increases in the overall extent of use of the Bond Street LUL station. There is a suggestion in the next paragraph that flows will exceed capacity, resulting in congestion in the 2006

forecast year. That is not supported by the analysis which has been undertaken, neither is the conclusion that there is considerable congestion in 2016 and that there is a major problem with pedestrian flows, as suggested in the opening. The evidence simply is not there and the evidence is not there to the effect that Crossrail makes it any worse. If anything, it is a neutral outcome so far as the introduction of Crossrail in 2016 is concerned, so those statements are both very misleading, and the later conclusion that there are significant operational impacts is not substantiated by the information that we have available, so those are a number of comments that I have picked out from this.

18950. **Chairman:** If it is already quite congested at the station and if growth is going to occur between now and 2016, how will it be less? I understand you are saying that more people will interchange, but more people will be then arriving at Bond Street and going through, so any growth will mean that the present situation is worse, not better.

(Mr Spencer) I am not disputing that in the slightest and I think I need to be absolutely clear about that. The issue at stake here is: is there a compelling case that Crossrail should pick up this piece of work or should LUL do it? The second stream to my evidence is whether or not you have sufficient evidence before you to basically act as the planning authority on this work when there are perfectly adequate alternative procedures that can be followed by London Underground to seek powers and compulsory purchase powers as part of Transport & Works legislation. In 2001, the station does suffer from congestion and in 2016 there will be growth in the network, but I am not aware of anything that is going to relieve Bond Street Station during that period of time, but, given that you have to look at in the round and the same growth has been experienced by every single tube station in London, the point is that Bond Street had not made it into the high-priority list in terms of TfL priorities.

18951. So essentially your argument is not about growth because growth will be there?

(Mr Spencer) Yes.

18952. It is about the process of application for Bond Street to be developed, that is what you are saying?

(Mr Spencer) And it is about whether or not it is appropriate that Bond Street should be brought forward in advance of a large number of other projects where there are equally pressing needs. I think if you take it in a general sense, Bond Street obviously supports Oxford Street, and it is not in a very big development area, whereas you can look at areas like King’s Cross, Victoria and Paddington where there is considerable growth because of development, but in that part of London around Bond Street, I am not aware of any major development proposals in that area, so it is that kind of joined-up thinking that you get between

¹⁶ Committee Ref: A217, Background, Transport for London Report, 28 July 2006 (SCN-20070131-004).

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advancement in land-use planning and transport which tends to push projects higher up the pecking order as far as TfL are concerned.

18953. **Mr Thompson:** I am going to take Mr Spencer on to modelling and what he thinks of the congestion figures in just a moment, but just before we leave this document, can I take you back to section 7 which sets out the options ranging from whether we proceed with plans for proposing transport works one day or whether we get this into Crossrail.¹⁷ Do you see in the second paragraph of option 1, which is the Transport & Works Act option, what it says about promoting a scheme that way?

(Mr Spencer) I do not think that they could be reaching that conclusion when this note was written. There is absolutely no reason why LUL cannot progress this project and have it available before implementation to dovetail with the Crossrail project because these are different construction projects, it is not as though the Crossrail contractor is going to build the LUL projects, and there is absolutely no reason that the project cannot be brought forward by 2016, whatever the opening date of Crossrail is. In the LUL programme, before it became subsumed into Crossrail, they were anticipating that it would be complete by 2014. That was on the basis of following the Transport and Works Act route. So I do not think there is an argument to be had there.

18954. You see there, it claims that the Transport and Works route is more risky and time-consuming?

(Mr Spencer) It is a conventional planning application, so it is objecting to the strong probability of there being a public inquiry, and the ability for interested parties to give evidence, perhaps, at more length than even with the Select Committee inquiries of this nature. There was one for projects in Camden Town a while ago which sat for a very considerable period of time just dealing with one capacity relief scheme, and sat about three or four months. In that particular case, LUL lost the case and so they did not get the powers, and so if they can avoid situations like that and considerable expenditure in running an inquiry and then, at the end of the day, planning inspectors deciding that it was not the right scheme.

18955. In your judgment, Mr Spencer, if they did go for the Transport and Works Act Order application on the basis of the information they presented to this Committee, what would happen to it?

(Mr Spencer) It could not even register the application. There is nothing like enough information.

18956. **Chairman:** Mr Spencer, I am interested in this because you seem to be saying that what is occurring here is that the Committee is being used to bypass normal planning processes.

(Mr Spencer) Correct.

18957. Would you not consider it absolutely totally correct that the Committee took a view on matters like this when it is a project which is going to take hundreds of thousands of people every day, and you have got to consider matters like safety, investment and delivery—decisions like where the position of key stations will be? We have already recently, at the beginning of this inquiry, looked at Liverpool Street, and we were so concerned about the safety aspects of that we made specific orders in that respect.

(Mr Spencer) If you like, there are three types of station. At Liverpool Street, access to the Crossrail was by way of London Underground ticket halls. So the proposition there is quite different in this situation because there is no access to Crossrail by way of on-street LUL stations; the only use of on-street LUL station and Crossrail station is through an interchange, which is only a very small proportion of the journeys within Crossrail. You have a similar situation at Tottenham Court Road where there is capacity relief scheme which is being put forward by LUL which then provides the primary access to and from Crossrail by way of LUL, and there is a fundamental need for that congestion relief scheme to be incorporated in the Bill, and it is in the Bill, and you have changed Liverpool Street to the extent that you are satisfied now that that is the appropriate facility for gaining access to Crossrail. In this situation, it is not about getting into Crossrail it is actually about the existing LUL infrastructure. The compelling case has to run that Crossrail is making matters materially worse, hence there is a responsibility on Crossrail to go and solve those problems. If that is not the case then you should rely on London Underground using its strategy powers and statutory responsibilities, and it has onerous requirements in terms of safety, onerous requirements in terms of step-free access and disability discrimination—all those things are in place and it is not for this Committee to worry about LUL doing its job.

18958. **Chairman:** It is for this Committee to decide what it is going to—

(Mr Spencer) Absolutely. AP3 has been put to you and it is entirely up to you whether you agree that it should be part of the Bill or you disagree—

18959. Going back to your argument, it is a mechanism being used to bypass normal planning controls.

(Mr Spencer) Absolutely.

18960. **Mr Thompson:** I think, sir, we say that it is more important that you should think about this very carefully and we should pose the question because the scheme which you are being asked to

¹⁷ Committee Ref: A217, Option 1—Retain Provisions as in the Crossrail Bill, Transport for London Report, 28 July 2006 (SCN-20070131-003).

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endorse, we say, has not been worked up, has not been properly justified and may be the wrong one. If we can now move to modelling. Can we say something first about PEDROUTE? Is PEDROUTE a reliable modelling tool?

(Mr Spencer) PEDROUTE is a means by which designers are able to test their designs during the evolution of a project. So it will tell you the pedestrian level of service, and it is very much a design tool that helps the architects and the engineers to perfect the design of the project. As the Select Committee knows only too well, there is another tool which is the use of software called Legion Dynamics, which provides a far more sophisticated appraisal of complex situations. It has to be the case that the scheme being brought forward for planning has to be subjected in detail to Legion analysis. The PEDROUTE analysis you have got at this point in time is a helpful design tool; to actually get to the bottom of the issues that need to be addressed there should be Legion modelling of these stations. It is an extremely complicated station, no less complicated than the Liverpool Street situation, where obviously Cross London Rail Links were happy to do the Legion analysis. We have not got the Legion analysis here.

18961. Given that it is PEDROUTE that we have got, can you tell us what it does show about the congestion relief?

(Mr Spencer) In 2016 I think it is completely inconclusive as to whether or not Crossrail makes the situation better or worse. As such, I do not think the analysis is particularly helpful for a variety of reasons. One is that there is not the quality of the design to appraise. As I said, you would expect it to reach Stage B. If you run a PEDROUTE on a RIBA Stage B design then you have got very little confidence that you would actually be able to build it. The PEDROUTE modelling that has been done, for some reason, excludes some of the problem areas with Bond Street Station. Bond Street has a sub-surface ticket hall. For a large number of people you actually get to that sub-surface ticket hall through a retail development. That retail development is a congestion problem but is actually not part of the PEDROUTE modelling. So you are left with a whole series of unanswered questions, likewise the access to Liverpool Street and subway underneath Oxford Street. Neither of those appear in modelling. So it is really only telling you about half the story at present, and I do not think you can reach conclusions on the basis of that. I would like to take a few points which do not necessarily flow from PEDROUTE but they are basically dealing with numbers. Numbers are important, and I know I cannot use too many of them, and I will only use three or four. Fundamentally, without Crossrail, about 20,000 passengers seek to leave LUL station in the am peak hour to go to street. With Crossrail this number reduces significantly from 20,300 to 17,200. That is, maybe, a 15 per cent reduction. It seems illogical to suggest that you need a new ticket hall in Oxford Street occupying a prime retail pitch

when you are actually faced with the proposition that demand to go to street is significantly less with Crossrail than without Crossrail. There cannot be a case for provision of that ticket hall. Now, other aspects of the scheme, as indicated by what is for LUL and what is for Crossrail that appeared in the Minister's briefing note, undoubtedly some of those aspects are related to Crossrail, which are the issues on interchange and potentially providing new escalators, and Crossrail can be potentially picking that up, but for Crossrail to be building a new ticket hall when there is a reduction in the number of people that go to street because those people have transferred to Crossrail using the Dover Street ticket hall, clearly raises a number of questions about the proposal that has come forward. Significantly fewer passengers would be using the escalator system that I just talked to you about within the West One Centre. That is where the congestion is: those people that have moved to Crossrail. So it is completely missing the point to add capacity when problems have been solved by Crossrail in the first instance. Also, to be absolutely clear for the record, the demand forecasts show that absolutely no Crossrail passengers would attempt to reach street level by way of the LUL station complex. In other words, it is always assumed that they are given a fantastic route to street by Crossrail and they will all use it and that nobody would use the labyrinth of tunnels within the LUL station to leave Crossrail and go to street. I think it is an important point. So, really, there is no justification for an additional ticket hall facility at all on the back of the Crossrail project. Some of the numbers that have been produced I have looked at in some detail, and as an example the flows from Jubilee Line using the escalators where you gain an extra escalator, in the base situation the movement from the Jubilee up those escalators is identical with or without Crossrail—no change whatsoever. So quite clearly there cannot be a justification for providing additional escalators driven by Crossrail if the demand forecasts are saying they are the same. That is the case on the evidence that has been put forward. As I said, the fact that the West One retail centre has not been assessed as part of this analysis, in many respects we had actually looked at doing something in that centre as a means of solving the existing problems because the escalator vertical circulation is inadequate. That is not even a proposal in what is coming forward here; it is all about a new ticket hall for Crossrail, and that is a significant problem for us.

18962. Mr Spencer, would it be helpful; we know the Promoters have handed us some PEDROUTE exhibits, just to have your take on those, about the position in 2016, so it is entirely clear?

(Mr Spencer) Absolutely. I have severe reservations about any in-depth analysis of this work because it is so preliminary, but if we can have a couple of the examples. On page 2, there are four plots.¹⁸ Can you zoom in?

¹⁸ Crossrail Ref: P137, PEDROUTE Existing Station No Crossrail—2016 Base AM (WESTCC-AP3-49—04-003).

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18963. Sir, I do not think you have seen this yet. The Promoters did provide us with some PEDROUTE examples and it may just be helpful to have Mr Spencer's take on it. What they do is they include some coloured PEDROUTE diagrams which tell us the position with and without Crossrail in 2016 plus 35 per cent. I just wanted to make sure that Mr Spencer indicated quite what his position was on this.

(Mr Spencer) If we can move to the second page, I will only take an example. Can you zoom in either of the bottom ones? As ever, the overhead is of significantly less quality than the screens in front of you. This is the 2016 am peak PEDROUTE modelling and you will see there are locations within the station, particularly the escalators up from the Jubilee Line, where there is the yellow coding, which is a congested situation for periods of time within 15-minute periods. When you are looking at the escalators it is important to look at the fact that there is no crowding back off the escalators. Basically, the escalators are very busy but there are no queues to get on the escalators—or no significant queues—which means that it is pretty much a normal escalator in London Underground stations. You can see the bulk of the station platforms, both the Jubilee Line platforms and the Central Line platforms, are relatively uncongested. There are small amounts of green dotted around. I give very little weight to either interpreting these things in too much detail or relying on them, because of the lack of supporting information. If we move to the next page, if you can blow up the bottom one, I do not think it is at all helpful for me to speak too much about it, but this is a situation with the introduction of Crossrail without the congestion relief scheme.¹⁹ On balance, you would say it is neutral. You could argue it is better or you could argue it is worse but I think you would be doing that within such a narrow confine it would be a pointless discussion. To all intents and purposes it is the same, as far as I can see. Clearly, as far as my proposition is concerned, to the limited extent I use this information, there is no compelling case that Crossrail is creating a far worsening of the situation that would lead you to conclude that Crossrail should be mitigating that problem.

18964. Mr Spencer, you have given us a feel for your view on that and the position in 2016. Can you tell us what your position is on this plus 35 per cent scenario?²⁰

(Mr Spencer) Plus 35 is future-proofing and we have been through this in the Select Committee. It is a requirement of LUL, unless there are circumstances that dictate otherwise. You would do an analysis of plus 35 per cent on the demand forecasts, which essentially is saying this is what the view is of how the station will operate in 16 years' time—16-year future-proofing. You should never

interpret it on the basis that, particularly in a situation like Bond Street which is a very stable location, it is suggesting that demand forecasts are wrong and that you should add 35 per cent to the demand forecast. It is not that proposition. It is entirely to do with future-proofing.

18965. **Chairman:** Before you move on, Mr Thompson, the Committee is going to adjourn for five minutes.

After a short break

18966. **Mr Thompson:** If I can move on, Mr Spencer, I indicated in opening that you took the view that the design detail in this case was slightly impoverished—there was not a lot of it. Can we move on to that? We have confirmed, I think, the design provides not just for underground escalators but the full ticket hall on the site. Can you tell us a bit more about that? How detailed is the design?

(Mr Spencer) The report is what it says; it is a Stage B report. The electronic copy that I received on Thursday was missing all of the plans. The only design drawing I have at my disposal at present is the axonometric—absolutely nothing else.²¹ As you have seen outside, that axonometric has been translated into a physical model. There was a schedule in this report which purported to include a series of plans, which would have shown me the layout of the ticket hall and the intermediate concourse and platform levels, and so forth, but it was not supplied to me. So I do not know if it is an administrative error or that when this report was published those plans did not exist, certainly not in my electronic version of the report. What I am able to glean from this report is that the scheme is costed at £110 million at this stage of the project development, which is very early days, but I am also aware of the fact that in the AP documentation the financial consequence of incorporating this congestion relief scheme, I think, was £158 million, in terms of the net increase to the Crossrail budget, if these measures were incorporated through the Hybrid Bill. I take you back to some of the earlier scheme developments which were clearly schemes of £10 to £20 million, which were being looked at quite seriously a few years ago to address the critical congestion problems within Bond Street Station. I see this as being a project that is in a very early stage of development. The costs I have got are shown in the Stage B report, which was issued to us on 24 January of this year. The level of design information is clearly insufficient to properly consider the proposals in any level of detail with any confidence. Indeed, the report itself self-critically admits that this is a quick assessment with a minimal level of design that has not been fully detailed. That is as documented in the risk assessment of the Stage B report. So I can conclude from that that you can look at a very impressive

¹⁹ Crossrail Ref: P137, PEDROUTE Existing Station with Crossrail—2016 Base AM (WESTCC-AP3-49—04-004).

²⁰ Crossrail Ref: P137, PEDROUTE Existing Station with Crossrail—2016 Base AM+35% Demand (WESTCC-AP3-49—04-013).

²¹ Crossrail Ref: P137, Crossrail Amendment of Provisions Environmental Statement (AP3), Bond Street Station, Amendment of Provisions—Axonometric (LINEWD-AP3-49—04-001).

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model but you can have no confidence in the detail and deliverability and, really, what the final outcomes will be for the project because it has not been subjected to the full investigation, and has not had the amount of time put into it that would allow one to have confidence that it was truly deliverable.

18967. Mr Spencer, can you remind the Committee what the estimated project costs are for this proposal, this congestion scheme?

(Mr Spencer) In here it is £110 million but in the AP3—I cannot remember what the document is called –

18968. It is the departmental memorandum on the promotion.

(Mr Spencer) That quotes a figure of £158 million. What I have no idea about is what the year is for the costing. You are quite likely to find that 158 is an inflated version of 110 to take account of when the expenditure would occur, but—

18969. Relatively speaking, this is not a minor add-on; this is a substantial piece of work in financial terms, not just in physical terms.

(Mr Spencer) Absolutely. It is an enormous investment.

18970. With the complexities that that infers.

(Mr Spencer) Absolutely the case, and it needs to be subjected to not just capacity appraisals, it has to be subjected to an entire economic appraisal, and there is no evidence of that appraisal being undertaken for a scheme of this cost. That inflation does not appear anywhere.

18971. Sir, if it helps, we will not be much longer; we are coming towards the close of this. I think you want to say something about the demand forecasting, and whether it is intuitive.

(Mr Spencer) Yes. I have looked at the demand forecasts and some of the forecasts do concern me and do appear to be somewhat counter-intuitive, such that more people use the Jubilee Line to get to the local area because you have built Crossrail, which does not seem to make sense. They are not using Crossrail, so why should there be more simply because you have built a new railway? Those kinds of things are actually feeding through at this stage, because the driver for the congestion relief in the case of Crossrail is because they are saying there are more people in there, but in reality I am not at all certain that the demand forecasts do stack up. A lot more work would need to be done to ensure that the demand forecasts make sense and then you would use those as a basis for the detailed capacity assessment, which would be by way of Legion analysis.

18972. Just before we leave the question of design detail, I said something in opening about this being a rather special site. Did you want to endorse that?

(Mr Spencer) The ticket hall location?

18973. In Oxford Street.

(Mr Spencer) Absolutely. Oxford Street is an international shopping centre of world renown. The quality of the retail end, the commerciality of the retail, in terms of rental—I am no expert on this but I am pretty certain—is about the most expensive in the world.

18974. I do not think this is in dispute but the reason I ask you to turn to this is the fact that in the London Plan it is a conservation area. In your experience as an engineer, not as a planner or whatever, does this suggest to you that you would expect quite a lot of design work here?

(Mr Spencer) It would be an extremely complicated project to take through the full design process. There are so many possibilities. The risk assessment is quite clear; they are saying: “We just have not got enough information to properly understand how we are going to build this thing because we have done it too quickly and the information is not sufficient.” It does not surprise me in the slightest.

18975. If we then move on to look at what sort of design work could be undertaken and what alternatives you might expect to emerge. Can you tell us something about that?

(Mr Spencer) There are certainly opportunities to improve matters within the existing West One complex substantially, which I personally would take to be a major problem within the interchange at present.

18976. That is on the south side of Oxford Street, as opposed to our site which is the north side.

(Mr Spencer) Absolutely. I absolutely 100 per cent support the principle of the stations being made to be DDA compliant. Basically that responsibility would very firmly rest on LUL. It is not as though they can avoid that because the works to the LUL station by Crossrail in effect would trigger the requirement for the station to become DDA compliant. This is a very serious matter for London Underground. It is going through that process where there is a physical intervention that they would then say triggers automatically the need to make the station DDA compliant or MIP access compliant and no doubt there are dozens of ways that that can be done without using my client’s site.

18977. Thank you. If we can then just conclude, can I have my exhibit 5 again, which is the headline summary of Mr Spencer’s preliminary findings.²² I just want you to have a look at this, Mr Spencer, and make sure that we have not misrepresented your position. I read it to the Committee earlier. Are you happy with that?

²² Committee Ref: A216, Headline Summary of Tim Spencer’s Preliminary Findings (WESTCC-AP3-49-05-005).

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(Mr Spencer) The first point is recognised by the designers themselves. There is no documentation of optioneering, so it is impossible for me to conclude anything on what has been assessed because I have no knowledge of it. In a planning situation you would have to very clearly set out the options that have been considered before a planning inspector would give you consent for a complex scheme. I certainly do not think the modelling is at all conclusive and it is not pointing towards there being a problem induced by Crossrail. I totally agree with the proposition that there is no evidence that Crossrail makes it materially worse.

18978. Can we sum up? In your opinion, does the Select Committee have sufficient information available to it to determine the propriety of taking our client's property and spending in excess of 100 million on this proposed scheme?

(Mr Spencer) It is absolutely clear to me that the Committee does not have sufficient information in front of it to be able to reach that decision with any certainty.

18979. Is there anything you would like to add, Mr Spencer?

(Mr Spencer) Responding to the Chairman, London Underground are doing an enormous amount of work in upgrading the Tube system in London, partly in preparation of 2012 but partly because the much-maligned PPP is actually beginning to deliver projects on the ground now. There is an enormous amount of work to be done and LUL is in a position to deliver this, and that is their role. They have got very precise objectives in terms of safety and accessibility and in terms of consultation procedures and design qualification, making sure they get it right. I think this Select Committee can rest assured there will be a congestion relief scheme brought forward for Bond Street, I think you can be certain of that. What you cannot be certain of is if they became the drivers of this project whether it would be the same project that you are being asked to give, in effect, planning consent to.

18980. **Mr Thompson:** Thank you, Mr Spencer. Stay there, please.

18981. **Chairman:** Ms Lieven?

18982. **Ms Lieven:** Sir, I am going to adopt my normal course. I am not going to cross-examine Mr Spencer, I am going to ask Mr Berryman and Mr Anderson to deal with the point.
The witness withdrew

18983. **Mr Thompson:** On that basis I do not think I propose to call my other witnesses, I do not think there is a need for them, we can proceed straight to the Promoter's evidence.

18984. **Ms Lieven:** I will call Mr Berryman.

Mr Keith Berryman, Recalled

Examined by **Ms Lieven**

18985. **Ms Lieven:** Mr Berryman, given the tightness of time I do not want you to repeat matters we went through outside. We will take as read how difficult an area this is in which to find a solution. Can you just tell the Committee about the processes that you, together with LUL engineers, went through in order to find a site to carry out congestion relief works here?²³

(Mr Berryman) Yes. I think the site, as you know if you know the area at all, is a very, very congested one. There are only basically two alternatives as to where a shaft could be put to access the works. One is in the road and one is in an existing building. The two roads in the area are Oxford Street, which is obviously a difficult place to have a shaft, and Stratford Place, which is a cul-de-sac leading north from Oxford Street. There are a number of buildings in the area which are listed and there are two High Commissions, we mentioned when you were outside. That means that the number of options for places where an access shaft to get at the works could be put is severely limited. What we did was to look at all of those potential sites to see which one would give us access to the works. I ought to mention when digging a new escalator shaft, which is the principal work required for Crossrail here, it is always advisable and virtually the only way of doing it is to dig that shaft from the top rather than the bottom so we have to get access to the top. With all those constraints taken into account we looked at all the available sites which we could find and it really boiled down to three, two in Stratford Place and the site we are now proposing to take. The two sites in Stratford Place proved to be extremely difficult, if not impossible, for construction and that is why we are taking the site that we are.

18986. In terms of other options, completely different schemes to solve the problem at Bond Street, what work was done on that?

(Mr Berryman) There were a number of options developed over the years by London Underground and we re-examined those to see if any of them were practicable to provide the kind of linkage we need. You have already heard evidence that the principal problem is the link between the Jubilee Line and the intermediate concourse and no doubt Mr Anderson will give better particulars of that later on. It is, as you could see from the model outside, very difficult to find routes to link those two areas simply because of the congestion and the amount of work. Mr Binley asked whether there

²³ Crossrail Ref: P137, Crossrail Amendment of Provisions Environmental Statement (AP3), Bond Street Station, Amendment of Provisions—Axonometric (LINEWD-AP3-49—04-001).

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was going to be any ground left when we had done the tunnelling, so I think you can see that is a complex issue we had to spend some time on.

18987. Can you just go through the various benefits of taking the petitioner's site? What are the transport benefits that come out of that and the construction benefits?

(Mr Berryman) There are three principal issues about this station. The station is already very congested, as I think is pretty much common ground between everybody here. The three problems are, first of all, solving that congestion and dealing with any additional congestion which arises as a result of the construction of Crossrail. The second problem is that the evacuation routes for the existing station are substandard and certainly since the King's Cross fire they would not be acceptable if the station was being built now. The third problem is that there is no MIP access, there is no wheelchair or mobility impaired access at all to any of the platforms on this station. Of course, the lack of an escape stair and the lack of MIP access you could argue is nothing to do with Crossrail at all but it would make absolutely no sense at all to be doing substantial works of this nature on a station and not remedying those defects which exist already. Those are the issues about what we need to do. In terms of how we construct it, clearly there are problems with this site—I do not want to keep labouring the point—because it is in a very congested area. We are trying to avoid putting more traffic on or across Oxford Street. We are trying to avoid disrupting the footways in Oxford Street, South Moulton Street or any of the other shopping streets in the area. We are trying to make sure that the construction work can be carried out in the least environmentally damaging way. We have not gone into this but it is worth just mentioning that the proposal is to fully enclose the site on the petitioner's premises so there is a large structure there with construction going on inside which will be generally invisible to the pedestrians walking up and down Oxford Street. This site lends itself to that treatment and is a very positive attribute of this way of doing it.

18988. Just in terms of PRM access, if it is not under the scheme being promoted it will go down through the ticket hall on the petitioner's site. As I understand the evidence Mr Spencer has given, one sub-part of his case is, "Well, you might need my site to dig your escalator for construction purposes but there is no justification for a ticket hall north of Oxford Street for Crossrail, therefore you should delete that part of the scheme and give us back a cleared site". If one was to take that approach, what other solutions are there for PRM access at Bond Street?

(Mr Berryman) One of the solutions that was developed was to have a sort of telephone box type structure on the surface at the location marked "E" on that plan outside the Hog in the Pound public house where MIP people could go into that and be lowered down, in a lift of course, to the concourse

level. I have to say the arrangements we have got here are pretty complex but then an even more complex arrangement of short rise lifts and intermediate passages to get from the surface to the various platforms. What we are looking for here is to provide as clean as possible a journey from the surface to the platforms using as few lifts as possible simply because every time you change a lift it is another inconvenience, it is a possibility of further delay and a possibility that, of course, one of the many lifts will not be working.

18989. Quite apart from PRM benefits, just in terms of simple passenger benefits, can you see any to having a ticket hall north of Oxford Street?

(Mr Berryman) Yes. There is an entrance to the station at the moment which is north of Oxford Street. It is a rather mean and unsatisfactory one in Stratford Place that is not very much used, I think it would be fair to say. Instead, very large numbers of pedestrians cross Oxford Street to gain access through the West One Shopping Centre which is very crowded. I think it would not be unfair to acknowledge that Crossrail will to some extent relieve that overcrowding but the fact remains that a very large number of people are coming from the north side of Oxford Street to the station.

18990. There is only one other thing I want you to give evidence on. It has been suggested that the design of the AP3 scheme at Bond Street is at an inadequate stage for the Committee to make any judgments on it or for the petitioners to decide whether or not the scheme is appropriate. Can you just explain what stage it is at and whether it is at any different stage from the rest of the Crossrail project?

(Mr Berryman) It is roughly RIBA Stage B. It is pretty similar to the rest of the Crossrail project. There are odd bits on Crossrail which have been taken to a higher stage because of particular problems. There are large chunks of Crossrail which are not even designed to this level, they are just alignment details basically. It is comparable with the other works for which powers are being sought.

18991. **Ms Lieven:** I think that is everything, Mr Berryman.

18992. **Chairman:** Mr Thompson?

Cross-examined by **Mr Thompson**

18993. **Mr Thompson:** Just a very few questions, Mr Berryman. You mentioned that there were three sites that had been considered; my client's site and two others. Has this information been disclosed to us? Maybe it is in the Halcrow report but I do not believe we recollect it.

(Mr Berryman) I am not sure whether it has or not. I am not quite sure which reports you have had and which you have not. Certainly it was in some of our reports.

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18994. The alternatives and options that you are mentioning today do not feature in the public documents.

(Mr Berryman) No. I feel bound to say that I would not be prepared as an engineer to go ahead with either of the options. In my opinion both of them were extremely dangerous. They were probably dismissed without finding their way into anything that came into the public domain.

18995. From your position do you think it is entirely satisfactory that there has been the little degree of engagement with my clients and their consultants that has occurred? Is it unusual? Our suggestion is, you see, that it is.

(Mr Berryman) I would not have said that it was particularly unusual as compared with other sites, for example the Grosvenor site, immediately south of West One, I think we have probably had a similar level of discussion with them as with your client.

18996. When we referred earlier to the LUL submission to the Department for Transport, is that something you were involved with?

(Mr Berryman) The one made in July?

18997. Yes.

(Mr Berryman) Yes, I was.

18998. That was the basis, was it not, for the decision to proceed and put this into Crossrail?

(Mr Berryman) That was indeed the basis for that.

18999. When you say that large chunks of Crossrail are not even designed to this level, are we talking about large chunks of Crossrail the project or are we talking about the station works?

(Mr Berryman) I am sorry, I did not catch the last bit.

19000. Are we talking about the whole of Crossrail not being designed in many cases to even this level or are we saying that the station works at Crossrail are—

(Mr Berryman) I think generally the station works are designed to this level, yes.

19001. Thank you very much for that. At what point did you conclude that it was appropriate to include this in Crossrail? We saw the report from July.

(Mr Berryman) Yes. It was shortly after that report that the decision was made to include this in the AP3. AP3, from memory, was deposited on 10 October. It would not be unfair to say that this was something which was quite a critical activity in getting AP3 out the door.

19002. Thank you. You did indicate in your evidence a moment ago that if Crossrail is coming along and there are problems with London Underground at the Bond Street West One Centre

it is only sensible to include these now. That is basically the position, is it, that it may be opportunistic but it is sensibly opportunistic?

(Mr Berryman) Yes, I think that would be our position.

19003. **Mr Thompson:** Thank you, sir.

19004. **Chairman:** Ms Lieven?

19005. **Ms Lieven:** I have got no re-examination, sir. Can I proceed to calling Mr Anderson?

The witness withdrew

Mr David Anderson, Recalled

Examined by **Ms Lieven**

19006. **Ms Lieven:** Mr Anderson, can you first of all deal with your view on the passenger conditions at Bond Street now and in 2016 and then we will start putting up some of the PEDROUTE plans for you to comment on briefly.

(Mr Anderson) I think this has already been discussed, we have got congestion at the station in the present day but growth is expected. As elsewhere on the scheme we used the London Plan projections to provide our forecast for the station demand and those projections indicate growth. We then manipulate those projections in the London Plan using the LUL methodology we have talked about, adding the 35 per cent. We are seeing growth of the order of 20 per cent or more through to 2016 over and above what is there today.

19007. Can we just put up one PEDROUTE plan, page three. I think it was 9 o'clock to 9.15. This is no Crossrail 2016.²⁴ There was just one comment of Mr Spencer's that I personally felt needed to be dealt with. Can you say whether in your view that shows no queuing at the bottom of the escalators?

(Mr Anderson) No, it does not. In terms of the colour coding here we proceed from dark blue, light blue, green, yellow and through to pink in very adverse conditions. Green is regular congestion, yellow is continuous congestion, and we can clearly see both of those colours at the foot of the escalators.

19008. Can we then move on to the PEDROUTE plans we were intending to show the Committee, which I think are the evening peaks. Can you just take us through the three plans. I think we start at page 11, green page 11 rather than the black page 11. Existing station, no Crossrail, 2016, base plus 35 per cent.

(Mr Anderson) Here we can clearly see extensive congestion throughout the station. At the bottom of each plot we can see significant amounts of pink colouring, that is the existing ticket hall, we can see

²⁴ Crossrail Ref: P137, PEDROUTE Existing Station No Crossrail—2016 Base Demand AM (WESTCC-AP3-49—04-003).

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the pressure that is under. Again, we can see the yellow and the green at the base of the Jubilee Line escalators.

19009. Hang on a minute, I am not sure we are on the right plan. Which one are you looking at, Mr Anderson? That is better.²⁵ Do you want to take the pointer?

(Mr Anderson) It might be helpful. These are four plots for the evening peak period 2016 and this is with 35 per cent additional demand. We can see here the existing ticket hall on the four plots and we can clearly see they get increasingly congested throughout this hour period. These are the Jubilee Line escalators and the run-off at the bottom of the escalators. Again, we can see the extensive green spilling out towards the platforms and also the yellow increasingly throughout the peak period. We can see the yellow on the escalators and the run-off.

19010. Then if we can move to the same time period, again plus 35 per cent, with Crossrail, which is on the following page.

(Mr Anderson) Page 12, yes.²⁶ Again we have the same problems I have just been alluding to but the thing we notice here is at the top of the escalators on the intermediate concourse we have been discussing we can see we have now got pink here and this is in part due to the interchange flow coming from Crossrail. There is a similar situation down at the escalators and at the bottom of them where you can see the yellow spreading out there to the platforms. We can clearly see the impact of adding Crossrail between these two points.

19011. Just looking at the bottom one, is that a situation which in reality would be allowed to happen?

(Mr Anderson) No, these are very adverse conditions indeed and LUL would be intervening in the operation under these conditions.

19012. I think we touched on this on Liverpool Street but can you just remind the Committee why congestion at the point where people get off the escalators is unacceptable in safety terms?

(Mr Anderson) We have got people moving at this location, we have got some cross-flow on the concourse and the other additional factor here is that we are deep below ground and LUL would have less opportunity to manage that situation compared to a ticket hall at the surface as we saw at Liverpool Street.

19013. I am sorry, Mr Anderson, I think you and I know what you are getting at but perhaps if you could spell it out. If there is severe congestion in a ticket hall, what steps can LUL take?

(Mr Anderson) There are a number of things they can do. When we were on the site visit at Liverpool Street we saw them holding people at the top of the escalators. They can close the gate in very adverse situations and they have a barrier that allows them to control the flows through the ticket hall. Deep below ground they do not have that opportunity and obviously the Crossrail trains will continue to arrive and people will interchange as there will be no barrier between the Crossrail services and the Jubilee Line platform.

19014. So if you had the situation on the bottom of that page, what steps would LUL or the operator of Crossrail have to take?

(Mr Anderson) There are two options. They could introduce control at the surface ticket hall preventing people descending to the passageways and the platforms beneath. The other option would be to close the interchange link so that if the Crossrail people wanted to change here they would have to come up to the surface ticket halls at this end of the Crossrail station and walk at the surface to the LUL station.

19015. Would you view that as being operationally acceptable?

(Mr Anderson) No, certainly we do not want to be designing for that.

19016. Perhaps we should finally revert back to the 2016 situation without the plus 35 per cent and show what is happening and how the AP3—Sorry, before we do that we should do the AP3 scheme just to show what it does with 35 per cent. That is the following page, Mr Fry, green page 14.²⁷

(Mr Anderson) Now we can see the addition of the additional escalators, the congestion relief scheme effectively bypassing where the problem was occurring before and we can see the very obvious congestion that we get on the concourse and, indeed, throughout the station. Being plus 35 per cent we can still see some elements of yellow but they are much fewer than in the previous plots so we can see the very clear impact that these works are having on the performance of the station.

19017. As I said a moment ago, just so we can go through so the Committee can see where we are at, the existing station, no Crossrail 2016, page nine, Mr Fry.²⁸ You can see greens and yellows on the escalators.

(Mr Anderson) Yes. We can still see greens at the base of the escalators and, as I say, green is regular congestion and yellow is continuous congestion. We are still getting congestion in 2016 even without Crossrail here.

²⁵ Crossrail Ref: P137, PEDROUTE Existing Station No Crossrail—2016 Base Demand PM + 35% (WESTCC-AP3-49—04-012).

²⁶ Crossrail Ref: P137, PEDROUTE Existing Station with Crossrail—2016 Base Demand PM + 35% (WESTCC-AP3-49—04-013).

²⁷ Crossrail Ref: P137, PEDROUTE AP3 (Routing A) with Crossrail—2016 Base Demand PM + 35% (WESTCC-AP3-49—04-014).

²⁸ Crossrail Ref: P137, PEDROUTE Existing Station No Crossrail—2016 Base Demand PM (WESTCC-AP3-49—04-009).

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19018. If we go over the page, please, to the same time period with Crossrail, what changes do we see there?²⁹

(Mr Anderson) Principally on the top plot here, the quarter hour period, we can see more extensive green but also the yellow at the bottom part of the escalators there. Again, we have got continuous congestion at the base of the escalators over that period.

19019. In the PM peak, focusing on those escalators, would you expect the major flow to be down or up?

(Mr Anderson) I would expect it to be down.

19020. That certainly accords with my experience. So how significant is it that we are getting yellow at the bottom of those escalators in the PM peak?

(Mr Anderson) It is very significant and it is something that we want to avoid.

19021. Do you just want to summarise why from a passenger transport point of view the AP3 scheme is being progressed by Crossrail rather than being left to an LUL and a TWA?

(Mr Anderson) It is clear that under certain conditions there is a significant impact from Crossrail here. We simply would be leaving too much to risk if we did not try to address that impact in our works at this stage.

19022. **Ms Lieven:** Sir, can I just say if there are any concerns in the Committee as to the need to do these works then I would invite the Committee to go on a site visit, which we could arrange quite easily and it is a very easy site to get to. Those are all my questions for Mr Anderson.

19023. **Chairman:** Mr Thompson?

19024. **Mr Thompson:** We have no questions, sir.

The witness withdrew

19025. **Chairman:** Thank you very much indeed. Ms Lieven?

19026. **Ms Lieven:** Sir, shall I proceed to closing?

19027. **Chairman:** Yes, please.

Ms Lieven: Sir, to put the matters the way I would have in a planning inquiry probably in cross-examination, Mr Spencer accepts that Bond Street Station is congested at the moment. He accepts that there is growth to 2016. He accepts that Crossrail increases the interchange flows. There is a dispute about how much it increases but he accepted that there was an increase. He accepts, as I understand it, there is no possible dispute, that AP3 relieves that congestion. The PEDROUTES that you have just seen, and nobody suggests PEDROUTE is a perfect vehicle but it is the one that LUL's station

planning guidance requires to be undertaken, it is the basic LUL tool, shows that with Crossrail in 2016 this station is very seriously congested. Sir, in my submission that is as far as you need to get. It is utterly unacceptable that the Secretary of State, the Government, should spend billions of pounds on Crossrail and at one of the most important stations on the route it is so busy at the opening date that there is a serious risk the station would either have to be closed or the interchange closed. Really, in my submission, sir, I do not need to say any more than that. This is utterly unacceptable. If one looks at it from a political position for the moment, what would the average Londoner think if, after however many billions it is that Crossrail costs, they end up with a situation where they cannot change trains at Bond Street or perhaps they cannot even get into Bond Street Station on the opening day? It is just a totally unacceptable situation. In my submission, why it got to that point whether one could say it was LUL's own passengers' fault or Crossrail's passengers' fault is really neither here nor there. What we must be about is building an acceptable public transport scheme for London and at this location with Crossrail, we would not be achieving that end result, so arguments about, "Well, should it be LUL? Should it be TfL? Should it be Crossrail?" are really, in my submission, beside the point in the light of the accepted evidence as to what the situation would be in 2016 with Crossrail.

19028. Sir, if one looks at it in this light, there can be no possible question that it is in the public interest that this AP3 is built rather than taking the risk of leaving the matter to a TWA and all the time that that encompasses and the risk that at 2016 the works would not have been done.

19029. I go on from there, that once one has accepted that there has to be a congestion relief scheme by 2016 with Crossrail, then I would also submit that it would be ridiculous to spend millions of pounds on this station, not just ridiculous, but quite improper, and then leave it with no proper PRM access because that appears to be Mr Spencer's case, "Well, all right, even if there is a congestion relief case, you don't really need the ticket hall and PRM access can be put off to some other route". Well, in my submission, that really is not the way we should be going forward and the Committee will remember the evidence we have given on the PRM and the lengths that we are trying to go to provide a scheme across the route that has properly taken into account PRM issues. Added to that are the evacuation issues and again one asks: what would the ordinary person think if we spend hundreds of millions of pounds on Bond Street and leave a station that does not meet the requirements in terms of evacuation, which seems to be what Mr Spencer is suggesting?

19030. Then the final additional benefit of this scheme is that it provides a quality ticket hall on the north of Oxford Street. Now, that in itself may

²⁹ Crossrail Ref: P137, PEDROUTE Existing Station with Crossrail—2016 Base demand PM (WESTCC-AP3-49—04-010).

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or may not be a justification for the scheme, but it is a major benefit to those people using Bond Street Station. One remembers that all the department stores are on the north side and at the moment the only access to the LUL station is via a rather grotty, little staircase which, I have to say, after many, many years of usage, I always forget even exists, as plainly do most passengers in the area, so there is a huge public benefit there from having that ticket hall, quite apart from the other benefits. Mr Mould reminds me, and I am sure I need to remind the Committee, that this is the principal retail street in the United Kingdom, so having a quality ticket hall on the north side does seem to be quite a major public benefit.

19031. Sir, turning to Mr Spencer's two other criticisms, he says that the design work is not of a sufficient stage to justify the scheme. Sir, you have heard from Mr Berryman that the design work for this part of the scheme is at the same stage as the rest of the Crossrail project on stations, so, sir, there is simply nothing in that point. It may have come late, and there is no dispute about that, it did come late, and that is why it ended up in AP3, but it is now at the same stage as everything else.

19032. The other one is that the options have not been assessed. Options have been assessed here, that is Mr Berryman's evidence, but it is fair to say that the options are extremely limited. The scheme that formed the basis of the TfL investment programme, the benefit:cost ratios that were referred to, was an earlier scheme which was ultimately found to be unbuildable, so in order to find a buildable scheme that does not have completely unacceptable impacts either on listed buildings or on people in Oxford Street has been a very significant challenge and the evidence is that this is the best, and quite possibly the only, buildable scheme. Can I make one point, sir, while I remember it which I should have made earlier? You may remember that there was a reference to a rather surprising benefit:cost ratio going up to 14:1, the kind of benefit:cost ratio which TfL would die for. It was actually, as we discovered over the luncheon adjournment, a typing mistake and it was 4.1:1 which is still a very good benefit:cost ratio, but not quite as surprising as 14:1.

19033. The Petitioners ask for further discussions. Now, as far as the over-station development collaboration agreement is concerned, we are more than happy to have further discussions on commercial terms on those. I am not going to call Mr Smith because I do not think that that is an issue that the Committee ought to be getting engaged in, it is all about the commerciality of the negotiations. However, we do say that there is simply no point in going on discussing the principle of the scheme. Once this Committee has decided that the AP should go forward, then there is no point trying to have endless meetings with Mr Spencer to prove the need for the scheme. What is that going to achieve with anybody? It might make

GE Pensions happy, but, sir, I hope that the Committee will feel that the Promoter has been more than willing to continue with the discussions with the Petitioners, but that is where there is something to be achieved by discussion. Therefore, as far as the OSD collaboration agreement is concerned, we are quite happy to have further discussions, but so far as the principle of whether or not we need their site in order to provide an appropriate station at Bond Street is concerned, we say there is simply no benefit from further discussions and we do not want to have them for the sheer sake of having more discussions. We do not view that as being a sensible or a productive way forward.

19034. The very final point is one which was raised in the course of this afternoon about Legion. There has not been a Legion study done on this site and I understand that it would be enormously difficult to do so because of the complexities. It could, I assume, ultimately be done if enough time and money was thrown at it, but it has not been done yet and certainly our view is that it would not be a sensible way to proceed at this stage.

19035. **Chairman:** Let me solve that problem. What I have decided is to accept your earlier suggestion which is to have a site visit and I think that will solve the problem.

19036. **Ms Lieven:** Yes, thank you very much, sir.

19037. **Chairman:** Mr Thompson?

19038. **Mr Thompson:** Just getting rid of the OSD point first, I think Ms Lieven clearly said then that Crossrail are willing to have further commercial negotiations, so I am going to leave that there on the basis that I hope I have inferred correctly, that the various matters, the three items I mentioned, would be part of this commercial discussion without anybody necessarily forming a view on them just yet.

19039. Leaving that to one side and dealing with the justification of the rationale for this proposal on this site which we have queried, we invite you, sir, to come to a view on this very much upon the basis of the detailed evidence, the science and the documentation, rather than pure assertions. It seems to me, sir, if I may say this, that there have been quite a number of assertions in relation to this scheme which are not necessarily ones that are fully backed up by evidence today. We invite you to conclude that the evidence that you have heard discloses the following facts. Firstly, the proposals affecting my client's property originated with, and were being advanced until very recently quite separately from, Crossrail. I do not think that is denied. Secondly, the inclusion of the proposals in AP3 was a late decision unrelated to your Committee's recommendations or proceedings on the Bill generally; it has come sideways, if you like. Thirdly, sir, it was prompted, it is quite clear, in

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large part by a desire to take advantage of the hybrid Bill procedure and to avoid the greater challenges acknowledged by LUL in promoting a Transport & Works Act Order on the subject. Mr Berryman confirmed to me that yes, he views this as sensibly opportunistic and one can understand that. I am sure my clients would understand also the Committee taking the view that it must determine the ambit of what is appropriate to put in the Bill, not particular parties, and one does not want to be too precise about this, but it is one thing for someone to be sensibly opportunistic, it is another thing for it to actually be required. We ask you to consider whether it was required. I think Ms Lieven said in opening that Mr Berryman would tell you that Crossrail had concluded that they simply could not proceed with the Crossrail scheme without it. I did not hear Mr Berryman say that, he did not say it in response to my questioning on being sensibly opportunistic, and I think we can see that. The justification for accepting the proposal, sir, is extremely limited. We would say little more than assertions. No attempt, for instance, has been made to justify the ticket hall—none whatsoever. Having a ticket hall on that site is a very substantial part of the works; it is going to use up the entire retail space. We have heard no detail on justification.

19040. If we go to PEDROUTE modelling, and the other material now disclosed to supplement it, what we feel it demonstrates, and we invite you to conclude, is that Crossrail does not make congestion any worse over the relevant time period, 2016. You have heard the two views and you can form your own judgment on that, and in some ways it makes it better. It is all apparent—I do not think there is any dispute as to what the colours mean on those charts—the dispute is as to what you draw from the 2016 PEDROUTE charts and whether the plus 35 ones, 65 years hence, or whatever it is, are actually relevant to the considerations today. That is our position on that.

19041. We say the scheme has not been worked up in any or any sufficient detail. I think I heard Ms Lieven say in closing that the witnesses had said

that the scheme has been worked up to the same degree of detail as the other stations. I would have to check the transcript but I did not hear them say that but I was not sure that that was the position. We can come back to that.

19042. In conclusion, sir, we say that the proposals are not necessary for Crossrail, nor is there a full or sufficient case for their inclusion in the Bill. My conclusions, which I gave you in advance as part of our opening, were four-fold, if I can just remind you of them. The case for taking up the property as part of AP3 is insufficiently proven; they have not made a sufficient case for it. On that basis, secondly, this part of AP3 should not be included. If you do not agree with us on that, our third point is that at the very least the Promoters should provide reasonable access for us to their engineers and other advisers to engage with us in answering the real questions we have about this, as to whether the scheme is properly founded or cannot be improved upon. Ms Lieven made perfectly clear that as far as Crossrail is concerned, no, they are not going to do that. This is a terribly important site; there is a very real question if this scheme is going ahead, as to what should happen there, and whether there is not a design that can be arrived at that provides the best benefits for the railways and the best benefits for the streetscape, and it would be very important for all concerned that if there is a station works on this site and that if the existing retail units and building on a very important part of Oxford Street have to be demolished, what goes on afterwards, particularly at street level, fits so far as possible all the requirements that may be required in a busy retail centre.

19043. My final point, sir, is in relation to OSD, and I think we have covered that. So, sir, that is our case. If we can help you further we certainly will, and I hope one of our party will be able to accompany the site visit when that occurs.

19044. **Chairman:** There is no problem about that, we will be in touch. Thank you very much. That concludes the hearing today and we will next meet at 10 am on Tuesday.

Tuesday 6 February 2007

Before:

Mr Alan Meale, in the Chair

Mr Philip Hollobone
Mrs Siân C James
Mr Ian Liddell-Grainger

Dr John Pugh
Mrs Linda Riordan
Sir Peter Soulsby

Ordered: That Counsel and Parties be called in.

19045. **Chairman:** Before we resume, can I remind people that the Committee will adjourn around about 11.30 so that any of the audience in the room can go and have a cup of coffee along the corridor. Mr Mould?

19046. **Mr Mould:** We are back at Romford Station today. This is the Petition of the London Borough of Havering in relation to AP3. In particular, you will recall that your interim decision, to which the Promoter has responded, related to the provision of a ramped access to the south side of the Romford Station to current standards to serve people of restricted mobility and, as I say, a proposal in response to the Committee's interim decision on day 56, paragraph 16569. If we can have up, please, exhibit 049 to remind you of that: "At this stage we invite the Promoters to find a way to provide appropriate access for mobility impaired people to the developed station in the location of the current ramp. In the same way we expect access to all Crossrail stations to be developed with awareness of the access needs of people with impaired mobility".¹ That is the subject matter of today's Petition. If we can turn to the SES3, page 174, an aerial view to remind you of the broad location.² This is Romford Station, the existing station entrance underneath the railway lines here and an existing ramp which provides access to the station behind the gateline through a passageway here, if you remember this ramp being substandard for people with restricted mobility. Under the original proposals Crossrail did not propose that that should remain or be replaced. The Committee's interim decision was that there should be a replacement for that secondary access and so we now propose, under the additional provisions, a new access ramp which will be here and will give access to the station behind the gateline on the west at the same point of entry within the station wall itself as is currently the case. That is what is proposed.

19047. That proposal we understand to be welcomed by the Petitioner, but the purpose of their appearance today, as I understand it, is they wish to revisit the wider issue of direct access to the south side of Romford Station which was debated before your Committee on day 26, that is 20 April 2006, and

which led the Committee to the interim decision which I have just shown you on the screen. It may be helpful if I remind the Committee as briefly as I can of the background and, if necessary, go to one or two documents for that purpose. Can we go to 14704-017.³ This is the Bill scheme layout plan and proposals which are set out in the Bill scheme. Here we have the proposed new station, as I have said, under the Bill scheme. We propose the removal of the ramp and that is being dealt with now under the additional provision. You can see here that the proposed entrance to the new station, the position of this arrow off of this street, and I will draw your attention to the fact that here is the existing station entrance showing with the white arrow and the distance between the existing station entrance and the proposed new entrance as shown on the Bill scheme plan, approximately 50 metres. That means if you are walking from the south under the Bill scheme you have got a further 50 metres to walk to get to the proposed station entrance.

19048. The proposed station under the Bill scheme, as you recall, was to be to modern standards for persons of restricted mobility. I think it is common ground it would be a substantial improvement over the existing station facility and ticket hall. Three points were raised at the previous hearing. The first related to the existing ramp and I have explained the position in relation to that, the second related to the marginally greater distance from the south to the proposed new station entrance as compared with the existing one, I have just reminded you of that, and the third related to the severe engineering difficulties of providing a more substantial new access to the south through the station as was the aspiration of the borough council.

19049. If we can put up, please, 14704-065 on the screen to save time.⁴ You will recall that the debate focused on this structure here which lies beneath the existing main line, and the borough council's aspiration was to investigate the possibility of driving a new access through to the south, broadly through this line here and Mr Berryman explained to you that that presented a severe engineering challenge because of the nature of this structure and the function that it has in supporting the existing

¹ Para 16537 (HAVGLB-AP3-31—4-009).

² Crossrail Supplementary Environmental Statement (SES3), Chapter 17, Route Window NE9: Romford Station and Depot (East), Aerial view of Romford Station, billdocuments.crossrail.co.uk (LINEWD-SES317-004).

³ Crossrail Ref: P139, Romford Station, Crossrail Proposals—Proposed Layout (HAVGLB-14704-017).

⁴ Crossrail Ref: P139. Previous Issues raised by London Borough of Havering (HAVGLB-14704-065).

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main line and in holding in the material and the structure, for example, in this area here.⁵ Suffice to say, his evidence was disproportionate to any benefit that might be derived to carry out the very difficult works which might be involved involving quite a substantial number of possessions and so forth. You heard that debate on a previous occasion.

19050. The other point I mentioned to you is this is the proposed entrance here and you will recall, sir, that you, in particular, raised with Mr Berryman the possibility of investigating whether there might be some further detailed design work to the foyer of the entrance, in particular I think you had in mind that if it would be possible to reduce that additional 50 metre distance from the existing entrance to the proposed entrance by opening up access to the new station in this area here that would be something that would be of benefit to people, particularly people of restricted mobility. You asked Mr Berryman if he would go away and look at that and he said he would. That was another point you rose last time.

19051. Those points were raised by the Petitioners previously and, indeed, raised by you. I will show you the references to refresh your memories: 04-014, please.⁶ These are the proceedings of day 26 and you see first of all at paragraph 7236 in the middle of that page, sir, you raised with Mr Berryman, during the course of his evidence, the question as to whether the existing substandard ramp to the south of the existing station might be subject to further work. Mr Berryman confirmed that that was what you had in mind. You said at 7237: “Yes, I tell you why I say that, I see that as a solution”. Do you see that? If you read through that paragraph you can see that you were particularly focusing on the needs of disabled people and the possibilities of that existing ramp being replaced and brought up to current standards to serve those particular needs. Mr Berryman mentioned towards the bottom of the page that that ramp was currently substandard. Then if we turn to 04-015.⁷ Mr Berryman raised some of the concerns we had in relation to that existing ramp but the upshot was you said at 7241: “Nevertheless, we think that is something that ought to be pursued”. Indeed, as you have seen, that was pursued, both in your interim decisions and has been the subject of a proposal in the AP.

19052. The next matter that was the subject of some debate between you and Mr Berryman is towards the bottom of that page which is really concerned with the extra distance to get from the south of the station to the proposed new station’s entrance, that 50 metres that I spoke about a moment ago. I will not take time to read out the passages. You will see at the bottom of the page at 7245, you asked Mr Berryman if he would have a look at the issue that you had raised in relation to that entrance. I will not

take you to it, but over the page Mr Berryman said he would. You said: “Rather than give an undertaking now, can you go away and look at it?”. The answer was, “yes”, we will do that.

19053. That was picked up by you in remarks following my closing in 7248 about halfway down the paragraph. You will see that you referred to Mr Berryman’s help and a couple of undertakings which had been given. One was the Promoter would undertake to work with the council to see if they can develop a foyer at the entrance to this in such a way that it will improve access and exit. As I understand it, that is the 50 metre point. The second thing was giving the undertaking to the Committee that they would go away and look at if there was a possibility for a new access which might be of multiple use, which then led to the interim decision regarding replacing the existing ramp with a compliant ramp. That was where matters were left at the end of the Petition hearing on day 26.

19054. Then, if we return, please, to what has happened since then, because there has been a difference of view between ourselves and the Petitioners about precisely what your Committee did have in mind in relation to this station arising from those two matters I have just drawn to your attention. We can show you how that emerged by looking at three further documents. This is a letter written by Messrs Sharpe Pritchard, the Petitioner’s agents, to the Committee on 9 October in the immediate aftermath of our response to the interim decisions.⁸ I can show you the concern raised by drawing attention to the third paragraph: “When the Select Committee announced their interim decisions, mention was made of a requirement for mobility impaired access via a new ramp to replace the existing ramped access on the south side of the station, and the Council were very pleased about that. However, nothing was mentioned about the Council’s other proposal that Crossrail further investigate the engineering feasibility of breaking through from the south at ground level to create better access for all. The Council’s evidence had indicated that significant numbers of passengers approached and left the station from this direction”. Then the letter referred to those remarks of yours which I have shown you a few moments ago. The letter says: “The Council believes that the Chairman seemed to take the view that the Promoter should work on the Council’s suggestions as regards the ground floor entrance when he said” and then a passage is quoted. Then it said: “This ties in with what the Council were asking for in terms of the ground floor entrance. The undertaking which was put to the Committee for their approval would only have required Crossrail to do some further work on the feasibility of the entrance, and then only construct it if it were feasible in engineering terms. The Council were persuaded that the Committee

⁵ Crossrail Ref: P139, Preferred Option Aerial View of the Ticket Hall (HAVGLB-14704-060).

⁶ Paras 7236 to 7327 (HAVGLB-AP3-31—04-014).

⁷ Para 7241 to 7248 (HAVGLB-AP3-31—04-015 and -016).

⁸ Crossrail Ref: P139, Correspondence from Sharpe Pritchard to the Committee, Crossrail Bill, London Borough of Havering, Romford Station, 9 October 2006 (HAVGLB-AP3-31—04-011 and -012).

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had, in effect, endorsed that approach by virtue of the Chairman's comments". Then he refers to the fact that the Promoter does not share the view of what the Committee had decided and what had been undertaken by Mr Berryman. That then was the letter written to your clerk and the response was at page 04-010.⁹ Next day, from Miss Jones: "I do understand the cause of your concern, the Chairman's comments on day 26 did appear sympathetic to some of the Petitioner's requests. However please remember that when in public session the Chairman did not state the absolute view of the Committee. The Committee only expresses its considered view in a statement or report. The Committee deliberated on all these issues before making its statement at the end of July. Whilst the statement did not detail the Committee's views on every case presented, it was the intention of the Committee to signal the decisions that would require the Government to undertake work before the conclusion of the Committee. The Committee may chose to make further such statements after hearing the remaining cases". That was the response. We took from that that certainly so far as any further work being required at this stage is concerned, we had correctly understood what you had decided in July and, indeed, our AP provision for a replacement compliant ramp to the south of the station reflected the Committee's decision.

19055. A final reference to bring you up to date, that then was made clear to the Petitioner in our Petition Response Document which is 04-004 which we sent out to the Petitioners on 20 December.¹⁰ I will ask Mr Fry to put up our response. This encapsulates what we want to say today. I will read it out. The first paragraph summarises what we have proposed by way of additional provision for response to the Committee's interim decision and then I will read from paragraph two: "You will know that the Promoter does not accept the assertion that what was said in the Committee on 20 April—the offer to look at the matter again—was a reference to the aspiration of the London Borough of Havering for

an entirely new southern entrance to Romford Station; rather this related to questions which the Chairman had asked about the existing southern entrance and the ramp which leads to it. The Promoter has consistently made clear—since January 2005 up to and including before the Committee in April—that constructing a southern entrance to the station ticket hall would be difficult and expensive to an extent which would be grossly disproportionate to the anticipated benefits".

19056. Then the response document drew attention to the exchange between Sharpe Pritchard and the Committee's clerk, which I have just drawn to your attention a moment ago. Scroll down, please. The matter was wound up in this way, a reference to the transcript for 25 July: the Select Committee's conclusion on this issue, requiring the Promoter to undertake work at Romford Station "to find a way to provide appropriate access for mobility impaired people to the developed station in the location of the current ramp". That is achieved by the proposed new ramp. More generally, the Promoter will continue to liaise with the London Borough of Havering on the designs for Romford Station". Indeed, we made it clear to you when we were here in April last year that we would certainly be looking to work jointly with the borough council in relation to improving the public realm in the vicinity of the proposed new station in order to address accessibility and other important planning matters.

19057. That is where we stand today, and our position is so far as Committee's requirements of us at this stage in the proceedings are concerned, we have done what we have been asked to do and, therefore, as we understand it, there is nothing more for the Committee to consider at this time. Unless there is anything more I can help you with at this stage, I will hand over to Mr Straker.

19058. **Chairman:** First of all, may I congratulate you on having a pointer at hand at the beginning of the session, it is the first time I have ever seen it available at the beginning! Mr Straker?

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Mr Timothy Straker appeared on behalf of the Petitioner

Sharpe Pritchard appeared as Agent

19059. **Mr Straker:** Thank you very much, indeed, sir. If I may, I am going to call Mr Thomas in a moment in connection with this matter, but I would like to say one or two matters because we do not want to detain you for long in relation to this issue. As far as the London Borough of Havering sees this

matter, there are two particular points to focus upon. The first is the ramp, as now proposed by Crossrail, which has, if I may respectfully say so, a startling deficiency which is this. It is somewhat cumbersome in its use, but more particularly, it leads to a door which someone who wishes to use it would have to press a button in order then for someone to come from the station to open the door so that the consequence is if one imagines someone in a chair, that person has to press the button, having made the journey, and then wait three minutes which is the estimated time, for someone to come to open the door, all the time the trains are going past and the

⁹ Crossrail Ref: P139, Correspondence from the Committee to Sharpe Pritchard, London Borough of Havering, 10 October 2006 (HAVGLB-AP3-31—04-013).

¹⁰ Crossrail Ref: P139, Correspondence from CLRL to the London Borough of Havering, Romford Station Access (paragraphs 13-15), 20 December 2006 (HAVGLB-AP3-31—04-004).

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person waiting, no doubt, is apprehensive lest his train should have gone. That is a point to bear in mind. The second aspect which the Committee are going to be asked to bear in mind today is this, we do not recognise the position as just stated by my learned friend, Mr Mould.

19060. Sir, the situation is here that as far as Romford Station is concerned, there is at one side of it a busy bus station. We, sir, asked that Crossrail should be invited to investigate the possibility, that was all, of pedestrians being able to go directly from the bus station into the railway station instead, if I may put it this way, of having to tramp into the street around the station, along the other side and then into the station. The evidence before you was expressly to this effect—and, sir, I can give the reference, paragraphs 7390 and 7395, by Mr Berryman—that that exercise had simply never been investigated, for pedestrians to be looked at to go through. What they had looked at was the possibility of moving the station in toto, but they never looked at the possibility of simply allowing the pedestrian to walk through.

19061. Sir, what we ask, because it appears to be the position that it was being made plain by you, sir: “Why can’t that be looked at, that second point; and, first of all, why can’t we have proper access for the people in wheelchairs and so forth?” we thought that had all been dealt with but, unfortunately, as has been explained, a different view has been taken.

19062. Sir, that is the scene and that is what I, on behalf of Havering, am going to invite the Committee particularly to look at this morning. As we indicated I really do not want to take up much time about it; because they are a remarkably short pair of points. What I would wish to do with your leave, sir, is to call Mr Thomas to describe what has happened and refresh the mind as to what Romford Station looks like. If Mr Thomas could come forward I would be much obliged. You should have found in front of you, sir, a set of pictures and slides.

19063. **Chairman:** Let us call this A218.

Mr Martyn Thomas, Sworn

Examined by **Mr Straker**

19064. **Mr Straker:** Mr Martyn Thomas, you gave evidence to this Committee last year, I believe?

(Mr Thomas) That is correct, yes.

19065. Just remind the Committee as to your position within the London Borough of Havering and your qualifications?

(Mr Thomas) I am a Development and Transportation Planning Group Manager. I have an Honours Degree in Town and Country Planning and have almost 30 years’ planning experience. My group are responsible for land use and

transportation and planning policy matters. I have particular responsibility for looking at Havering’s interest and involvement in the Crossrail proposal.

19066. I think you have been responsible for preparing the slides which we are about to see? **(Mr Thomas)** That is correct, yes.

19067. If we go to the first marked HAV2 in the bottom right-hand corner, just help us as to this one, please?¹¹

(Mr Thomas) The slide shows quite clearly that what we were trying to do was to work with the Promoters to see whether they could develop an entrance through from the south side of the station. Our concern was that this had not been explored previously. We do not think it has been resolved yet. That was our concern at this stage. Secondly, we wanted to see that there may be a possibility for a new access on the south side which might be of multiple use; because the access through from the south side at ground floor level was not possible.

19068. Let us refresh our minds as to the immediate vicinity of Romford Station. HAV3 shows, does it, the street in which Romford Station is placed?¹²

(Mr Thomas) That is correct. HAV3 shows the bridge over South Street, which is the main shopping street, in Romford. We can see the station entrance which is underneath the far metalwork structure in the centre of the picture. That is the main pedestrian entrance into the station. It is immediately off a relatively narrow and, as you can see from the slide, fairly congested section of pavement. If you look to the left-hand side of the picture you can see where passengers would be coming from the bus station or leaving the station to go to the bus station. If you look to the right-hand side of the picture you can see in the distance the remainder of the town centre, which is where other passengers come from. On the right-hand side of the picture you can see the rear end of a bus which has got a blue rear panel; that is the approximate position of where the new station entrance would be under the Crossrail proposal. Under Crossrail’s proposal passengers alighting at the bus interchange on the south side of the station will walk across the picture from the left, past that large brick embankment, past the two phone boxes which you can see in the centre of the picture, past the new entrances which would be closed up of course, past the traffic light, which you can just about see and they would then turn into the station entrance more or less in the position of that blue bus. We would say that is only part of the issue though, because once they have entered the station at that position they have then got to double-back on themselves to come back through the gateline and then to find access to the platforms. We consider that is an unacceptable distance for passengers to have to make.

¹¹ Committee Ref: A218, Undertakings accepted by the Select Committee—Romford Station (HAVGLB-AP3-31—05-002).

¹² Committee Ref: A218, Romford Station from the south (HAVGLB-AP3-31—05-003).

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19069. Thank you; that is HAV3. Then we look on to HAV4 and here we can see, can we, one of the bus stops in the bus station?¹³ We are here looking at the south side of the railway station?

(Mr Thomas) That is correct. This is a continuation of the picture we have just seen, just further to the south. You can see the tail end of one of the bus stands there. There are, I think, five stands in that area. Immediately behind the building on the left there is a large turnaround and stacking area for buses. In total some 30 or so bus services use this facility; and a significant number of the five and a half million passengers who use the station every year will arrive from this direction. The photograph also shows the existing ramp which we referred to, which leads to a mezzanine level within the station. You can just see at the top of the ramp, immediately to the right-hand side of the no entry sign, is the doorway which we have referred to which is operated by a bell system, whereby passengers have to ring the bell for a station employee to come and open the door.

19070. It is in the vicinity of what we can there see, those four rounded areas, where it was being suggested that investigation could be made of the possibility of a pedestrian entrance?

(Mr Thomas) That is correct. Those are the areas to which we feel Crossrail should address some attention in looking at the scope to provide the ground floor link-through from the south side of the station through into the main station area. As we have said on a number of occasions we do not feel Crossrail have done that work; and we have not seen a convincing case yet for that being possible or not possible.

19071. If we just cast our eye forward. HAV5 shows the Crossrail proposals for Romford Station?¹⁴

(Mr Thomas) That is correct. This is very similar to the slide which was shown earlier on. The station entrance as is proposed is marked with the yellow triangle and “A”; “B” shows the bus interchange area; and you can see the distance between the two facilities. I think the point we made when we were here last year was not so much the distance involved as the time taken for passengers to walk past the station and then double-back on themselves.

19072. Very well. If we go over then to HAV6 (which can be more or less moved on from straight away) that just shows buses being focussed on Romford Station?¹⁵

(Mr Thomas) That is correct. That is a diagrammatic impression of the importance of Romford Station as a focus for bus linkages into and out of the town.

19073. The people, or some of them, who use that can be seen in the next slide HAV7.¹⁶ There one can see a number of stops all recording the number of buses which visit them in that particular location?

(Mr Thomas) That is correct. That slide shows four or five bus stands. As I referred to earlier on, there is a turnaround area for the buses immediately behind the building in the photograph.

19074. Then we have HAV8, the possible southern entrance to the station.¹⁷ This is just a part by the bus area?

(Mr Thomas) That is correct, yes.

19075. HAV9 this is what was originally suggested.¹⁸ If we could just take this slightly more slowly. “(a) Unless the nominated undertaker is of the reasonable opinion that there are reasonable engineering reasons why it cannot be constructed, the nominated undertaker shall, as part of the scheduled works, construct a pedestrian tunnel link at ground level between (1) the southern side of the viaduct/embankment of Romford Station to the north of the existing bus station and (2) the existing ground floor ticket hall and stairways at Romford Station, and the constructed tunnel, hall and stairways shall be open to all passengers during all normal opening times of the station”. Pausing there please, as far as pedestrian access is concerned, that is speaking to a pedestrian tunnel link; do you know of any investigation which has taken place as to whether a pedestrian tunnel link is practicable?

(Mr Thomas) I have no knowledge of any investigations that Crossrail have done, or that they have told us about, about the feasibility of an access as we have requested.

19076. Indeed, as I have mentioned, sir, evidence was to that effect. If the nominated undertaker is of the reasonable opinion that it could not be constructed that led to a certain contingency, differences being arbitrated? *(Mr Thomas)* That is correct, yes.

19077. If we look on at 7450 at HAV10, I think you have highlighted some of the text here which has been referred to.¹⁹ I want to take this a little more slowly than I have taken the previous text please. Do you see one is that “the Promoters will undertake to work with the council to see if they can develop the foyer of the entrance to this in such a way that it would improve access and exit”. Just help the Committee please as to your understanding as to what was in mind in there?

(Mr Thomas) We were expecting to have some discussions with Crossrail very much along the lines of the discussions we have had throughout the

¹³ Committee Ref: A218, Romford Station—Existing southern ramp (HAVGLB-AP3-31—05-004).

¹⁴ Committee Ref: A218, Crossrail proposals for Romford Station (HAVGLB-AP3-31—05-005).

¹⁵ Committee Ref: A218, Bus Routes in Havering (HAVGLB-AP3-31—05-006).

¹⁶ Committee Ref: A218, Bus interchange to the south of Romford Station (HAVGLB-AP3-31—05-007).

¹⁷ Committee Ref: A218, Location of possible southern entrance to the station (HAVLB-AP3-31—05-008).

¹⁸ Committee Ref: A218, Undertakings originally proposed by London Borough of Havering (HAVLB-AP3-31—05-009).

¹⁹ Committee Ref: A218, Para 7450 (HC 837-xxvi) (HAVLB-AP3-31—05-010).

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project with them as to what scope there was to develop the foyer at the entrance to provide an access and exit of an improved nature.

19078. The second thing is, given the undertaking to the Committee, they will go away and examine if there is a possibility for a new access which might be of multiple use. Help the Committee about that, please?

(Mr Thomas) That was relating to the possibility of the ramp access being provided, and that being a facility which would be able to be used by all of the community, not necessarily just for people with restricted mobility; and also making provision for improved access in terms of not needing to have a bell operation; and also, potentially, having a gateline arrangement so that passengers could use the ramp access and then have direct access to the station rather than having to visit the ticket office before they went on the platforms.

19079. Then if we go over, we have the interim conclusions to which reference has already been made, HAV11, on 25 July 2006.²⁰ We can cast over that to HAV12, which has already been referred to this morning, the Crossrail letter of 13th.²¹ Then at HAV13 you have done walk times, have you?²²

(Mr Thomas) This is actually a Crossrail supplied drawing which I think illustrates that it is not just the distance involved here but we are talking about the time that it takes people to arrive. If you look on the slide, basically if you look at the red line which leads up from the bus station as it is, which is on the right-hand side of the slide; that shows the walk time from the existing bus station through to the existing central entrance, if you like, to the station; and that indicates that walk time is somewhere in the region of 36 seconds. Under Crossrail's proposal, as we have said, the central entrance point is going to be closed off and pedestrians walking from the south will have to walk past the station entrance, northwards up South Street before turning into the station and then walking through the foyer arrangement of the station to the new gateline. Crossrail's drawings themselves identify that would take a further minute and six seconds, with a total time of some one minute and 42 seconds, which we see as, frankly, a waste of time for the many passengers who use the station.

19080. Then we go to HAV14.²³ Is this another Crossrail document?

²⁰ Committee Ref: A218, Para 16553 (HAVLB-AP3-31—05-011).

²¹ Committee Ref: A218, Correspondence from CLRL to London Borough of Havering, 13 September 2006 (HAVLB-AP3-31—05-012).

²² Committee Ref: A218, Proposed Romford Station Walk Times from Bus Stop to Platforms (HAVLB-AP3-31—05-013).

²³ Committee Ref: A218, Proposed Romford Station Walk Times from Bus Stop to Platforms (using compliant ramp) (HAVLB-AP3-31—05-014).

(Mr Thomas) That is correct, yes.

19081. This shows, does it, the walk times using the ramp?

(Mr Thomas) That is correct. On the bottom edge of the slide you can see the starting off point from the bus station, which is over on the far right-hand side of the slide, and this indicates—because the ramp is effectively in two stages, it is not a single ramp, it is a two-way ramp—the estimated time would be one minute 18 seconds for passengers to get from the bus station dropping off point, if you like, to the entrance at mezzanine level into the station. They would then have some further time before they actually got upstairs or up the ramp onto the platforms. The slide also shows, I think, that there would be a three minute wait time on average for passengers to be allowed through the door, if that door arrangement was maintained. Again, we feel that is not the most optimum use of the ramp arrangement; and we feel it has got scope for improvement.

19082. Who would be able to use, on that basis, that prospective ramp?

(Mr Thomas) We would say the ramp in that sense could be used by all in the community, and especially if the ramp had at its head a ticket line or a gateline arrangement then it would be available for people who have season tickets, Oyster cards and so forth. We feel it would be a considerable improvement over the current arrangements.

19083. Then I think you have concluded this series of slides at HAV16 with the undertakings accepted by the select committee?²⁴

(Mr Thomas) That is correct, yes.

19084. Which have been seen. Just summarise if you would for the Committee the difficulties which you presently see in what is being canvassed by Crossrail?

(Mr Thomas) In the first instance, and a basic point, we feel they have not explored the opportunity to cut through from the south side at ground floor level. That would be our first choice option. We have seen no evidence to indicate why that is not a feasible proposition. Frankly, we find that surprising given the major engineering works they are doing elsewhere on the scheme throughout London. If that is not possible—and at this stage what we are saying is we would like to see the investigations and if it is not possible then we need to move on to another solution—then we would look at a ramp on the south side of the station with a package of measures to make it accessible to all in the community, with improved ticketing and gateline facilities so that people could go directly through to the platform from the mezzanine level.

19085. One final matter if I may, Mr Thomas. Reference was made by Mr Mould to a 50 metre point in terms of the station and movement of the

²⁴ Committee Ref: A218, Undertakings accepted by the Select Committee—Romford Station (HAVLB-AP3-31—05-016).

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station. Can you help the Committee about that, as to whether that was being canvassed on the previous occasion?

(Mr Thomas) I do not believe it was, no. I interpreted Mr Mould's comment about the 50 metres as the extra distance that passengers approaching from the south would have to travel from a closed-off station entrance to effectively the new entrance of the station. In fact it is only part of the story, because if they use the entrance Crossrail is proposing they then have to double-back on themselves before they go through the ticket line, or the gateline, which is more or less in the position of the current station entrance. The distance in fact is nearer 100 metres rather than 50 metres.

19086. **Mr Straker:** Thank you very much, Mr Thomas.

Cross-examined by **Mr Mould**

19087. **Mr Mould:** Mr Thomas, good morning to you. On that last point, you heard what I said to the Committee in opening reminding the Committee of Mr Berryman's willingness to examine the design of the foyer for the proposed station entrance to see whether one could reduce the walking distance and, therefore, the time taken to get from the south area of the bus station into the station and up on to the platforms. What I indicated was that we certainly saw an opportunity to revisit the detailed design of the new station ticket hall in this area so as to provide access directly into the unpaved concourse area here and so avoid the need for people to have to go up here and double-back on themselves, the point you made a minute ago. Is that correct?

(Mr Thomas) Correct.

19088. That in itself is something you would welcome, I think?

(Mr Thomas) It is self-evident from the slide that if you punched a hole through immediately from where your pointer is now that is a shorter distance for passengers than having to walk right the way across to the right of the slide and then double-back on themselves. I think it is also self-evident from the slide that immediately away from the station you can see the pedestrian environment, the pavement area, is actually beginning to narrow and is considerably narrower there than it is in fact under the existing station arrangements.

19089. In relation to that point we have made it clear to you, have we not, that we would be very happy to work with you as the local planning authority, on looking at ways of improving the urban realm in this area so as to improve that journey for pedestrians?

(Mr Thomas) We would be happy to work with the Promoter to do that, but we would be looking to find an optimal solution and, as I say, so far we have had no suggestion from Crossrail about working with us to try and identify ways forward on this.

19090. We can leave it this way, I think I can say without any fear of overstepping the mark, that we would also, in principle, be looking to work to secure the optimal solution. Of course, what is optimal is always what is ultimately realistic, is it not?

(Mr Thomas) That is correct. We would not disagree at all about that.

19091. Good. So that is that point. The other matter which you have raised is you returned to the point you have made in Committee previously about punching a new southern entrance to the station through this area, I think, yes?

(Mr Thomas) That is the basis of our contention. That needs to be investigated to see whether it is possible.

19092. You said there simply had not been any evidence in relation to that?

(Mr Thomas) I am not aware of any being made available to us or discussed.

19093. I want to be clear what the Committee has been told about that. Can we remind the Committee of the evidence on that. It is day 26, please, page 25, paragraph 7390, this is the cross-examination of Mr Berryman on a previous occasion by Mr Straker.²⁵ You see that there has been reference to a report which had looked at the engineering challenges of opening out the station in the area that I have just shown you on that computer-generated image, do you see?

(Mr Thomas) Yes.

19094. Mr Straker then moved on to a link with a rather different point: "... there has not been", he said, "has there, any report on the question as to whether there could merely be a pedestrian link?" and that is what you mentioned a minute ago?

(Mr Thomas) Correct.

19095. Mr Berryman said: "There has been no specific report on that point. We have had internal workshops on that, but the difficulty is, apart from the construction difficulty of breaking into a very massive Victorian brick structure, which is not really a very tasty thing to do from an engineering point of view, that any such passageway would discharge into the paid side of the station and that has practical and operational problems." 7391 Mr Straker: "The practical problem is that you do not want people to go into the paid side if they have no tickets?" Mr Berryman: "That is indeed the problem." 7392 Mr Straker: "So one puts in a ticket barrier to ensure that only people with tickets go through." Mr Berryman: "Yes, but ticket barriers are not allowed to be unsupervised, so when you put a ticket barrier in, you finish up with a suite of offices and things of that sort on the south side, but that is not really the main objection. The main objection is the difficulty of putting a structure through that very heavy brick abutment structure which is certainly in excess of a metre thick brickwork. It is Victorian and the structural integrity of it would be something which

²⁵ Para 7390

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would be certainly very much influenced by this kind of opening being made in it and we would not wish to undertake that.” 19096. Then the point is made again: 7393 Mr Straker: “But the structural integrity of it for the purpose of putting a pedestrian route through has not been investigated, has it?” Mr Berryman: “There has not been a specific study done of that, but of course we have on our team of advisers many experienced engineers who are able to look at these things by inspection almost and say, ‘No, it does not really work . . .’, and so it went on and really the same exchange was repeated towards the bottom of the page. It is fair to say, is it not, that the Committee had evidence from Mr Berryman in relation to the engineering difficulties that would arise from the proposal that you now reiterate to the Committee today. Can I ask you this: in the light of what was said by Mr Berryman then and in the light of the concern voiced by Mr Straker, that there was, as he put it, no formal report in relation to that has the Council since then commissioned any engineering advice of its own in relation to the feasibility of undertaking that work or not?”

(Mr Thomas) You have raised a number of points there.

19097. Can you answer that question?

(Mr Thomas) Yes, I can certainly. The Council has not commissioned any work to look at that, but I certainly disagree with the idea that Mr Berryman has produced evidence to indicate that there are difficulties or not difficulties.

19098. **Mr Mould:** I am going to leave that for the Committee to judge. Thank you very much indeed.

19099. **Chairman:** Mr Straker?

19100. **Mr Straker:** No, I do not wish to re-examine, thank you very much, sir. I do not know whether you, sir, or your colleagues have any questions for the witness?

19101. **Chairman:** Thank you very much, Mr Thomas.

19102. **Mr Straker:** Thank you very much, Mr Thomas.

The witness withdrew

19103. **Mr Straker:** Sir, I have no further evidence that I wish to call before you.

19104. **Mr Mould:** Sir, I would like to ask Mr Berryman, if it is convenient, to explain one or two points in relation to the interim decision proposal we put forward in the light of some of the concerns.

19105. **Chairman:** I think that is advisable. I was going to ask you to call him anyway.

19106. **Mr Mould:** I am glad we think the same way on that.

Mr Keith Berryman, Recalled

Re-examined by **Mr Mould**

19107. **Mr Mould:** You are familiar to everybody in the room, I think, so I do not need to introduce you again. Mr Fry, please, can we have up the Petitioner’s exhibit 05-004.²⁶ Mr Berryman, here we see the south side of the Romford station structure, yes?

(Mr Berryman) Yes.

19108. And there is the existing substandard ramp giving access to the structure at this point. Can you just take the Committee through, please, what the current position is in relation to the use of that ramp, and what is now being proposed by Crossrail in response to the Committee’s interim decision in July?

(Mr Berryman) The ramp at present runs up to a door just here, where there is a bell which the passengers can ring and someone will come and open the door. I think the opening time is variable, but we estimate on average it is two or three minutes for that to happen. This ramp, which is actually quite steep, people can get up there and ring the bell and go in and from the level that they get to when they have gone through the door, there are ramps up to the platform, so it does provide a substandard MIP access.

19109. Can we please then turn, Mr Fry, to 14704-060.²⁷ Just to orientate ourselves, this is a computer-generated image showing the basic structure of the proposed new station and we see here the existing Victorian structures which support the main line and the branch line, the local lines I should say, and the existing ramp enters the station structure at this point here, does it not?

(Mr Berryman) That is correct, yes. Behind the large brick above the structure.

19110. And there is a passageway at high level, is that right?

(Mr Berryman) An intermediate level passageway, yes, which goes under the platforms and allows people to get between the platforms.

19111. Those who are able to enter the station on request at this point, they enter behind the existing gatelines, is that correct?

(Mr Berryman) That is correct, yes. The idea of the person coming to open the gate is not that he just opens the gate, he also checks the tickets.

19112. By reference to this image, tell the Committee what is proposed by Crossrail both in terms of engineering works and also the operation for the new arrangements for the proposed ramp.

²⁶ Committee Ref: A218, Romford Station—Existing southern ramp (HAVGLB-AP3-31—05-004).

²⁷ Crossrail Ref: P139, Preferred Option Aerial View of the Ticket Hall (HAVGLB-14704-060).

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(Mr Berryman) What we proposed to do is to build a new ramp which meets modern standards on the access ability requirement, basically that means it is a shadow of gradient and has resting points where people can rest. There is not sufficient room to put it where the existing ramp is because the length is not long enough to get the required gradient. Inevitably, it would be too steep, so what we are planning to do is to put it behind there with a dog leg in it so that the bottom of the ramp is almost level with the top of the ramp, in plan I should say, and it rises up in two legs. It runs that way and then that way.

19113. So under the new arrangements you get fully a compliant journey from ground level up to the entrance, yes?

(Mr Berryman) Correct.

19114. And then what happens?

(Mr Berryman) Then it is exactly the same as happens now, someone comes and lets you in and then you go through this corridor and up one of the ramps to get you to the relevant platform.

19115. The point made by the borough council is, why can the operational arrangements not be changed so as to provide, I think it described as a ticket barrier, ticketing facilities and so forth so one does not have to request entry from a member of staff at this point, one can come through with the wonders of modern technology, Oyster cards and so on?

(Mr Berryman) The first thing to say is that passageway is relatively narrow and to fit the number of gatelines in there that you would need to have a meaningful access which would be quite difficult. One obvious point is, as this is a PRM access, you would need to have a gate to allow wheelchair users in and that would take up a significant proportion of the width. In addition, gatelines have to be manned all the time, all the time they are open anyway, and so that would require facilities for someone to stand there in a little hut or something like that and it would be imposing an operational burden on the railway permanently.

19116. So the existing arrangements in that respect will continue, but in so far as the proposed new station is concerned, as a matter of generality, I think we have explained that access can be made through the main proposed station entrance and then fully-compliant facilities for people of restricted mobility.

(Mr Berryman) Indeed. There are DDA accesses from the north, in any event, through the gateline here and up the lifts, and there is a direct lift from the concourse level up to platform level. This is for the eastbound platform and this is for the westbound platform on the station, so there would be a direct link from this level to the platform.

19117. I pointed out the exchange you had with the Chairman last time and our willingness to carry out further detailed work here to see if we can provide access.

(Mr Berryman) Yes. I think it is worth pointing out that our focus over the period when we were preparing the additional provision was on designing those works for which an additional provision is required. Putting an entrance in here is something which will not require an additional provision, it is something that we can agree in the course of the detailed planning negotiations with the local authority, so we have not really done very much about this. We have focused primarily on the ramp and preparing the additional provision for that ramp.

19118. The only other matter I wanted you to touch on is the more ambitious aspiration of the Council, which they repeated today, to drive a new entrance through this structure, if you call it that.²⁸

(Mr Berryman) Yes, I think there are a number of issues to talk about, but basically the same things that we spoke about in the summer. There are planning, architectural layout problems with it in terms of getting the people in through here, how you deal with them, getting access to the escalators and so on, but the main problem which concerned me is the structural issue of how we make a hole through this structure. It is worth briefly explaining how this works: this buttress structure is rather like a viaduct sitting on its side so if you imagine that earth or rubble, or whatever is inside this abutment structure, is exerting pressure in that direction then what that is being resisted by is the arch action of these ribs here, these arches here. So you can imagine the earth pressure is trying to push it out and the arches are resisting it. The load from those arch actions is actually passed down through the buttresses in a sort of diagonal way. In addition, at the top of these buttresses you have got arches which support the structure of both, the railway, the station platforms, so the very end of these ribs here is under tremendous force, particularly at the bottom because they are resisting both the horizontal force from the vertical force and it is breaking through those which would be the thing which causes us concern. In addition, the existing ramp structure is providing significant deadweight at the bottom of that abutment structure which, we think, is helping to resist those lateral forces. This is one of those areas where analysis is extremely difficult. It is a sort of thing where experienced engineers would look at it and say, "Do not do it, it is too difficult". I am not saying it cannot be done, very few things in engineering are physically impossible; it is a question of how much money you throw at it, how many resources and what risks you take. Because I knew I was appearing here today I went around to all our most senior advisers, one or two extremely eminent engineers, just to check I was not misleading the Committee and they were all of like view to me, that this is not an acceptable route to take.

²⁸ Committee Ref: A218, Romford Station—Existing southern ramp (HAVGLB-AP3-31—05-004).

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19119. Just coming back—

(Mr Berryman) Sorry, before you start, can I just explain, this lot here is providing some deadweight at the foot of this structure which, we believe, is helping to resist lateral movement by these arches. Removing that would be a high risk strategy. If we were to do this I would not try to knock a hole through here, I would want to replace this whole structure which is obviously a very big job.

19120. Just one more point. I think you mentioned you had another chat about this and thought about it carefully. You have also been to see a man who is particularly expert on historic brick structures or spoken to a man who is an expert?

(Mr Berryman) I have. Am I allowed to put that in evidence? The Committee will have heard me mention before Mr Alan Baxter, who is the Chairman of Alan Baxter Associates. He is one of the leading experts on historic brick structures in the United Kingdom. I ran this past him again and he confirmed his view that trying to break into this structure would be a very risky thing to do. Crikey! Look down here, you can see these bolts that have been put through to strengthen it because it has been moving in the past, you can see a whole load of bolts round here which have been put through here to strengthen it. It is one of those things where the engineer would say, “Do not go there”.

19121. In the theoretical world where the engineer says, “All right, go here”, what would be the impact on the mainline railway of carrying out works to drive a passage through?

(Mr Berryman) It would require a significant number of disruptions and closure of the mainline at weekends and so on.

19122. **Mr Mould:** Finally, to pick up on the other point made by Mr Thomas, we see here the beginnings of the footpath underneath the bridge carrying south under the railway structure. I mentioned to him that we indicated our willingness to work with the borough council towards finding ways of improving the public realm in that location. Just so the Committee hears it from you, is that correct?

(Mr Berryman) That is correct, yes. We are happy to work with them and, again, I think there is something we can do there which would be very promising in terms of improving the overall ambiance of the area, which is not good. I do not think anybody would say it is.

19123. **Chairman:** Before you stand down, I have one or two questions to ask Mr Berryman.

Cross-examined by The Committee

19124. **Chairman:** Could we have the previous slide back on.²⁹ Mr Berryman, the area underneath the bridge which comes around to what you propose as the foyer, underneath the bridge, this side of the bridge, the roadway, the footpath here.

(Mr Berryman) There, yes.

19125. It is fair to say that all of this re-planning, re-configuration of the footways underneath there would probably have to be done anyway because of the increased use of the traffic, it would have to occur.

(Mr Berryman) It probably would have to be done in any event.

19126. In actual fact that is giving nothing extra, it is already built into the re-structuring and re-layout of the station itself, is it not?

(Mr Berryman) Yes, but the major pinch point on there is there, which is outside the station area, and I think what we could do is work with them to improve that.

19127. What I am trying to get at is, by doing all of that re-configuration and the development of that whole area, there is recognition of increased growth in that and more people using the station.

(Mr Berryman) Absolutely, and that is why we are doing it.

19128. So with that, if you are disabled there is going to be more people around anyway, is there not?

(Mr Berryman) Yes.

19129. So it is going to be more difficult to make that quite long journey from the bus station or the car park area around that side to get to that front side.

(Mr Berryman) But we are providing a ramp up to modern standards, of course.

19130. That is my next question. That entrance there, there is a way in.

(Mr Berryman) There is a way in.

19131. So why can we not make the whole of that way in that way? What you are saying is it is largely down to whether it is manned or not.

(Mr Berryman) It is also very narrow.

19132. In engineering, you can make it bigger. It does not have to go into those arches, it can be made bigger.

(Mr Berryman) At the back there?

19133. Yes.

(Mr Berryman) That would be easier than knocking into the arches, I will admit, but it will still be quite a big job.

²⁹ Crossrail Ref: P139, Preferred Option Aerial View of the Ticket Hall (HAVGLB-14704-060).

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19134. It may be, but there is a way through, so I think it could be widened there and that could be an entrance from one side to the other.

(Mr Berryman) Yes. It does throw up other problems because you have these ramps that run down to it, you would have to move the ramps back. It is not the sort of thing I could answer on the hoof.

19135. It is possible?

(Mr Berryman) It may be possible.

19136. My next question is when we last looked at this issue, we asked you to go away and examine the possibilities. *(Mr Berryman)* Yes.

19137. Has that happened?

(Mr Berryman) We examined the possibility of making an entrance up here, which is what we have done and that is what the AP is about.

19138. You have not engaged with the Council in examining the possibility to deliver what our view was. If you remember in the debate, in the meeting we had, I stated quite clearly that we did not think it was satisfactory for people having to walk all that distance around an area to get into the station. We thought disabled accessibility had to be a primary consideration in your development of stations like that and I honestly believe—I have seen the written record—it was made perfectly clear how seriously we considered the needs of disabled people in respect of this.

(Mr Berryman) Indeed, sir. It is in response to that we brought forward the AP.

19139. Why have you not liaised with the local authority?

(Mr Berryman) We have liaised with the local authority on that and basically they said they do not want it.

19140. Not on breaking through an access which is already there.

(Mr Berryman) You mean here?

19141. Yes.

(Mr Berryman) I must admit we have not given that any serious consideration because of the geometrical problems.

19142. But the danger, which you expressed, of not breaking through the arches is not apparent with that section there because there is already an access. *(Mr Berryman)* That goes behind that. This bridge here, sir, in Victorian times was an arch bridge and this was the abutment for it. That passage goes behind the abutment.

19143. If there is already an access there that could be widened to enable people on that side of the line to get through to the main foyer.

(Mr Berryman) Sir, if you start from there and you go up the ramp and back here and get into the station there, your walking distance, if we do make

a new entrance here, will not be that much different and the point about this whole thing is that the station is not up to standard.

19144. What about if you do not go right the way to the top, you just go to the entrance where the access is now, where the blue dotted line ends after the arches? What happens if you make the entrance there, then you do not have all that walking up and down ramps?

(Mr Berryman) That is at a different level. This passageway across here is at a different height than the street below so you have to get up the ramp to get—

19145. I am putting to you in the same way as you have a ramp up there now, which goes to the end, could you not enable that or access that there now? *(Mr Berryman)* Sir, that is the point of the AP, we are proposing to build a new ramp up there.

19146. Last question in relation to this. You are an engineer; do you really think it is a solution that we should in a modern age in the future when a state-of-the-art railway is going to be produced that disabled people should still have to ring a bell and wait for two or three minutes in the hope that somebody will come down and open the door?

(Mr Berryman) I did not really want to get into this, but the travel timings that we produced demonstrated that the travel time, despite appearances to the contrary, to go around here into this foyer and up these lifts to the station platform would be quicker than doing that simply because the vertical rise of the lift is taken care of much more quickly.

19147. That is not answering the question. Do you think it is still a solution that in the future when this railway is built somebody who is disabled has to ring a bell to get access to a station?

(Mr Berryman) I do not think it is desirable, sir. I must emphasise that we do not envisage this is the main access for PRM people. We are putting in lifts all over the place to provide that access in a much more satisfactory way. My personal preference would not be to have this ramp at all because I agree with you, it is not satisfactory.

19148. **Chairman:** Thank you. Mr Straker?

19149. **Mr Straker:** Thank you very much. If I may, just one or two—

19150. **Chairman:** How long do you think you will be?

19151. **Mr Straker:** Five or ten minutes, sir.

19152. **Chairman:** I think what we will do is give Mr Berryman a chance to recover and have a cup of coffee.

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After a short break

19153. **Chairman:** Mr Mould?

19154. **Mr Mould:** Before Mr Straker stands up, I wonder if I can mention something to the Committee. I am grateful for the time given to quickly have a chat with Mr Berryman. What we would propose, in the light of the concerns you have raised about the potential to use this passageway here to provide a secondary access into the station from the ramp that we have indicated we will provide as an AP, is we should go away and quickly examine the operational and engineering feasibility of widening this passageway in order to enable a secondary access to the station to be provided from this point where the proposed new ramp will come up. We will prepare a report in relation to that issue dealing with those matters, provide that to the Petitioner within seven days with a view, if we need to, to returning before you briefly in 14 days' time to report back to you on the fruits of that further work. Is that convenient?

19155. **Chairman:** That is an excellent suggestion, as long as you take into account two other things: that you would liaise with the authority concerned and; secondly, you would also look at other ways as a solution to disabled access?

19156. **Mr Mould:** I think that would be embraced within the operational feasibility aspect of it. So far as the agent is concerned, the idea is we get the report done, we provide it to them, and there will be an opportunity to liaise in relation to its finding thereafter.

19157. **Chairman:** Mr Straker, do you want to respond to that?

19158. **Mr Straker:** Plainly, it is an advance, if I may say so, on the situation we have got to at the moment. We would suggest that it ought, and sensibly ought, to cast its view slightly further than merely that because at the moment, as we know, there is no report merely on the question of pedestrian access from the bus station side, so it would appear somewhat peculiar in a sense that its point of focus is, very sensibly, as you have indicated, that passageway, but why can it not possibly go slightly further than merely that, that would be the question I would raise rhetorically at this stage?

19159. **Chairman:** I think that is an entirely sensible way to approach it. Might I suggest, Mr Mould, that you go away and perhaps take a little longer than seven days and have a look at further options that there might be for pedestrian access into this station?

19160. **Mr Mould:** I want to be helpful. I am conscious of the need to try and avoid too much time being taken. I think we will want to keep to a fairly tight timetable to avoid kicking the remaining Committee programme out of kilter. The other

particular point which has been raised again today is knocking a new access point through the structure, broadly in this location, Mr Berryman has explained the difficulties of use, the very severe difficulties that you see in relation to that, constant problems in relation to the construction of the mainline railway. We would envisage asking our consultants to look at the point I have mentioned in relation to the engineering and operational feasibility of using this passageway as a second entrance. Mr Berryman, can you give a snap judgement, if one was to widen that to do a preliminary appraisal of the sheer feasibility of knocking through here, is that something you could do?

19161. **Chairman:** Let me say on behalf of the Committee, we have great confidence in Mr Berryman as an engineer, and he is a solution-finder and has been in many instances in the past, but we would just ask that he goes away and has a fresh look at this on the wider remit which has been suggested.

19162. **Mr Mould:** Yes. Sir, I see the force of that, I just want to know whether it is going to add substantially to the time taken in doing that work. What do you think, Mr Berryman?

(*Mr Berryman*) I think it will take us a couple of weeks to do that. I do not think we could do it quicker.

19163. **Mr Straker:** Sir, we think it is really an important matter in terms of the future and so we have no observation as far as the time is concerned. What we would say is there should be sufficient time to enable the work to be done properly with sufficient liaison and taking, as you put it, sir, a wider picture which might include even conceivably the idea of taking a lift up from the bus station side so as to gain access so as to overcome further problems. Sir, we do not make any comment as far as the time is concerned beyond that observation that there must be a sufficient amount of time for the work to be done properly.

19164. **Chairman:** We do have time constraints.

19165. **Mr Staker:** Sir, I would not dispute that.

19166. **Chairman:** I would say look at it for the two weeks which have been suggested.

19167. **Mr Mould:** Sir, 14 days to complete the report and then seven days to report back to the Committee, if that is convenient?

(*Mr Berryman*) Sir, I wonder if a visit to the site might be useful?

The witness withdrew

19168. **Chairman:** Yes, we will liaise over that suggestion. Mr Mould, would you like to make a closing statement? 19169.

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Mr Staker: Sir, if I can just add, in the circumstances, it might be unnecessary for me to ask any questions in cross-examination given that further work is going to be done on the wider remit as indicated. Sir, unless you would particularly press me to ask questions, I am not proposing to press on the Committee my right to do so?

19170. **Mr Mould:** Sir, likewise I wonder whether the sensible thing to do is await the further work and then if we need to come back before you in relation to that work, I can address that at a later stage?

19171. **Chairman:** Mr Mould, thank you very much. Might I just ask, who is dealing with the next matter?

19172. **Mr Mould:** Sir, the only other Petitioner who I think is appearing today is PRACT and Ms Lieven is going to be taking the lead on that.

19173. **Chairman:** Are you ready now or would you prefer this afternoon?

19174. **Ms Lieven:** No, sir, we are ready, but we understand that the representative of PRACT cannot come until this afternoon. I think it was to do with a caring responsibility which he had, so he could only come this afternoon. We had anticipated we would start again at 2.30 today.

19175. **Chairman:** Therefore we will meet again at 2.30.

After a short adjournment

The Petition of Paddington Residents' Active Concern on Transport.

Mr John Zamit appeared on behalf of the Petitioner.

19176. **Chairman:** The next Petition is the Paddington Residents' Active Concern on Transport represented by Mr John Zamit. Ms Lieven, would you like to add anything?

19177. **Ms Lieven:** Yes, sir. A slight technical hitch as Mr Fry has just gone out, but I will do my best. Sir, the PRACT petition against AP3 concerned, unsurprisingly, Paddington Station. The Committee are going to hear today and tomorrow about Paddington Station, and then there are some petitioners coming in a couple of weeks' time. I was just going to very, very briefly remind the Committee about what is going on at Paddington Station and also about the AP3 works, so that when we come to the Residents' Association the Committee can understand what is going on here.³⁰

19178. The Committee will remember there were very extensive works planned at Paddington Station by Crossrail; that the principal elements are: a new station underneath Eastbourne Terrace—and Eastbourne Terrace is important so it is important the Committee note it is the road that goes alongside of Paddington Station to roughly the west. There will be links in from the Crossrail station into the mainline and London Underground stations where I am indicating on the plan. The other really major work is on the other side, the east side of Paddington Station where what is called the Red Star Deck is to be used for taxis. I will come back to that in a moment.

19179. There are two principal changes in the AP3 and supplementary ES to do with Paddington. If we can put up page 27 of the Environmental

Statement.³¹ The first is that Eastbourne Terrace was originally intended to be put back at the level it is at the moment, but we changed the scheme so that the whole of Eastbourne Terrace has to be dug up during the scheme, as Mr Berryman explained last time, and it is in phases. We are now intending to put it back three metres lower than it is at the moment. Looking at this exhibit, here is the Crossrail station in its box; to its east is what is called Departures Road; for those of you who are familiar with Paddington that is where you get your taxis at the moment; and to the west is the rest of Eastbourne Terrace. This shows the box, the buildings on the other side of Eastbourne Terrace which the Committee is going to be concerned about tomorrow, and Eastbourne Terrace sloping down to three metres lower at the lowest point than it is at the moment.

19180. If we can put up the photograph of the stand, which I think is 012.³² The Committee will remember at the moment that there is a rather unfortunate arrangement by which if you get off the bus at Eastbourne Terrace, or you come out of the office blocks opposite, you have to drop down by three metres down to Departures Road to get into the mainline station. What we are now intending to do is to lower Eastbourne Terrace so that it will be far better for pedestrians and people with any kind of mobility problems; because instead of having to drop down the Crossrail station will be at-grade with the road and so you can get off the bus and walk straight into the Crossrail station and, equally, you can walk straight out of the Crossrail station into the Network Rail station without having to change levels. That is the first and perhaps the most

³⁰ Crossrail Supplementary Environmental Statement 3, Paddington Station—Eastbourne Terrace, Amendment of Provisions—Transport Links, Map C2(iv), billdocuments.crossrail.co.uk (LINEWD-AP3C2-005).

³¹ Crossrail Environmental Statement AP3, Artists impression of Proposed Works at Eastbourne Terrace, billdocuments.crossrail.co.uk (LINEWD-AP303-005).

³² Crossrail Ref: P140, Pedestrian Access from Paddington Station to Eastbourne Terrace (WESTCC-AP3-36—04-012).

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important change in the AP3 scheme. There is an issue about what happens to the entrances to the buildings on the other side of Eastbourne Terrace, and the Petitioner in respect of that is coming tomorrow. I am not going to say any more about that other than flag up there is an issue. That is one change.

19181. The other change that the Committee needs to be concerned about today is in respect of servicing arrangements. At the moment the Network Rail station is serviced off Departures Road. All the stuff for Sainsbury's, Millie's Cookies, servicing the trains themselves, the lorries and trucks all come in off Departures Road. During the period of the works there will be extensive periods when Departures Road is closed, and Network Rail and some of the occupiers within the station were very concerned about how their servicing would be kept going through the works, because these works are going to take quite a long time—something in the region of five years—and it is very important obviously that Paddington Station can operate properly through the works. What we have come up with is that there is a building a little to the north of Paddington Station called 4-18 Bishop's Bridge Road. That building has to be demolished under the Crossrail scheme in any event because there is a clash between its piles and a Crossrail tunnel. If the Committee imagines the Crossrail tunnel coming in from the window and then coming underground here into the station, the clash with the piles means 4-18 Bishop's Bridge Road has to be demolished. We have taken advantage of that opportunity to construct a service deck on 4-18 Bishop's Bridge Road and use that for the servicing of the mainline station while the Crossrail works are being undertaken. Once the Crossrail works are finished then servicing can go back into Departures Road, and 4-18 Bishop's Bridge Road can be redeveloped in accordance with our redevelopment policy.

19182. Just to explain, because this may look rather mysterious to the Committee, how we are going to get across Bishop's Bridge Road: Platform 1A of Paddington Station extends under the bridge all the way over to the west. Mr Berryman can explain that in more detail. By using 4-18 as our servicing area, we can drop down and use platform 1A to run into the station without there being any conflict with traffic at the road level.

19183. If we can put up 003, the photograph of Brewers Court, please.³³ The building with the scaffolding and the plastic is 4-18 Bishop's Bridge Road which is to be demolished and, as I have said, a service deck to be constructed. Next to it is a residential block which is called Brewers Court. A concern has been raised by PRACT about the noise impact of the works on Brewers Court. We have Mr Rupert Thornley-Taylor here today to explain to

you and to PRACT that the noise on that block will be perfectly acceptable. That is one concern that PRACT have raised.

19184. The other concern which I know they are going to touch upon is the relocation of buses from Eastbourne Terrace to Westbourne Terrace during the works. That is something we dealt with last time. Nothing has changed in respect of that proposal, but I have got Mr Anderson here to explain it to you again if you want him to do so.

19185. There are a number of other issues in the PRACT Petition but we understand on all of those, although Mr Zamit may touch on them today, that they are all under discussion and, as far as we are aware, there are no points of principle associated with them; but obviously I will listen to what Mr Zamit says.

19186. I hope that is acceptable as a brief outline of where we are at, Chairman.

19187. **Chairman:** Thank you. Mr Zamit?

19188. **Mr Zamit:** Good afternoon. Thank you for allowing me to speak. My name is John Zamit, and I am Chairman of one of the consortium of groups that make up PRACT; I am Chairman of South East Bayswater, and I am on the Committee of the Bayswater Residents' Association. The Secretary of PRACT, Mr John Walton, sends his apologies; he cannot be here today because he is abroad, and I am standing in for him, so you will excuse me if I get a few things wrong because I have not done this before. I was a witness on behalf of PRACT last June.

19189. We were hoping Westminster Council, Westbourne Park Villas Association and ourselves were to be heard on the same day so that we were covering the same ground and it was set for today but, for other reasons, the other two have been adjourned until the 21st. We had hoped to do it then but we appreciate your tight schedule and, therefore, we went along with the day appointed for us to come and see you, so I am here today. Thank you very much.

19190. I am grateful for that introduction; it explains it a bit better to me as well, and it sets the scene with the pictures and I will come back to a number of points raised there.

19191. I have brought along a book about the Petitions. We had ten Petitions—ten separate items—and I am going to concentrate on a few of them, where we have the most concern. I will touch briefly on the other ones and run through our Petitions.

19192. The first one we raised was the Paddington New Yard concrete batching plant. We had concerns about the disturbance to residents from the temporary batching plant and from the noise and the

³³ Crossrail Ref: P140, 4-18 Bishop's Bridge Road and Brewers Court (WESTCC-AP3-36—04-003).

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reinstatement of the permanent plant, and the reversal of trains etc. At the moment they do a complicated reversal procedure.

19193. We did have a constructive meeting with Crossrail last week along with Westbourne Park Villas Residents' Association, in which they explained to us that there is still a lot of work in progress on this. They were dealing with various rail companies and talking to various people—Tarmac, I believe, and Westminster Council. Although they have made some progress—and they explained to us in detail (and we tried to follow that as amateurs) where they were coming from, that the concrete is tipped in a different method from now, a much better method—they still said that is subject to negotiations and work is going on. When we asked when that was likely to come forward in a final plan I think they gave an indication of six months.

19194. Where we are now—we still have got the concerns raised in our Petition. We have not been satisfied to withdraw those concerns, but we look forward to hearing further from Crossrail on the solution to this to mitigate the noise effects on the residents, and for a better operation for all concerned on the running of this concrete batching plant. I appreciate other people would like it not to be reinstated, and we were given reasons why Tarmac want to come back. We raised questions on the capacity of the new plant and the temporary plant, and were told that the details are no different in numbers to now, and hours of operation. If they want changes to that they would have to come back to the council. Our position is that we have still not seen enough information for us to withdraw our concerns. That is where we stand on that one.

19195. On the second one, the lorry movements, I think we probably made a small error when we put in our Petition. I think we misunderstood (as I understand) that Crossrail had indicated there would be a reduction in the lorry movements; and therefore we said we had not seen evidence of that reduction. I think we have now been corrected, and there was a confusion with that and Whitechapel. In fact there is no reduction in lorry movements. We accept that. They did go on to say that it is going to take a little bit longer—three to four weeks over and above the anticipated four years. Three or four weeks on four years is not very much, and if it gets completed on time and they need an extra three weeks I will be the first to congratulate them. That was the clarification there. That is our second one.

19196. On the Westbourne Park passage footbridge, the third one, in our Petition we welcomed the proposed improvements to the bridge. After we appeared last June and put our case forward we were grateful that the Committee, in an interim statement, asked the Promoters “to replace the footbridge at Westbourne Terrace (and it should have been ‘Westbourne Park passage’) with one that fully complies with modern safety and disability standards for users”. Some people have interpreted

that the Committee wanted the whole bridge replaced; others on the Crossrail side think they just have to make the bridge comply with current day standards. We were concerned about the lack of CCTV and lighting and, of course, at that stage we had not seen any plans. The Promoter told us that there would be extensive works to the north and south and the enclosure would be kept to a minimum, but we saw no detailed plans. In fact, at our meeting last week, which I have said I am grateful for, we were shown a kind of sketch pad of a footbridge, disabled access on the south side running off the bridge, slightly staggered so that cyclists will not charge down and wheelchair users will not career down, there are breaks in the bridge, and that is all we saw. We did not see any proposals for the north side or any proposals to replace the bridge. Our position really remains the same, we are yet to be satisfied what they are proposing will satisfy your Committee and we feel that the plans we have seen still have got a long way to be worked up. First, we have seen nothing about the north side and, secondly, we believe this proposal could be modified as more of a zigzag under the bridge and will not need an additional opening in the wall that runs almost the whole length of Westbourne Park Villas. So we hope to have further discussions on this with them. Finally to put it into context, I think the Committee is probably aware but in case you are not, this bridge is a very well-used passage, a footbridge connecting the north and the south and at present leads to Harrow Road and to housing and there is a large private health club. It is a good way to walk through; it is somewhat dangerous, it has got a kink in it, people are a bit nervous to use it, but of course in the future Westminster Council are building a large academy on the north side of the footbridge, which, I understand, will have about 1,200 pupils. With that, there are going to be outdoor sports facilities, a purpose-built sports building and other facilities, and those facilities are, in agreement, to be shared with the community some of the time and there is some set-aside sports facilities just for the outside community and one of the sport facilities is to be shared, so along with that facility plus the new academy building the use of this bridge is going to greatly increase because there will be pupils and others coming from the south side to the school and there will be users of the sports facilities coming from that side. We think it is essential that bridge meets not only the needs of the disabled but it should be a safe bridge to cross and it is a great benefit to the community; to go around is a long way round. Particularly to the south of the building, and to the south and to the west of the council estates we do think they will be using this bridge a lot more, the disabled, mothers with children, young people. We reserve our position yet again and we have yet to see anything that satisfies us. We were told by Crossrail that they would have to submit under the planning regime an application to Westminster and I believe talks are continuing and I am sure you will hear more from Westbourne Park Villas Residents Association on the 21st. I believe Westminster are also producing evidence. I

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am not sure what your timetables are, there is a site visit of other sites on 22 February and I would urge that this bridge is looked at. It has been briefly looked at from afar on a previous site but it was not walked across. If I may leave it there.

19197. The next one concerns the amenity and public realm. I will be brief on this. The Council has just issued for consultation a public realm document around Paddington Station affecting the area around the station now that Span 4 is not going ahead and what we are saying is that we want Crossrail to sign up to that document when it is finally agreed. They have told us that they will be having an input in being involved in the whole consultation process which will go back to a council committee in the middle of the year, I believe. We are grateful they recognise the need for this document and I understand they will be working with Westminster.

19198. I turn now to one of the most contentious parts, the impact on Brewers Court by the demolition of 4-18 Bishop's Bridge Road. I heard the introduction. My understanding originally was that only part of 4-18 originally was thought of to be demolished, because of the paths and the effect on the Crossrail tunnel, but now I understand the reasons they want to do this. I know this building very well, I have lived in it for 25 years. It is an ex-council building. It is an interesting building to the left. Its correct address is 20 Bishop's Bridge Road. You enter it on the corner there of Westbourne Terrace. It is interesting as a site, when you visit you will see that you go in the building and there is a lift and some stairs up, but all the flats are approached from the back, along walkways. I think it is five floors, double floors on the top. I believe they had triple glazing at the front and at the back there is double glazing, but the main doors to the flats are along these walkways and when you stand on the walkways, you have a view over the railway tracks looking at the new construction of an office block going on at the moment and the other buildings around Sheldon Square. The office building, an advertising agency, is to the right, you can see on the picture, number four to 18. At the moment it is an office building, it causes no nuisance and it works normal office hours. Any loading facilities arrive in the front; there used to be some underneath the front of the building but at the back it is very, very quiet and you do hear at the moment some construction noise, as I have said, from the office block opposite but that, of course, is in normal working hours. It seems to me what is proposed is to have a deck, as has been described. We have asked in our Petition that the deck have a box around it to control the noise. We were only shown the sketch pad, not given the sketch pad, and I read in one of the statements from Crossrail the maximum they expect to use is 21 vehicle movements an hour. If I lived in Brewers Court, and there is a lot of elderly people there, the idea of having a deck, as I understand it, with no walls, just a small hoarding around it, 24 hours a day would horrify me. I understand the need to have a

replacement service area, but what immediately sprung to mind to me was I live next to TGI Friday's and near Whitely's Shopping Centre. I listen to these delivery vehicles, and apart from arriving and leaving their engines running and slamming doors, they then drop down the tail lift, the stacking trolleys come out and make a terrible noise even with rubber wheels, they get stacked and when they reverse these vehicles, the ones in my experience have the bleep, bleep, bleep sound. The idea that I would be living next to that and hearing that tune all through the night gives me great concern. It would be unfair to expect those people to keep their windows permanently shut for five years, it seems to me unreasonable, so what is the solution? I understand that they say all the vehicles at the moment offload from the Departures Road and it may well be that they do that some of the night—they have not even given evidence—because the Departures Road is very busy in the day with taxis when the station is closed, but my understanding is that some deliveries will be taking place from the Arrivals Road—I've seen WH Smith there. I believe the stacking trolleys have got to go down and along platform 1 and the Promoter is saying to us that there has to be a lorry delivery during the night because platform 1A is busy during the day. I still think we need more information, I have seen no noise information. I believe some tests were done, I was told, in 1991 at present noise levels, but it seems to me that this is bound to cause a great deal of disturbance to these 80 flats in Brewers Court. There has got to be two issues addressed, the demolition of the existing building, that probably can be addressed because lots of buildings get demolished in London, and for a period there is a lot of inconvenience and dust, but I think after that, to have for five years this constant 24-hour use has to be addressed. Our suggestion was, it has been done elsewhere, for a box to be constructed over this service deck and obviously it might have to have some ventilation grille, I do not think it would be mechanical ventilation, and that would probably solve the noise and light pollution and other amenity issues to the residents in that adjacent block. Until some stage I can be shown figures and satisfied it will not cause a nuisance, we strongly maintain our position that these residents of Brewers Court should be protected in some way from any disturbance that this deck must bring to them.

19199. The next one is the Paddington Station access design. Our position there is we welcome the proposal to put the taxi drop-off in the Red Star Depot—I will not go to the details, you have heard a brief summary—and we are also grateful that, as I understand, the intention is that it remains the permanent taxi drop-off place which will satisfy undertakings to Parliament to do with Heathrow, so we welcome that. We have asked various questions about the design of the deck, if there is to be a canopy in the design and we are looking to have good contact to the canal and the developments along the canal, and therefore we welcome it, but we have not got enough information to satisfy us that it is the

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right detailed solution. At our meeting they said to us that they have got to submit the application to Westminster for consideration and they, hopefully, will determine in eight weeks. We will be consulted no doubt by Westminster on the detailed design, but we have asked Crossrail if they will at the same time send us the papers they submit to Westminster. I do not know if they have agreed to that or that sets a precedent through the whole project, which we do not want to do. We want to work with the Council and Crossrail to get a good deck worthy of a very important railway terminus. On that part of our Petition we have yet to see the detail and yet to see details of the drop-off in London Street, which is to the south, and any effect on parking and reasonably rated parking, and the reason we raise parking, as you are probably aware London Street there meets South Wharf Road which is next to St Mary's Hospital and it is already very difficult for visitors to visit people in the Paddington hospital or to go for treatment. Therefore, we would be looking at parking arrangements and hoping that there would be no loss of street parking, public parking, that serves the hospital. We have converted some taxi bays recently, taxi stands, to disabled bays, so we await more detail but we are confident that a solution can be found.

19200. Going to my next one which is Eastbourne Terrace access. We are concerned about the office access for 10 to 40, but I am quite sure that Land Securities, when they are before you tomorrow, will give a much better case than I would do that they get access to their office blocks, and I am sure that will be worked out. It is interesting this week to Westminster Council's Planning Committee that there is a major application for 10 to 30 for a refurbishment of the office block with new cladding and increase by infilling between blocks of offices and a whole new landscape in the scheme they are reducing the number of cars and making the whole building eco-friendly, but there is no mention in that application, which is going ahead, not to be deferred, of changes in the access from the lowered Eastbourne Terrace, that application assumes things as the status quo.

19201. The second part of our Petition was about the aspect of that to Chilworth and Eastbourne Mews which are the mews behind the office blocks between Westbourne Terrace and Eastbourne Terrace. We have been assured by Crossrail, we are waiting to get some plans or details, that the grading of the ramp from those two streets down to the lower Eastbourne Terrace, three metres, will not affect the access to those mews. We have not seen it in black or white but we await that, and that seems a good response. On the question of parking, they believe there is no effect on the street parking where there are some residents based, but, again, we wait to see the detail of that. Obviously any loss of parking to the residents would be regretted but looking at that map now and appreciating it is only three metres, I can see that those mews will carry on as they are now.

19202. Moving on, the light spine. Our Petition raised problems that we could see affecting the setting of the listed buildings in Westbourne Terrace. To be honest, we put that in because in the Crossrail submissions to us, I believe more generally, they highlighted this possible effect, the buildings in Westbourne Terrace are listed buildings. Now I have had an opportunity to look at it more, the spine, I was expecting something more vertical, and looking at Westbourne Terrace, the flats face westerly, I do not think there will be much effect upon the listed buildings, if any. I was told at this meeting, and maybe you will hear more another day, that the whole concept of the spine may be altered or may be addressed, that is still work in progress. This long spine running down may change. Of course, we, as PRACT, would welcome exciting features of a station in the 21st century, so that it is an exciting station to visit and to take advantage of the benefits of the rail improvements. Subject to seeing a final result, we look forward to an exciting project which does not have a detrimental effect on Westbourne. From what I have seen, at the moment it would not. We look forward to any changes which may come up but I think we are satisfied there.

19203. Coming to my last two points now. Eastbourne Terrace, the bus access, it did come up before. As a layman, I see it too simply. I live there and I go down Eastbourne Terrace all the time. In 13 days' time congestion charging comes in and Eastbourne Terrace is one of the free routes running through the extended zone, so that is to be looked forward to and maybe it will all come to a standstill in 13 days' time. We have yet to see, but maybe people will find other ways of getting around London. Our simple understanding is there are going to be two lanes kept open in Eastbourne Terrace wherever possible. Obviously construction work at times may mean one side has got to be closed and they will send traffic down the Departures Road and there may be times or days that the road may be closed for operational necessity. Two lanes are being kept open, the taxis will not be going down there because they are going to be on the other side of the station. We do not know the effects of congestion charging, so we are not asking for any bus stops in Eastbourne Terrace, they are in Praed Street and there is one just around the corner opposite Brewers Court. We cannot understand why these buses cannot run up and down Eastbourne Terrace as they do now. We have not been convinced, we have not been party to any meetings with the bus company or with Crossrail or with Westminster, and we feel it is a much better route than Westbourne Terrace and their proposed stop in Westbourne Terrace at the junction of Craven Road just on the north side.

19204. I saw in the Promoter's response that London Bus has identified three criteria. I must say to you that I have had dealings with London Bus who seem, quite rightly, to be very experienced bus operators, they know everything, but when I met them on other matters, when I lived on route 70 and lately on the route 46, and also a proposed closure of Westbourne

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Grove for major sewer works, when you input to them, if you do get to meet them, your local knowledge, your experience, your streetwise experience, we have got them on the route 70 around Queensway to move every single stop and change the route. On the route 46 we have got changes and we do not think we have had the opportunity of talking to them on the merits of keeping them running up Eastbourne Terrace. In fact, on the major sewer works we all got on a bus and it went around the route that they proposed for nine months of disruption and after we got off the bus they changed much of the bus direction because they could see where we were coming from; we pointed out where cars parked at night and the pollution and the difficulties.

19205. What we are saying here is we fail to understand why the buses cannot go up Eastbourne Terrace for the majority of the time, which would help the running of the buses. We are not satisfied that this has being explored fully enough.

19206. Last, but not least, we talk about the congestion charge extension. As I said, it comes in in 13 days. The Council and others, I think including PRACT, argued with TfL that Westbourne Terrace and Eastbourne Terrace should be part of the free route to stop all the traffic and buses going down Eastbourne Terrace and turning into Craven Road. We unsuccessfully argued that. We also argued on the western side of where we are talking about that there should be other access to the bridge but they were determined to go forward with what they thought was best, although we did get some small changes in Westminster to the congestion charge, that you could visit Sainsbury's and the cemetery without paying, but apart from that, they were pretty stuck on their routes.

19207. We believe there are still discussions to be had. We think congestion will come in. The idea that surveys will be taken in two months, I welcome surveys in two months, but what I would say to the Committee is that our experience and others shows that when a congestion charge comes in there is a lot of confusion in the first month or so and then for a period traffic does reduce into London. People do not want to pay the £8, what was £5, they find other ways, they do car sharing, but then you find that reduction in traffic is being shown on the present existing zone but then the figures pick up again. What we would argue is—and I do not know when construction would start if it got all the necessary consents, but we consider it to be after the Olympics in 2012—we feel that a lot more information has to be gathered on the merits of the congestion charge and the free route, and we still believe that it may well be that TfL and the Mayor will see the logic in bringing the congestion charge boundary to be Westbourne Terrace going eastward. We think that is a possibility, so we think it is premature. Of course, if that happened, that would kick back into my previous address to you on the buses that we believe buses could go down there. I can see

Eastbourne Terrace one day being the main route for buses and vehicles to the hospital and the station, with Westbourne Terrace connecting with Sussex Gardens being the main free route.

19208. We think it is too early days to tell; it has not even started, the congestion charge, and we have to assess, based on the necessary figures and surveys, if there is a better alternative. I do not believe it is not possible that TfL will never change their mind; I believe we can convince them. If we did convince them, it would change the whole scenario of both those streets.

19209. I hope I have not taken up too much of your time. If you have any questions, I am happy to answer them. Thank you very much for your time.

19210. **Ms Lieven:** Sir, I am slightly in the Committee's hands as to how we deal with some of these points. So far as noise is concerned, as I indicated, I have Mr Rupert Thornely-Taylor and Mr Reuben Taylor was going to call him in a minute to deal with the Brewers Court point.

19211. **Chairman:** Can I say, I think we heard a lot of evidence on that and we have a site visit coming up anyway. If you think the point needs to be made, then make it, but otherwise I think we have enough from them.

19212. **Ms Lieven:** Even on noise, sir.

19213. **Chairman:** Yes.

19214. **Ms Lieven:** If I could press on with what I understand Mr Rupert Thornely-Taylor would say.

19215. **Chairman:** Would Mr Thornely-Taylor be available to come on the site visit with us?

19216. **Ms Lieven:** I am not sure about that, sir. Is it on the 22nd?

19217. **Chairman:** Yes.

19218. **Ms Lieven:** Yes, he would.

19219. **Chairman:** Then he could advise us en route.

19220. **Ms Lieven:** Perhaps we can leave it that way. So far as the other matters are concerned, I have got Mr Berryman and Mr Anderson here, but I think I would probably deal with them all in submission if the Committee is happy with that. Some of them are matters that we are inevitably going to come back to. Perhaps if I go through the list and if the Committee feels the need to hear evidence, I know it is a little informal, perhaps you could indicate.

19221. The first was the concrete batching plant. We have got Westbourne Park Villas Association coming back in two weeks' time. You will remember, they are the Residents Association partly opposite the batching plant so they have a particular concern.

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I would suggest that the appropriate thing is to call evidence at that point. I am not trying to cut out PRACT but they are the Residents Association who are directly impacted, so the most efficient thing might be to call evidence when they give evidence. I do not think Mr Zamit would have any problem with that.

19222. The next is lorry movements. Mr Zamit said the problem here was based on a misunderstanding by PRACT as to what had been said. That misunderstanding has now been explained so I do not think there is any outstanding issue on that one at all.

19223. The next one is Westbourne Park Bridge. Sir, so far as that is concerned, on CCTV we have agreed and written a letter to PRACT saying that we will make passage provision for CCTV on the bridge. We cannot provide the CCTV ourselves because obviously somebody else has to operate it, it is Network Rail, it would need to be part of a wider scheme, but we are doing what we can to facilitate that provision if it is felt necessary and appropriate by Network Rail at a later stage.

19224. So far as the works on the north side of the bridge are concerned, the Committee may remember that the north side of the bridge is being developed, the Westminster Academy, and they are doing works on the north side and we are now doing works on the south side, so it will be fully PRM accessible once those works are completed. I do not think there is any outstanding issue on that one.

19225. So far as public realm issues are concerned, the Crossrail project is actively involved in the Paddington Station Review Group which is chaired by Westminster Council so we are working very co-operatively with Westminster on that issue. That is all that PRACT really want, so I do not think there is anything outstanding on that.

19226. So far as the impact on Brewers Court is concerned, we have just touched on that. Mr Thornley-Taylor and Mr Berryman can explain to you on the site visit precisely what is proposed and Mr Thornley-Taylor can explain to you why, in his view, it is acceptable. If Westminster had raised concerns about this, there has been a meeting which I believe has met some, if not all, of their concerns but when they come in two weeks' time, if they are still concerned, we will call Mr Thornley-Taylor then to deal with noise. If we, as it were, without wishing to make any reference to the servicing vehicles, park that one for the site visit and for Westminster's return in a couple of weeks.

19227. Paddington Station access design, one point I should have highlighted when I opened is that part of the AP proposals are that the taxis will now stay permanently on the Red Star Deck. Originally we were proposing that they would come back to Departures Road at the end of the work. Westminster and many local residents were very unhappy about that, partly because of issues of taxis going through

the residential areas, so we are now proposing that the taxis will come off Bishops Bridge Road. This is not the best plan to show, it has got Bishops Bridge Road cut off. Perhaps we can put up another plan.³⁴ The current proposal, which I suspect some time in the next two weeks you will hear more about, is that the taxis will come off a ramp here down on to the Red Star Deck and that will be permanent so they will stay that way. We have got quite well worked out plans.

19228. **Mrs James** : Is that where we visited?

19229. **Ms Lieven**: Yes, you stood there. I cannot, to be honest, remember when we visited if we decided that was the permanent place or it was still the temporary place; but we have moved on to it being the permanent place. I think almost everybody is happy with that. You will see tomorrow, or possibly in two weeks' time, we have got quite sophisticated plans for how this will improve as a pedestrian area and people will be able to get down into the station. It works from everybody's point of view.

19230. The other issue raised by Mr Zamit was the use of London Road, which is this one here. There is no intention that London Road will be used for taxis; and there is no intention there will be any loss of car parking for St Mary's Hospital, which I believe are these buildings here further to the east. There is no loss of car parking there so that is not an issue.

19231. The next one was Eastbourne Terrace. Sir, I suspect you will hear in great detail all about the Eastbourne Terrace access issue to the Land Security properties tomorrow, so I will not try to steal Mr Mould's thunder by explaining it now. There is an issue, and our solution will be explained to you tomorrow by Mr Berryman and Mr Mould, so perhaps we can leave that one.

19232. So far as the mews properties are concerned, which are PRACT's concern because they are residential, there will be no loss of access to those at the end of the works. There may be some short period where access has to be gained from one end of the mews rather than the other; but we certainly will not leave any properties, as it were, incapable of access at any point in the works.

19233. The light spine—I understand Mr Zamit is satisfied as to where we have got on that and the ongoing discussions with Westminster about detail design.

19234. So far as Eastbourne Terrace is concerned, perhaps trespassing on Mr Fry's goodwill he can put up the Congestion Charge Zone plan again.³⁵ Eastbourne Terrace is the boundary road of the congestion charge extension which I think comes in

³⁴ Crossrail Environmental Statement AP3, Paddington Station—Eastbourne Terrace, Amendment of Provisions—Transport Links, Map C2(iv), billdocuments.crossrail.co.uk (WESTCC-12004-030).

³⁵ Crossrail Ref: P140, Paddington Station, Traffic Diversion Diagram—Main Works (WESTCC-12004-030).

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next week, or perhaps the week after. The area to the west is in the Zone; Eastbourne Terrace is outside the Zone; it is a boundary road like Marylebone Road is at the moment.

19235. During our works Eastbourne Terrace is going to be reduced to one lane in each direction for long periods. In those circumstances on the boundary road it is not acceptable, as Mr Anderson explained to you last time (and that is why I can say this because you have already heard the evidence) to have bus stops there because they would block all the traffic on the boundary road. That is simply unacceptable to TfL, and it is very obvious to see why. During our works the buses and bus stops will be relocated to Westbourne Terrace just to the west. If people are desperately bothered about the horror of having buses going past their houses, it is worth remembering that Westbourne Terrace is one of those London streets where there is a service road between the road the traffic goes on and the houses; so the houses are actually a little distant from the road itself. In any event, many places have buses going along, and for the period of the works they will have to go up and down Westbourne Terrace. This was explained last time, so I hope it is clear to the Committee.

19236. The final point about the Congestion Charge Zone and whether the boundary was in the right place and whether Eastbourne Terrace was really going to work and whether or not traffic crept back up again under the Congestion Charge Zone, all I can say, sir, is that for good or ill Crossrail are not in control of the boundary of the Congestion Charge Zone. I am not going to get pulled into a debate as to whether traffic does or does not go back up with the Congestion Charge when people get used to it. It is really not a matter for here, happily or sadly. Sir, we have to deal with the situation we find which is that Eastbourne Terrace is a route just outside the Zone where people will go and undoubtedly use it and, therefore, we cannot have buses blocking it during the period of our works.

19237. Sir, that covers all the other issues. The only one, as I have said, we were intending to call evidence on for definite was noise; but if you are happy to leave that and unless the Committee wants to hear evidence on any of the other points?

19238. **Chairman:** On the noise point, as you say Mr Thornely-Taylor will attend and that will be satisfactory. All the other issues you have explained most of those there. Mr Zamit, would you like to come back on any issues?

19239. **Mr Zamit:** I will not go into minute points, but on the Westbourne Park footbridge I think we would just say it is not just the disability, it is the safety and disability standards for users. So it is not just disability, it is the whole access to and from the bridge both sides. I was pleased to hear they worked together. That is where safety comes into it.

19240. I am pleased the noise expert will be with you on the Brewers Court inspection. I do not know if we are allowed to go on the visit that day?

19241. **Chairman:** Yes, you are. I would appreciate it if you would keep your numbers to the minimum requirement, but you are welcome to come.

19242. **Mr Zamit:** On the bus access question, we are not asking for stops in Eastbourne Terrace, we realise that would bring the whole street to a halt. We are just asking for the buses to continue to use Eastbourne Terrace. We cannot see why not.

19243. On the congestion charge, perhaps I did not make it clear, and I have the opportunity to make it clear, we think the route should have been changed at the beginning, and should be changed; but, failing that, we do think that when the Crossrail construction starts—which necessitates Eastbourne Terrace being made two lanes, one each way, hence the need that they want the buses off of it—we believe with all that construction, and reducing the capacity of Eastbourne Terrace, TfL or the Mayor may well consider for that period (an extensive period of about five years of the construction of Crossrail) it makes sense to change—it is not a boundary line—the line through the congestion charge area. It makes a lot of sense to look at it again. Even if it is only during the period of five years and then they review it at the end of that, to move the line. As more comes out about how the construction works in Eastbourne Terrace, more can be made of the case to the Mayor to change, in the short-term or it may be permanently, that route. I just leave it for clarification on those two points.

19244. **Chairman:** Ms Lieven, do you wish to come back again?

19245. **Ms Lieven:** I do not think I want to, Chairman.

19246. **Chairman:** Thank you very much, Mr Zamit. That concludes today. We next meet at 10.00 o'clock in the morning.

Wednesday 7 February 2007

Before:

Mr Alan Meale, in the Chair

Mr Philip Hollobone
Mrs Siân C James

Mr Ian Liddell-Grainger
Dr John Pugh

Ordered: that Counsel and Parties be called in.

The Petition of Land Securities plc.

Mr Robert Fookes appeared on behalf of the Petitioner.

Bircham Dyson Bell appeared as an Agent.

19247. **Chairman:** We now move on to the Petition for Land Securities plc and Mr Fookes. Before you start, Mr Fookes, I wonder, Mr Mould, are you going to give us a preview?

19248. **Mr Mould:** Yes, I am going to try and give an overview of what the issues are today. We begin by saying, of course, that the Petitioner, Land Securities, as the Committee will be well aware, are one of the major commercial landowners within London and this Petition is in relation to their concerns about the impact on properties that they own freehold in Eastbourne Terrace in Paddington, the impact on those properties of the AP3 proposals to lower Eastbourne Terrace by some three metres.

19249. If we can put up, please, page 25 of the Environmental Statement.¹ You remember Ms Lieven touched on this yesterday, but there is an aerial photograph to give a broad sense of what we are doing. Here is Paddington Station, an aerial view from the north, there is Eastbourne Terrace with Departures Road, which the Committee will be familiar with, going to the main taxi entrance to the station at the present time here, and here we have the Petitioner's properties and 10 through to 50 Eastbourne Terrace. I will show you some photographs of entrances in a moment, but essentially the issues today relate principally to numbers 20 and 40 Eastbourne Terrace and to proposals for temporary and permanent access arrangements to those properties arising out of our proposal to lower Eastbourne Terrace permanently by three metres.

19250. Yesterday Ms Lieven explained to you in the afternoon the public benefit of the permanent lowering of Eastbourne Terrace and just to remind you, for the benefit of the members who were not present, the photograph is at 04-012, please.² You remember that we pointed out that here is Departures Road and, in a nutshell, we propose now to lower Eastbourne Terrace, which is presently at

that level, down to the same level essentially to Departures Road. The benefit which will flow from this is to eliminate the need for stairs and lifts here from the Crossrail station, which is to be constructed beneath the current line of Eastbourne Terrace, providing an improved pedestrian environment, especially for persons of restricted mobility and an enhanced road crossing and obvious benefits in terms of interchange in relation to buses at the Crossrail station and Paddington mainline station itself, shorter journey times and so on. I do not want to dwell any further on that; Ms Lieven explained that yesterday and I just reiterate that to set the scene today.

19251. The Petitioners have confirmed that they agree with the principle of lowering Eastbourne Terrace. They recognise the public benefits that would flow from the permanent lowering of the road we propose, but they are understandably concerned that that will have an impact on their premises on the west side of Eastbourne Terrace and, in particular, today they raise numbers 20 and 40 Eastbourne Terrace in that respect. Their concern is that those impacts which relate to access should be mitigated and provided for as far as is reasonably practicable. I will say straightaway that the position of the Promoters is that we entirely share that concern and the need to secure the best solution both temporarily and permanently as is reasonably achievable. There have been negotiations between the parties which have continued until very recently in which those concerns have been ventilated and progress has been made towards a process through the instigation of a joint study in relation to number 20 Eastbourne Terrace with a view to realising an appropriate solution. I say straightaway we have no difficulty in principle with that process of joint study extending to embrace the other building which is of concern to them, which is number 40 Eastbourne Terrace.

19252. Sir, it may be helpful to see what the existing arrangements are in terms of access to those two buildings and first we will deal with number 20. Can we have number 36—04 010, please.³ Here we see the

¹ Amendment of Provisions 3 Crossrail Environmental Statement, Chapter 3 Route Window C2:

² Crossrail Ref: P140, Pedestrian Access from Paddington Station to Eastbourne Terrace (WESTCC-AP3-36—04-012).

³ Crossrail Ref: P141, 20 Eastbourne Terrace—Entrance viewed from the south (WESTCC-AP3-36—04-010).

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entrance to Eastbourne Terrace, a view from the south. You can see this is the start of 20 Eastbourne Terrace and you can see here Eastbourne Terrace itself and the arrangement is there is an entranceway which comes in from here and then goes round and an exit point here, and this is the current main entrance to the building. I think almost all along this side of Eastbourne Terrace you find these areas of wells which extend from the front facade of the Petitioner's premises out to the point of the western point of the footpath or pavement and, as you can see, they are at a lower level broadly commensurate with the level to which Eastbourne Terrace is proposed to be lowered as part of the AP3 scheme. What you can see here is that beneath the current entrance to 20 Eastbourne Terrace is a very substantial area of plant and machinery serving the building which is actually located within those wells.

19253. Can we go to number 11, please.⁴ Again, this is just a view from the north. You can see we will be at that point and you see here the point at which the current access arrangements are. You can see there is a ramp here which serves the property as well. The other point to note here, which may become relevant during the course of the proceedings, is that there are effectively two double levels of fenestration at and below the existing road level on the facade of 20 Eastbourne Terrace and one of the advantages that you may think will result from the lowering of the road is that natural lighting into that area will be improved.

19254. Can we then turn briefly to number 40, which is number seven, please.⁵ Here we see an example of the facade of number 40. This is a building that Land Securities themselves have recently completed a refurbishment scheme on to modernise it, and one of the features of that is they have a similar access arrangement across this area, or well area here, which I showed you in relation to number 20, and they have enhanced the main entrance by adding what I think is called an "atrium feature", this glazed feature here. Also, as I understand it, they have taken the opportunity to work with that double height fenestration to improve both the outlook and the appearance of the building you see with this new modernised fenestration we have here. This is an arrangement they have selected, which is effectively an atrium arrangement, improving what was previously the access point and there is a short flight of steps just here as part of the refurbishment which gives access from the pavement up to the atrium itself.

19255. Number eight, please.⁶ Again we see here, perhaps, a better view from the north, this is the atrium structure here. This is the current access arrangement with a ramp to serve people with

restricted mobility and a short flight of stairs up to the front entrance and here is Eastbourne Terrace. That is the existing position.

19256. We turn then briefly just to run through and summarise the proposals that we have to accommodate access permanently and temporarily. If we can turn, please, to plan 04-002.⁷ This is a plan showing Eastbourne Terrace and summarising the Crossrail AP3 scheme. Here we have Paddington and this is Telstar House at Paddington Station. Here we have the western side of Eastbourne Terrace and you can see a number which is number 20, and the access point I showed you a minute ago and number 40 with the refurbished and modernised access point here, and we have shown that with this elevation plan, number 20 and number 40. What we have shown here is essentially what we propose as the permanent solution, to provide access to the lowered Eastbourne Terrace from that lowered road up to the existing entranceway and you can see what we are proposing is what is known as a "podium solution", which would provide stairs and lift access from the lowered road to the existing entrance and, likewise, a similar solution proposed in relation to number 40. I did stress that this is, if you will, an early stage of design and, clearly, there is a good deal of room for working on detailed design, for example to embrace the kind of atrium, glazed, covered feature that, in relation to number 20 we showed you a minute ago, has already been installed in number 40, but it does represent what we have in mind as being likely to deliver the optimum permanent solution to gaining access to these buildings in conjunction with the lowering of the road. That is what we had assessed and is provided for in the Environmental Statement.

19257. Before I move on primarily to the temporary position I reiterate that we believe this is the best way forward, but our position is not that we are irrevocably wedded to that, and we have agreed to initiate a joint study in relation to number 20 to look at possible alternatives and, indeed, we are prepared to extend that to number 40. I think Mr Fookes will explain this to you in a moment, but as far as alternatives to the podium solutions are concerned what Land Sec have in mind, if you like the alternative they would best wish to examine, is to relocate the entrance of this building, certainly number 20 and possibly number 40 as well, so that it is at the same level as the lowered road, do you see the point? The difficulty we see with that is, something which is going to be investigated by the joint study, that, as I showed you, there is a substantial amount of plant located beneath the existing access at number 20 and the same at number 40. We see that as presenting a particular challenge if one is to relocate that plant elsewhere within the building if one was to open up a new access at what are currently basement levels at number 20 and, indeed, number 40. The other point I draw attention

⁴ Crossrail Ref: P141, 20 Eastbourne Terrace—Entrance viewed from the north (WESTCC-AP3-36—04-011).

⁵ Crossrail Ref: P141, 40 Eastbourne Terrace—Entrance viewed from the south (WESTCC-AP3-36—04-007).

⁶ Crossrail Ref: P141, 40 Eastbourne Terrace—Entrance viewed from the north (WESTCC-AP3-36—04-008).

⁷ Crossrail Ref: P141, Paddington—Eastbourne Terrace Study, Building Entrance Study—Options 9 + 5 + 4(a) (WESTCC-AP3-55—04-002).

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to is, number 40, following recent refurbishment, has now been let on a 15-year lease, so one would need to take account of disruption caused by major and substantial internal works to the tenant who occupies under that lease. But that, as I understand it, is what Land Sec wish to examine further as part of the joint study that I mentioned.

19258. Turning then finally from the permanent to the temporary, plainly access needs to be maintained to these buildings throughout what will be a very challenging construction phase in Eastbourne Terrace and we have recently committed ourselves to that, including access for fire and emergency services, as you would imagine. The issue here relates to the ability to maintain pedestrian access to the existing entrances continuously throughout the construction phase and that we know is Land Sec's aspiration. Our position is, and Mr Berryman will explain this to you later, we simply cannot realistically maintain continuous access throughout the construction of the lowering of the road and the construction of the Crossrail station in Eastbourne Terrace to the existing entrance of numbers 20 and 40 Eastbourne Terrace. There will be what we expect to be a relatively short period during the construction phase where that simply is not possible to achieve, but what we have said is that, as far as we reasonably can, we will seek to maintain access to those entrances during the period of construction. The other point I should touch on here before I sit down is this: in recent weeks there has been a misunderstanding and Land Sec believed that they had secured from us an undertaking that we would maintain continuous access to the front. I should say straightaway, having investigated that, I can see as a result of a recent meeting how that misunderstanding arose and I regret it. I apologise to them for the fact that misunderstanding arose, but I want to make it clear we immediately made clear to them in correspondence that it was a misunderstanding and the position was we simply could not maintain access continuously on that basis. I hope they will accept that and the Committee will accept that we have come clean on that and we move on. I have explained the position as to what can be achieved, what we can undertake, a few moments ago. I have been asked to emphasise, as I mentioned a minute ago, that we will maintain access to the buildings at all times, but there will be, I hope, short periods of time during the construction phase when that access will be to the rear of the buildings in the mews to which access is already available albeit on a secondary basis.

19259. **Mr Fookes:** That is, I hope, a relatively brief overview of the facts and the issues I think lie between us. I will now sit down and over to Mr Fookes.

19260. **Chairman:** Mr Fookes.

19261. **Mr Fookes:** I wonder if I could start by identifying what the four areas of concern are. It is quite right, we have not been root and branch

against Crossrail, we have been working all the way along with the Promoters, but unfortunately we have come to this point where there are important matters which we have been unable to agree on. In the clip of papers I have prepared is LS1, which is a summary of our concerns.⁸ It seems to me if I went through them very quickly everybody will know exactly what we are saying.

19262. **Chairman:** Can I list it is A219.

19263. **Mr Fookes:** The first point concerns the buildings 10, 20 and 30 which have been described and what we said is that, together, we should commission a joint study to formulate proposals for the alteration of the entrances of 10, 20 and 30 that are acceptable to both parties and Crossrail should bear the full cost of the joint study. Let me explain very quickly why I say that. It is not just number 20, it is 10, 20 and 30 that need new accesses because the new road will be at a different height and each one has its own access. 10, 20 and 30 are the subject of a planning application, which, in the slow ways these things happen, by complete coincidence, is due to be determined by Westminster tomorrow, but we have been working to refurbish those three and what we want to do is get down very soon and Crossrail to come and tell us what they need us to do to alter that refurbishment so we can presumably get our planning permission or modify the planning permission so we can go ahead and do it without having to wait until the end or until work starts; we can plan ahead. We have a perfectly good scheme. The changes are all required by the scheme and all we say is that Crossrail should fund the study to tell us what it is that Crossrail wants, it is as simple as that.

19264. The next two points I take together. First, Crossrail should submit proposals for the alteration of the entrance of number 40 Eastbourne Terrace to Land Securities and to take into account any reasonable requirements of Land Securities and, secondly—it is number three on this—in the event that Crossrail's proposals demonstrate that Crossrail's works will render number 40 Eastbourne Terrace "unoccupiable", the Promoter should compulsorily acquire the whole of number 40, or not carry out the proposed works to lower Eastbourne Terrace. I will come back to these two.

19265. The last one on the sheet, Crossrail should be encouraged to stand by the terms that were previously offered and accepted in June 2006 in relation to guaranteeing the retention of pedestrian access at all times unless otherwise agreed in writing by Land Securities following consultation to the front of the properties during the carrying out of the works. I have heard my learned friend describe there has been a misunderstanding here. It was clear in the agreement, it was taken out of the agreement for number 7 Soho Square, which it was originally included in and has gone ahead, to be put into a

⁸ Committee Ref: A219, Summary of Land Securities' concerns (SCN-20070207-001).

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separate agreement for these properties. Unfortunately, when we came to draw up that agreement, then matters changed. In order to meet the point made—that circumstances changed, they should not be involved at all if they cannot keep to it—what we have said here is, unless otherwise agreed in writing following consultation, the important point is that these are important frontages of important office buildings, we cannot just suddenly be told on a morning, “By the way, you cannot come in”, particularly if there is a delegation coming for a meeting, et cetera. The occupiers want to know a little bit in advance. It does not seem to be asking terribly much that there should be some forward planning, so the principle is that there is access to the front of the buildings, which are for not only the staff but also for visitors, and should be able to guarantee that potential and if there is a difficulty to agree in advance in writing when those alternative arrangements can be made.

19266. If I can come back then to number 40, if I may. In order to do that, we have put in an extract from the amendment provisions and it is LS3.⁹ This is an artist’s impression. Just looking at that, if you look at where the bus is in the foreground and go past the first building to the slightly greyer second building which says at the top, and has a kinked out line to it, “40 Eastbourne Terrace”. In front of it is what looks like a hoarding. Actually that is the artist’s impression of what the effect of the change of the scheme will do to that refurbished building. Unlike 10, 20 and 30 it was ahead of its refurbishment, it was ahead on the plan and it was carried out and completed at the beginning of last year, so that is, as we see from the photograph, a brand new building. That is the artist’s impression of what the building looks like. What has effectively happened is, if you remember the old photograph I think Ms Lieven showed you yesterday, and we saw it briefly earlier on, what we are trying to do is move away from that wall underground outside Paddington Station. What has actually happened is it is being pushed back in front of our buildings, that is the problem that needs to be solved. At the moment there is no joint study, at the moment there is no solution to the problem and that is why we are particularly concerned. We are concerned (a) that there should be a joint study and it should be entered into now so we know well in advance what has got to be done, but (b) if it turns out that that so affects the building and the appearance of the buildings to the tenants there under the terms of their lease or otherwise it becomes unlettable in the existing statement. We would like that there would be someone to check what we would require. That is the point, because that is going to be very seriously affected.

⁹ Committee Ref: A219, Extract from Crossrail Environmental Statement AP3, Artists impression of Proposed Works at Eastbourne Terrace, billdocuments.crossrail.co.uk (SCN-20070207-002).

19267. If we could go back to the photograph, which I think is 36-008 which we saw earlier on.¹⁰ Bearing in mind, if we just remember that hoarding, if you see the steps in front of the atrium on this photograph there will be a drop of between 2.7 and 3 metres right from the bottom step. It will go straight down and that is the hoarding effect which is being shown and then the pavement, instead of being at that level, will be at the lower 2.7 metres. The problem with that, of course, is it will have to be walled or fenced off to stop people coming out of the ground floor level falling over and there is no room to get around between the protection and the point on the atrium. That is the first point. The second point is that is all built below a plant and it would be a massive undertaking to remove that plant, even if you had somewhere else to put it, which there is not in the building. The whole building would be disrupted, a newly refurbished building would be disrupted. Within the light wells there is not room to make a suitable entrance for a building of this type. That is the problem and that is what needs to be resolved. I think the combination of the artist’s impression and that photograph demonstrates why really we are here and why we are asking for these items I have set out.

19268. **Mr Fookes:** That is what I wish to say in introducing the case. I would like to call Mr Stephen Barton who is the architectural adviser to Land Securities first, if I may.

Mr Stephen Barton, Sworn

Examined by **Mr Fookes**

19269. **Mr Fookes:** You are Stephen Barton, you are the Practice Director of the architects Fletcher Priest and you have for a number of years been advising Land Securities. How long have you been advising Land Securities?

(Mr Barton) Six years.

19270. And on what have you been advising?

(Mr Barton) Entirely on office development and office refurbishment for Land Securities in London, on Eastbourne Terrace for the past four years, on these buildings 40 and 10 to 30 currently.

19271. What has your involvement been? Have you been involved in the refurbishment of 10, 20 and 30?

(Mr Barton) Yes, I am the senior architect in charge of the planning application which is currently being submitted to Westminster and is under consideration and recommended for approval in the latest draft report.

19272. You are speaking principally to the second point that we identified on the list of matters of concern, that Crossrail should submit proposals for the alteration of the entrance to number 40 Eastbourne Terrace to Land Securities to take into

¹⁰ Crossrail Ref: P141, 40 Eastbourne Terrace—Entrance viewed from the north (WESTCC-AP3-36—04-008).

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account any reasonable requirements of the company, and you are going to speak to our document, LS10, which is a summary of our points.¹¹ (*Mr Barton*) It is interesting in that 10, 20 and 30 have not been developed yet but 40 has and I think that is where the crux of the problem is with the entrance and the current sketch proposals from Crossrail. The picture that you saw previously, if we could have that back up. The image shows a small podium that we put in place on 40, designed two years ago and before we were aware of the proposal to lower the road. We tried to drive out the need for a podium at the entrance level because it is undesirable for simple regulation reasons in terms of accessibility for disabled people and the like but also for the free flow of people into and out of the building and safety and security issues and the like. Even this small podium we were keen to try and mitigate. Because it is an existing building, we were only able to do that to a limited way. The number of people going in and out of the building, the occupancy currently is nearly 700 people plus visitors, so it is a quite a substantial movement in and out each day. I think taking the points on LS10, the current proposal is to lower the level of this entranceway effectively by its storey, nearly three metres, so you effectively make the entrance on what would become the first floor, which is not something you would choose to do in the normal course of events. If we were back where we were two years ago and presented with that problem we would not do it that way, we would drive it in on the level from the lower ground floor level. Also, we would be keen to get a level area of pavement in front of our building, so that you have as small an incline in the sidewalk as possible. It is all about people coming and going, stopping, preparing themselves to enter and leave the building in a simple and casual way. Points three and four deal with the proposal that you might choose to drop the reception to the lower ground floor level as part of the remedial solution to Crossrail's proposals, but in doing that you do need to drive through what are currently some major areas of plant, including the EDF electrical intake room and the main area having been a plant for the whole of the building. Its position there is that is where it was in the original building, it is a convenient place for it, away from the office areas and we were restricted on what we could put on the roof because of the existing conditions and the residential mews behind. We are also a little bit concerned about lowering the road and the implications that might have on the new glass atrium. This is a very delicate and lightweight structure and is susceptible to any movements. All of that could and would need to be carefully managed. The EDF substation I mentioned to you earlier, that is a primary piece of kit which belongs to EDF, formerly London Electricity, which is not easily moved. There is underneath the existing podium the main intake of services on data and the like coming in at that point. I think the proposals that we have

¹¹ Committee Ref: A219, Summary of architect's concerns in relation to 40 Eastbourne Terrace (SCN-20070207-003 and -004).

seen so far from Crossrail are very sketchy and they have suggested external staircases up onto the existing podium from either side. These would have to occur within the curtilage of the existing building, so within the existing light well. Even if these were desirable, and we do not think they are, you are going to affect the light and they would have quite a high impact upon the existing lower ground floor offices adjacent which would have their light blocked and constrained at that point.

19273. Just to go back on that point to 36-008 and we can see that at the moment you walk up, you have got this wide expanse of three steps you can walk up either side of the atrium.¹² If we go back to 36-007 the proposal would be to fit some steps, about 20, or 24 steps?¹³

(*Mr Barton*) It varies on each side because of the scope of the road, but it is about 20 steps and they would have to occur on the left-hand side of those railings within that light well, from the new lower reduced level onto that existing podium where the glass stops at the moment. You would never choose to do that if you had that imposed on you, you would want to get people inside the building first and then manage the vertical circulation so you get people across the threshold. It is a barrier effectively at the front of the building to have that many steps, particularly as they are arranged in a staircase way. I think on the previous photograph you saw that we had three steps. If your entrance level was a storey below, you might say, "Well, let's have a cascade of steps", but obviously we do not have the opportunity to do that because of the boundary line which is along the railings there at the moment.

19274. Then your points 9 and 10, and point 9 is the point about tenants currently having full-height windows—

(*Mr Barton*) Yes, that is right.

19275.—with daylight and views being obliterated, and then the last point is on air intake positions. Where are they?

(*Mr Barton*) If we go back to the previous photograph, the black band below the existing podium, they are all air intake grille points for the air intake for the whole of the building which is currently off the lightwell.¹⁴ You can see that if you lower the road, then the air intake positions become directly off the road which is not desirable at all. It also may well get obstructed by the new structure.

19276. Do you have any other points you wish to make?

(*Mr Barton*) No. I think the issues that we have on 40 are critical in that it already exists. We are looking at 10, 20 and 30 which may be manageable, but the

¹² Crossrail Ref: P141, 40 Eastbourne Terrace—Entrance viewed from the north (WESTCC-AP3-36—04-008).

¹³ Crossrail Ref: P141, 40 Eastbourne Terrace—Entrance viewed from the south (WESTCC-AP3-36—04-007).

¹⁴ Crossrail Ref: P141, 40 Eastbourne Terrace—Entrance viewed from the north (WESTCC-AP3-36—04-008).

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solutions for 10, 20 and 30 are all about introducing the reception at the lower level and I think the point on 40 is that it is almost impossible to do that now.

19277. **Mr Fookes:** Thank you.

Cross-examined by **Mr Mould**

19278. **Mr Mould:** There are really just one or two points, Mr Barton. Picking up on that and looking at LS10, your position is, item 1, that the solution that Crossrail have proposed in relation to number 40 in the Environmental Statement, that is to say, the provision of a podium, you say that that is a difficult solution to achieve in relation to number 40?¹⁵

(Mr Barton) Yes.

19279. So, to put it another way, it represents a challenge to architects and designers to come up with a solution which is acceptable?

(Mr Barton) I think the existing condition was a challenge. If we were presented with the proposal of entry at a storey above street level, we would say that that has to be done internally within the building.

19280. You have heard me say in opening that the Promoter is willing to embrace finding a solution to that challenge in relation to number 40 within the joint study that has already been agreed to between the parties in relation to the other properties?

(Mr Barton) That is right.

19281. And that joint study would be able to embrace that challenge and all those various more detailed aspects of that challenge which are set out on the remainder of this page, would it not?

(Mr Barton) Yes.

19282. You showed us the artist's impression on page 27 of the Environmental Statement.¹⁶ You do appreciate that that is a very early stage of design?

(Mr Barton) It is, and it is worth noting that it is not our artist's impression, it is one created by yourselves.

19283. It is ours, but the Environmental Statement makes clear, and I have reiterated the point today, that we of course understand that there would have to be substantial detailed design work to come up with an acceptable solution. Yes?

(Mr Barton) That is right. I think the principle I was trying to establish is that, given our chance to redesign this, a podium option is not an option. We would want to get in off the new reduced level.

19284. You have told us that you do not think that a new entrance at the lower level, directly off the level, is likely to be realistic because of the presence of the plant and so forth. I have indicated that we agree with you on that.

(Mr Barton) The options are very limited.

19285. So we are looking at the challenge which is set by line one on LS10, are we not—

(Mr Barton) Yes.

19286.—and a joint study to look into finding a solution for that?

(Mr Barton) Yes.

19287. **Mr Mould:** Thank you very much.

19288. **Mr Fookes:** I have no re-examination, thank you.

The witness withdrew

19289. **Mr Fookes:** Could I call my next witness, Mr Matthew Harrington.

Mr Matthew Harrington, sworn

Examined by **Mr Fookes**

19290. **Mr Fookes:** You are Matthew Harrington. You are the Sales Director of Land Securities with responsibility for co-ordinating the company's response to the Bill and your particular involvement is in the letting side of the business. Is that correct?
(Mr Harrington) Correct.

19291. Perhaps you could describe the building to us in terms of the size and the number of people employed and the type of tenants you have in the building?

(Mr Harrington) Certainly. Numbers 10, 20 and 30 Eastbourne Terrace are three separate buildings comprising approximately 20,000 square metres which also incorporates 40 and 50, so 10, 20, 30, 40 and 50 are complete holdings, that is 20,000 square metres, and the whole of Eastbourne Terrace employs approximately 1,500 people. Those individuals are split between 10, 20, 30, 40 and 50 and we have heard from Stephen that there are about 700 in number 40 and about 800 people in 10, 20 and 30, so quite a few people. Numbers 10, 20 and 30, all of those were constructed in the 1960s and, as we have heard, 10, 20 and 30 are the subject of a planning application as we want to bring those up into the modern era. We have done that with number 40 and it has been very successful in order to retain companies in the Paddington area because CB&I, who are the tenant, would have moved out of Paddington, but because we offered them a new building, they stayed in the area and obviously secured the 700 jobs that exist today. All we are trying to do is replicate that exercise in 10, 20 and 30.

19292. Do the CB&I hold meetings and have visitors coming as well as their full-time employees there?

¹⁵ Committee Ref: A219, Summary of architect's concerns in relation to 40 Eastbourne Terrace (SCN-20070207-003).

¹⁶ Committee Ref: A219, Extract from Crossrail Environmental Statement AP3, Artists impression of Proposed Works at Eastbourne Terrace, billdocuments.crossrail.co.uk (SCN-20070207-002).

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(Mr Harrington) Yes, CB&I are an engineering company with a global presence, their headquarters being in Houston, Texas. They have numerous meetings involving their projects, this is their UK headquarters and, therefore, yes, there are numerous visitors there to Paddington.

19293. If we go through the four points of our concern in order, perhaps we could turn to the first one on LS1 and would you like to give the company's position on this.¹⁷

(Mr Harrington) Yes, we have heard this morning that the joint study has been proposed and I think both parties subscribe to that and it is a very positive way forward. We have always had a fairly healthy relationship with Crossrail in trying to reach some mutual agreement, but I think where we have fallen to one side on this particular proposal is with the costs involved of such a joint study. In fact it is our concern that the AP3 Environmental Statement obliges Crossrail to further detailed design affecting landowners and that they should be paying the cost. So far they have offered us 50 per cent of the cost capped to £20,000 and you have got to remember that those consultants will be engaged by Land Securities and that, therefore, the charge will remain with us, irrespective of how the eventual charges or costs end up. We do not think that £20,000 is sufficient, certainly not if it is capped, to cover the exercise, particularly as—

19294. The £20,000 relates to what?

(Mr Harrington) The £20,000 is a figure that Crossrail have put forward as a capped amount that they are prepared to pay to cover the costs of involving architects, mechanical and electrical engineers and numerous consultants required to validate the effect of the podium entrances on our buildings.

19295. This joint study is to examine Crossrail's proposals for altering our existing plans?

(Mr Harrington) Yes.

19296. Would that cap then apply if number 40 were included in this joint study, as has been suggested just now?

(Mr Harrington) I would presume so. Number 40 has so far been excluded until this morning from that study and, therefore, to include it would only strain further the amount of work to be paid for out of that £20,000.

19297. The second point, that Crossrail should submit proposals for the alteration of the entrance, do you have any comments on the access to number 40?

(Mr Harrington) Well, my comments from the commercial point of view are that the podium that is being proposed, and I think we have heard that this morning, is not something that a commercial developer would wish to incorporate in any design primarily because it would not attract a modern

occupier to the building. I struggle, I have been struggling and I have asked around within our corporation of any other buildings which have been designed like this in recent times with an external podium and we have failed to come up with any examples.

19298. Number 3, can you explain what number 3 is about and also the reference which I made earlier to 7 Soho Square, also known as 2-4 Dean Street?

(Mr Harrington) Yes, I can. Our concern here is, and we are not quite sure because Crossrail have been unable to tell us, exactly what the impact of constructing a podium at number 40 will entail and the degree to which it will impact on the plant and the EDF substation which sits below. Our concern is that if they disturb these elements of the building, then the occupiers will not have cooling, they will not have electricity and, therefore, CB&I will be unable to function and carry out their business. This is a similar scenario to where we were in June 2006 with another one of our properties, number 7 Soho Square or 2-4 Dean Street, where tunnelling works underneath would have the consequence of possibly encroaching on the plant in the basement of that building and in that scenario we came to the agreement with Crossrail that there would be a put option, and a put option is an option to buy our interest, should such an event happen at a future date, at market value. That is all we are trying to replicate on number 40, so the precedent has been set, we think the circumstances are the same and we cannot understand why they are being regarded as different. Purely what we are asking for here is that Crossrail recognise the precedent and would buy our building in the event that our occupier was unable to occupy it.

19299. Just looking at that mechanism which was agreed for number 7, it is LS11.¹⁸ What happened there was that the Promoter entered into this agreement to “acquire the whole of the freehold of...[the] property at 7 Soho Square in the event that it proves unlettable due to Crossrail's works”. Then the mechanism is set out: “The Promoter must deliver to Land Securities the final design plans for the works in the vicinity of the property. If [they] show that the works will either require the Promoter to”, and we do not need to worry about the first one because that relates to a Tesco store on the first floor, but if the works require the relocation of “the plant room or the communications room so as to prevent it from being serviced or occupied in a manner commonly accepted and required by commercial property landlords and tenants, then Land Securities can serve a ‘put-option’ notice on the Promoter requiring the Promoter to acquire the whole building. The Promoter must then acquire the whole building at open market value, subject to referral to expert determination in the event of any

¹⁷ Committee Ref: A219, Summary of Land Securities' concerns (SCN-20070207-001).

¹⁸ Committee Ref: A219, Mechanism agreed for purchase of 7 Soho Square in the event that Crossrail's works render it unlettable (SCN-20070207-005 and -006).

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disagreement as to value". That is the mechanism. Do you see any reason why that mechanism should not apply equally to this building?

(Mr Harrington) No, none whatsoever.

19300. Any other comments on point number 3?

(Mr Harrington) No, thank you.

19301. Then point number 4, the question of maintaining access to the front of the building.

(Mr Harrington) This has been described as a misunderstanding. We all have misunderstandings and I think everyone knows what a misunderstanding is. In this particular instance, when wording is drafted and accepted and agreed by both parties and it is very clear in that wording that access will be maintained to the front of the buildings at all times, full stop, we fail to understand how that can be regarded as a misunderstanding six months later.

19302. Could we look at LS12.¹⁹ That sets out the chronology. Broadly speaking, in June we were scheduled to appear before the Committee. Prior to that, there was an agreement. "One of the...important terms agreed which persuaded Land Securities not to appear was that the Promoter would guarantee to provide pedestrian access to and from the front of the Eastbourne Terrace properties during construction of Crossrail's works. Upon deposit of AP3, both parties agreed to separate out the provisions of an agreement relating to Eastbourne Terrace, but on the basis that all the terms which had previously been agreed in relation to Eastbourne Terrace would be transposed to the new Eastbourne Terrace agreement". A meeting on 17 January "confirmed that this provision relating to access would be incorporated", and then when the draft heads came along on the 29 January, it had been removed. Therefore, the position is that we have qualified, I think, the wording we are seeking in order to include a reference to agreement in advance in writing to recognise that Crossrail have difficulties. Is that correct?

(Mr Harrington) Correct.

19303. Any more comments on that access? Why do you need access to the front of the building or at least to know when you have got it?

(Mr Harrington) I think there are two points. You have heard today how many people use the front of these buildings, a substantial number, and in these days of security and security provision, what we are trying to preserve is proper visitor management and proper security. That can only be achieved by visitors coming to the front of the building. That is for the benefit of the customers we have in our building and obviously to ensure that we are delivering the right service to those customers. If visitors were to come to the back of the building, to the rear entrance which is effectively the fire exit, they are arriving into the body of the building on what we call 'airside', ie, they are not going through

any security provision, they are not going through any visitor reception provision, and that compromises the security of the building and obviously compromises the way in which they can operate and manage the visitors they have arriving at their building. The buildings have not been designed for visitors arriving at the back and that would take substantial consultation, as we have heard, to facilitate that. We have recognised that visitors cannot be expected to bridge vast gaps and, as such, we have tempered the wording to ask that there is some consultation should they wish to restrict visitors to the front.

19304. Are there any other comments you wish to make?

(Mr Harrington) No.

19305. **Mr Fookes:** Thank you.

Cross-examined by **Mr Mould**

19306. **Mr Mould:** Firstly, as a general point, I take it that Land Securities would acknowledge that the value of its properties on Eastbourne Terrace is likely to be substantially enhanced as a result of the provision of the Crossrail station immediately next door?

(Mr Harrington) That is correct, and we have never objected to a Crossrail station being next door.

19307. Just picking up on the point that you made a moment ago about access, you have said that you would wish to have as much advance notice of any temporary withdrawal of access to the existing front entrances to your buildings during the construction phase as possible. I can certainly tell you that we have no difficulty with agreeing to give you advance notice, as far as we reasonably can, in that respect. I trust that will be good news to you.

(Mr Harrington) That will go part way to solving this, yes.

19308. I hear what you say about the sequence of events in relation to the misunderstanding. You have heard me publicly express an apology to you for the misunderstanding which took place. We do not necessarily agree with you on the history of this matter, but, having received that explanation, that apology, and having heard from me that, for engineering reasons which Mr Berryman can explain in a moment if necessary, we simply cannot guarantee continuous access, are you prepared to accept that that is the end of the matter?

(Mr Harrington) I accept that it is the case, but I would not go as far as saying that it is the end of the matter in terms of reaching a solution to this particular point.

19309. But you accept our apology, do you?

(Mr Harrington) I will always accept an apology, yes.

¹⁹ Committee Ref: A219, Access to the front of properties along Eastbourne Terrace (SCN-20070207-007).

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19310. Thank you very much. In relation to the joint study, I have indicated that we would be content that the joint study that has been discussed already in relation to numbers 10, 20 and 30 Eastbourne Terrace should also extend to number 40, and I take it that that is good news to you?

(Mr Harrington) That is the first time it has been said.

19311. But it is good news to you nonetheless?

(Mr Harrington) Positive news, yes.

19312. I am also told that our position is, and we can ask Mr Berryman to explain the detail behind this in a moment, that we would extend our willingness to meet half of the reasonable costs of that extended study, that that commitment is made to you also.

(Mr Harrington) Sorry, can you repeat that?

19313. We would extend our commitment to meeting half of the reasonable costs of this joint study and that would extend obviously to the study embracing number 40 as well as those other buildings.

(Mr Harrington) To clarify it, does the cap remain?

19314. I have said “reasonable” costs. Finally, the general point that you made about the impact of the Crossrail scheme on the commercial value of these buildings of which you are the freeholders, essentially that value is realised in their letting value, is it not?

(Mr Harrington) Yes.

19315. I think we can agree, can we not, that you and the Promoter, you as landowner and we as the Promoter of the scheme, share a common interest in seeking to mitigate, as far as possible, any impact whether during the construction phase or permanently that the Crossrail works will have on access to your buildings? The reason for that is that you want to mitigate it because you want to reduce, as far as possible, any reduction in the letting value of your properties and we want to mitigate it because the more we mitigate it, the less we have to pay you ultimately in land compensation. That is fair, is it not?

(Mr Harrington) Yes.

19316. If there is a dispute between us about that matter, then the Lands Tribunal is there to resolve it, is it not?

(Mr Harrington) Yes.

19317. We do not really think this is a realistic worry, although we understand that you have concerns about it, but that extends to any argument that there may be that the impact of the works has been so severe as to cause what we call ‘material detriment’ to number 40 and you can take that to the Lands Tribunal and ask them to adjudicate on it.

(Mr Harrington) I do not see the difference, but if that is what you say.

19318. Well, you have the remedy and the Committee can take that into account in deciding what it needs to do in relation to your Petition. Is that fair?

(Mr Harrington) Well, the same circumstances apply in 7 Soho Square and the remedy was not put forward on that building, so I do not understand why you are suddenly putting that remedy forward on this building.

19319. That is my final point really, that at Soho Square the Crossrail scheme involves tunnelling beneath your property, does it not?

(Mr Harrington) Part of it.

19320. And the construction of an escalator which comes within a few metres of the basement of the property?

(Mr Harrington) Yes.

19321. In the case of number 40, Crossrail proposes no works beneath the building at all, does it?

(Mr Harrington) They have not proposed anything in terms of the works they propose to do, no.

19322. **Mr Mould:** That is all I wish to ask.

Re-examined by **Mr Fookes**

19323. **Mr Fookes:** There are just a couple of questions. First of all, what you are offered in respect of the access point is notice and the concern that point 4 talks about is agreeing to access.²⁰ Is there a difference between being told that you are not going to have access at some notice, unspecified, and agreeing in advance when it is that there might not be access?

(Mr Harrington) Sorry, can you repeat that?

19324. What you have been offered is advance notice and what you have asked for is consultation and agreement over when the works will take place. Are the two the same?

(Mr Harrington) No.

19325. Why do you want to be involved in consultation and agreement as to when?

(Mr Harrington) It gets back to my point about the fact that we have customers in the building and their interests are important to us because they pay us rent and, therefore, we need to take their concerns in hand and ensure that it does not cause such disruption to them that it would render them unable to carry on their business.

19326. For example, the notice that is being offered relates to restricting access for a “short period”. Do you have any idea what a “short period” is without having some form of consultation or agreement?

²⁰ Committee Ref: A219, Summary of Land Securities’ requests of the Select Committee (SCN-20070207-009).

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(Mr Harrington) I have no idea, no.

19327. On the offer made for the study, can we just understand the position. As far as 10, 20 and 30 are concerned, the position at the moment is that Crossrail already would pay 50 per cent, but that it was capped to £20,000?

(Mr Harrington) That is correct.

19328. As I understand it, what is being said now is that there would be no cap on the half.

(Mr Harrington) That is my understanding.

19329. There would be no cap on half for number 40, an offer of doing a study which has not been made before, but is there any reason why for the works necessary for the Crossrail scheme Land Securities should pay anything towards that study to be told what we have got to do?

(Mr Harrington) No, none at all.

19330. Finally, on the question of the material detriment notice and compensation from the Lands Tribunal, is there anything in what you have seen that obliges Crossrail to take any of your land, thereby triggering any right to compensation?

(Mr Harrington) We have seen their Environmental Statement and their potential acquisition of two plots of land, 113 and 118, which would front up to our buildings. We have not seen, and this is my point, any detail on the design of the podiums which may or may not have a material impact on the plant which sits below us.

19331. As far as the station box and then refilling over the top of the box and reinstating the road and pavement are concerned, does that take any land of yours?

(Mr Harrington) No.

19332. **Mr Fookes:** Thank you.

The witness withdrew

19333. **Chairman:** Mr Mould, would you like to sum up?

19334. **Mr Mould:** I was going to call Mr Berryman to deal with one or two points which have arisen, if that is convenient to you.

Mr Keith Berryman, recalled

Examined by **Mr Mould**

19335. **Mr Mould:** Mr Berryman, just one or two points have been made, first of all, the question of maintaining access to the existing front doors of the buildings during the construction phase. Can you just explain, what can we commit to in terms of advance notice and so forth?

(Mr Berryman) Well, we can certainly agree to consult with the Petitioner. We do in reality consult with all landowners who are adjacent to the works as we go along, we have to do that and, as a result of

those consultations, we can try to accommodate as best we can the needs of the Petitioner, as we would with any other landowner alongside us. What we cannot do unfortunately is give the Petitioner a right of veto over our works for obvious reasons, but obviously we would always agree to act reasonably.

19336. So just looking at number 4 on the list, the prior agreement point or, as you put it, the right of veto, that is the point at which we part company?²¹

(Mr Berryman) That is the point to which we could not go. Consultation is fine and we would expect to set up again, as I said, with all the landowners alongside the project a formal consultation mechanism to do that.

19337. Can we just turn to the position in relation to Soho Square. First of all, insofar as the buildings in Eastbourne Terrace are concerned, can you help the Committee with the extent to which the proposed works in Eastbourne Terrace will directly involve land of the Petitioner?

(Mr Berryman) The works for the actual station do not involve land from the Petitioner at all. It would only be any accommodation works that we needed to do to their buildings where we would require to enter on to their land.

19338. This is the podium that we talked about?

(Mr Berryman) The podium or alternative solutions, yes.

19339. Do you think that the comparison which Mr Harrington seeks to draw between number 40 Eastbourne Terrace and number 7 Soho Square is a fair one?

(Mr Berryman) Not at all. The Soho Square property actually fronts on to Dean Street. It is immediately adjacent to our Dean Street ticket hall and we have an escalator which goes underneath their building and passes very, very close to the building to the extent that, as I think we have already agreed, there is certainly a possibility, I would not put it as strongly as a probability, but a possibility that the building will not be occupied because the escalator shaft will be constructed so close to it. We may have to go in there and actually put props inside the building while we tunnel because we are that close. It is marginal whether we ought to demolish it, but certainly I can see an easy case why we should make provision for what happens if the building cannot be occupied.

19340. Whereas here, the works we are proposing are in relation to the provision of the permanent access arrangements?

(Mr Berryman) That is correct, yes.

19341. That brings me then to the question of the joint study. We have indicated that we would extend the study to include number 40 as well as numbers 10 to 30, yes?

(Mr Berryman) That is correct.

²¹ Committee Ref: A219, Summary of Land Securities' requests of the Select Committee (SCN-20070207-009).

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19342. I understand the Committee have been considering the evidence which has been given by Mr Harrington in relation to the costs of that. Could you just help the Committee with our position in relation to meeting the costs of that study, first of all, in relation to number 40?

(Mr Berryman) In relation to number 40, we do accept that the costs should fall to us. After all, it is their building and we are proposing to alter it gratuitously.

19343. So we would meet 100 per cent of the reasonable costs for number 40?

(Mr Berryman) Yes.

19344. In relation to 10 to 30, our position has been that we would meet 50 per cent of the costs, subject to a cap, and I have said that we would meet 50 per cent of the reasonable costs.

(Mr Berryman) Yes.

19345. And that is our position?

(Mr Berryman) That is our position. The cap sort of got enshrined in the history of this thing, but the £20,000 was originally what we thought would cover the costs of the study, but there is not a cap to the costs, but of the reasonable costs we would pay 50 per cent.

19346. Can you just help the Committee finally as to why 50 per cent and why not 100 per cent in relation to those three buildings?

(Mr Berryman) Well, in the case of those three buildings of course, the Petitioner is in any event planning to modify the buildings and there will be some aspects of that study which I think would be of benefit to the Petitioner as well as dealing with the particular problem to do with Crossrail.

19347. This issue, I think, has arisen elsewhere, do you remember, in relation to the Paddington Churches Housing Association and in relation to the Ham and Wick sewer?

(Mr Berryman) Yes.

19348. What is the general position in relation to planned development and the need to modify them in order to accommodate the Crossrail works?

(Mr Berryman) The general position is that the cost of amending the plans to fit in with the Crossrail works actually falls to the developer. The examples that you have mentioned, Paddington Churches Housing Association is one and the property at Farringdon Road is another one and I think there are several, but I cannot call them to mind just now.

19349. So with Land Securities, in this case we are prepared to go as far as 50 per cent?

(Mr Berryman) Yes, that is right.

19350. **Mr Mould:** Thank you.

Cross-examined by **Mr Fookes**

19351. **Mr Fookes:** Mr Berryman, first of all, on the consultation point, what you are saying is that the company cannot be given a veto, but it is entirely possible to deal with that in any agreement by saying that the agreement is not to be unreasonably withheld or to provide arbitration, or whatever you like.

(Mr Berryman) Absolutely, yes.

19352. So there is no real difficulty in our proposal, as long as there is some wording to allow us not to be unreasonable in agreeing a solution.

(Mr Berryman) Yes.

19353. Number 7 Soho Square. As you have indicated, there is no certainty that any land would be taken from Land Securities for these buildings, therefore no right of compensation would follow. For example, if the study on number 40 could not provide a scheme which would satisfy the planners and everybody else, for example, there would be no accommodation works and, therefore, there would be no right to go to a Lands Tribunal, which is precisely why we need the third matter we have identified. In other words, the put option. It is because you are not taking any land for the main works.

(Mr Berryman) I, as the Committee will know, am not an expert in land compensation matters. Mr Smith, I think, would be much more knowledgeable to talk about that point.

19354. **Mr Mould:** Mr Smith is here.

19355. **Mr Fookes:** It would only be if there were accommodation works to be carried out that you would be taking land from Land Securities.

(Mr Berryman) Yes. Just on the general point, I have to say that accommodation works of some sort are inevitable in the location of number 40. There is no other way of dealing with it. If the road levels change, something about the design of the building has to change.

19356. Accommodation works do not require an interest in land to be acquired.

(Mr Berryman) Not always, not always. There are different ways of doing it.

19357. You can understand why we are concerned.

(Mr Berryman) Indeed I do.

19358. At number 7 Soho Square, the point there was that the works might interfere with the plant. That was the problem, was it not?

(Mr Berryman) Yes, that is the problem.

19359. The fear here is that the accommodation works might interfere with the plant.

(Mr Berryman) I do not see that as a particular matter in this area. There is no question of the accommodation works causing settlement or movement of plant or anything of that sort, I am sure you would agree. Any interference with plant

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would be planned interference and would be mitigated by dealing with the phasing of the works and so on.

19360. Exactly the same effect on number 7 would take place because the accommodation works would have caused the disruption of the building, if they did prove to be, which is of course a qualification that has to be satisfied.

(Mr Berryman) Do you mean the mechanical plant and so on?

19361. Yes.

(Mr Berryman) I do not think that is the case at all. We are talking about a difference here between designing something and constructing it in accordance with that design, and that includes the phasing of the works so that there is no interruption to power supplies and so on.

19362. We are talking about if you have a ground entrance to either number 30 or number 40.

(Mr Berryman) Yes.

19363. But if you have to remove the plant.

(Mr Berryman) You do not move it until you have got something to put—you do not just disconnect the power and take the substation away; what you do is you put a new substation, connect that up and then take the old one away. We are talking about two different situations. What I am talking about in the case of Eastbourne Terrace are planned works which are phased properly in order to avoid interruptions of the occupants' amenity. What I am talking about at Soho Square is an entirely different matter; it is the possibility of major impact on a building which cannot be planned for and cannot be ameliorated by providing alternative sources of power. What we are talking about at Soho Square, as I understand it, is chillers and the like for the food store.

19364. Can I draw you back to the point? You do not know, because no study has been done, as to what works will be necessary.

(Mr Berryman) No, we do not know, but it is a general principle when you are modifying a building that you do not just disconnect the services until you have got another way of providing those services. You do not just cut them off and say: "Sorry, we had to cut your electricity off for three weeks" or something like that. That is not the way it is done.

19365. Going on to the cost of the 10 to 30 joint study, the only work required to alter the planning permission that is going forward are to accommodate your scheme. Where is the distinction you draw between paying all for number 40 and only half for number 30?

(Mr Berryman) Number 40 exists; it is already there. We will have to alter the entrance significantly, not the whole building, obviously. It is something which arises totally as a result of our actions. I think the situation is different at the other three buildings

because they are still in the design process for a refurbishment and alteration which is going to take place in any event.

19366. But if the plans exist and the cost is purely related to the alteration of the plans—100 per cent related to the alteration of the plans—

(Mr Berryman) The costs relate to the alteration of the plans but the Petitioner will also benefit from that. It is worth remembering, of course, that these buildings are safeguarded in the Crossrail scheme so we could, in theory (we would not want to but we could) object to the alteration plans.

19367. **Mr Fookes:** Thank you very much.

Re-examined by **Mr Mould**

19368. **Mr Mould:** Mr Berryman, I want to clarify one point, if I may, relating to the question you were asked about the temporary access arrangements and consultation. You were asked about an arbitration arrangement. Can I just be clear: is the Promoter prepared to accept arbitration with Land Securities on the sequence of construction works in Eastbourne Terrace?

(Mr Berryman) No, I do not think we are prepared to accept arbitration on that point. It was the "not unreasonably withheld" part which I think was of more interest. The problem would be arbitration takes time. The period of time we have got between making the decision to do a certain piece of work and actually doing it is probably relatively short—maybe a month or two at most. I think if there were to be any arbitration provision like that it would need to be based on the premise that it would be very, very quick—very quickly done.

19369. So far as the timing of the construction work programme is concerned, the same question to you. Is that something that the Promoter can agree to and to arbitrate with?

(Mr Berryman) No, I do not think that is—unless I am misunderstanding the Petitioner—what they are asking for. They were talking purely about the entrance to their buildings, unless I have misunderstood the question.

19370. **Mr Mould:** Thank you very much indeed.

The witness withdrew

19371. **Mr Mould:** I say, with the usual hesitation when we come to questions of compensation, there was a point left hanging there. Mr Smith is here, we can ask him to deal with that, and then I can move to my closing, which will take about a minute and a half, I think.

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19372. **Chairman:** We will time you!

(Mr Smith) That is correct.

Mr Colin Smith, recalled

Examined by **Mr Mould**

19373. **Mr Mould:** Mr Smith, just to remind everybody, you are giving evidence on behalf of the Promoters in relation to property and land compensation matters. I think the point that was being raised with Mr Berryman was this: the premise was that if we failed to find a solution in terms of providing a replacement permanent access arrangement for, say, number 40 Eastbourne Terrace (what we call the accommodation works) then there would not be any right to take matters to the Lands Tribunal for adjudication. What do you say about that?

(Mr Smith) That is wrong. As I understand the position, Land Securities buildings in Eastbourne Terrace will have no land directly acquired from them by the Promoters for the works but they are adjacent to the works and they can claim under the Compensation Code even though they have no land taken; they are perfectly entitled to claim for losses that they may suffer as a result of the execution of the works. They have full rights. If there is disagreement on any loss they suffer, they can go to the Lands Tribunal through an independent third party who will adjudicate. So I would disagree entirely with that statement.

19374. Let us put it absolutely starkly: we do not accept this is realistic but let us take the extreme situation where we cannot find a permanent access solution to number 40 so, effectively, it no longer has a viable access and it is rendered, technically, unrentable. What would be the land compensation payable to Land Securities?

(Mr Smith) It would be considerable. It would be a very high percentage of the value of the building, I would have thought, and something the Promoters would want to avoid at all costs.

19375. **Mr Mould:** Thank you.

Cross-examined by **Mr Fookes**

19376. **Mr Fookes:** Mr Smith, the point of the Compensation Code is that if some land is acquired the person whose partial interest is acquired has the right to serve a notice for the whole of the property to be taken by the acquiring authority. Correct?

(Mr Smith) If it can demonstrate it suffers material detriment, yes.

19377. If no land is taken you are thrown back on to Section 10 damages, are you not?

(Mr Smith) Yes, absolutely.

19378. There is no right for the owner of the property to require the whole of his land to be taken by the acquiring authority.

19379. In those circumstances, our suggestion three makes sense, as I think the previous witness agreed. That is the situation we would be in; we would have no right that compensation would grant if you were not taking the land.

(Mr Smith) No, you do not have a right, that is absolutely correct, in terms that as no land is taken, I am afraid, that does not apply. It is totally different to the situation in Soho Square, where, of course, we do take land.

19380. **Mr Fookes:** Thank you very much.

19381. **Mr Mould:** Thank you, Mr Smith.

The witness withdrew

19382. **Mr Mould:** Sir, I will work to the Land Securities' summary on the screen.²² Insofar as one and two are concerned, we have indicated to you that the joint study that is already signed up to in relation to numbers 10 to 30 should also extend to consideration of number 40, and that would deal with point 2 on the screen.

19383. Insofar as the costs of that study are concerned, Mr Berryman explained to you we would accept that we would pay 100 per cent of the reasonable costs of the study in relation to number 40. He has explained why that is our position and he has explained why the position is different in relation to the current redevelopment proposals that Land Securities have in mind in relation to numbers 10, 20 and 30, and how, in fact, our agreement to pay up to 50 per cent of their reasonable costs in relation to that aspect of the study is actually more generous than is usually the position.

19384. Insofar as item 3 is concerned, Mr Smith has just explained that if what we think is an unrealistically extreme scenario arose where we simply were not able to find a way of providing a satisfactory permanent revised access to number 40 Eastbourne Terrace, if that were the situation, then effectively the building would have been rendered virtually valueless to the current owners, and land compensation would be assessed on that basis by the Lands Tribunal, if it could not be agreed beforehand. So that is the current right that these proprietors have under the Land Compensation Code in those circumstances. We say there is no reason for this Committee to look to make any changes or to extend that existing right in the current circumstances. I do stress, what we are talking about here is a situation where we have put forward for consideration in the Environmental Statement a podium solution as a way of resolving the needs to provide access arrangements to accommodate Eastbourne Terrace, and we believe that that will,

²² Committee Ref: A219, Summary of Land Securities' requests of the Select Committee (SCN-20070207-009).

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subject to detailed design and negotiation, provide a solution which enables that building to continue to be effectively and properly let.

19385. Finally, in relation to number 4, which relates to access during the construction phase, we have indicated that we will maintain access to the buildings throughout, including for fire and emergency. We cannot guarantee to maintain access to the current front door of each building throughout, but what we will do is to consult in advance in relation to what we expect to be relatively short periods of disruption in that respect, and look to give Land Securities as much notice as we reasonably can so that they can organise themselves as best they can to accommodate that temporary disruption. That is all I want to say in closing.

19386. **Mr Fookes:** I will not limit myself to a minute and a half! Can I ask LS8 to be put on the screen?²³ This is just to explain the context of the matters we have been raising. This is from the Environmental Statement, 3.5.25, Mitigation and Residual Impacts: “Further detailed design will be required in discussion with businesses occupying properties at 10, 20, 30 and 40 Eastbourne Terrace in order to agree options for maintaining temporary access during the construction of the station box and lowering of Eastbourne Terrace, and permanent access arrangements.” The principle of identifying environmental impacts in the Environmental Statement is that the decision maker, before approving the development consent, has to be satisfied that the impacts identified can be delivered at that time, not deferred until later. That is the principle of general environmental impact law.

19387. Therefore, what we say is these matters that we have raised need to be sorted out before any improvements are granted, rather than left over. We do not want to be left with access in the air, as it were, with these buildings having to jump down on to the new pavement level.

19388. If we then turn to my list, LS13.²⁴ These are the specific requests that we are making. I will take them in turn. First of all, we request the Committee to require the Promoter to pay the full costs of a joint study in relation to 10, 20 and 30. We are very grateful that the cap has been removed but we still say that all this cost relates to modifying our current planning application, a perfectly good application going, in with a perfectly good design of the building. If it needs to be modified for the scheme it is purely the cost of modification. There is no distinction in principle between number 40 and numbers 10, 20 and 30; it should be all the costs of the works that Crossrail require us to do to move on the application—the modified drawings required.

²³ Amendment of Provisions 3 Crossrail Environmental Statement, Paragraph 3.5.25, Mitigation and Residual Impacts, billdocuments.crossrail.co.uk (SCN-20070207-008).

²⁴ Committee Ref: A219, Summary of Land Securities’ requests of the Select Committee (SCN-20070207-009).

19389. Secondly, to submit proposals in relation to the alteration of the entrance to number 40. That has been agreed, and we are grateful for that, but the third point still stands. This is the put option. We have heard that, first of all, they are right to be concerned because it is not necessarily the case that land would be taken; therefore, we do not have the right under the Compensation Code to serve a counter-notice requiring the whole building to be taken if there were an insuperable problem in finding a permanent access solution. So we are right to be concerned, Mr Berryman agreed that.

19390. As far as the compensation is concerned, Mr Smith agreed I am right that we do not have, in those circumstances, the right to serve that notice. All this does is give us the same right as we would have had if the land was being taken. The distinction he drew with number 7 Soho Square was a completely false distinction because in that case land was being taken. So not only did number 7 have the right to serve a counter-notice under the Compensation Code for the whole land to be taken but they were given a back-up agreement in respect of a put option. We are saying we are in a worse position in the Compensation Code than number 7, but the circumstances are similar in that it could be that the solution, if one is found to the access of the building disrupts the building so substantially that it becomes unlettable. We hope it will not come to that but it could do and it would be prudent to seek that, and it would be fair for that to be granted, given that we are at a stage where no scheme has been put forward by the Promoters for how they are actually going to deal with the access. There is no study, there is no scheme. If one turns it back on to the Environmental Statement at the beginning, the only way that can be satisfied is by giving these undertakings which show how they are doing something here and now to deal with the impact identified, rather than leaving it with no real solution reached.

19391. Lastly, the access question. Being given unspecified notice—it could be ten minutes, it could be tomorrow—is not going to address the problem of how people get into the front of the buildings. What we are saying is we need to be involved in the consultation but, also, to be able to say and agree when these works take place and how long they take place for and that if it is required to add some words to the words we are seeking, that we should not take an unreasonable stance or unreasonably refuse such a request, that would be perfectly acceptable. It does not give us a veto, and it deals with the only criticism that has been made on this particular point.

19392. Those are our concerns and that is what we request you to do, and I will sit down.

19393. **Chairman:** Thank you very much. That concludes the hearing this morning. There are a couple of announcements I have to make. The planned visit by the Committee to Romford tomorrow is now cancelled. The Committee will resume tomorrow morning to hear further Petitions

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at 10am in this room. Before we go, just to announce that the Committee will visit Bond Street Station, Brewers Court, Paddington Station and Old Oak

Common on Thursday 22 February. Any Petitioners who are involved and wish to be on that, if they could either contact the Clerk or look on the website, it will be a very exciting day indeed.

Thursday 8 February 2007

Before:

Mr Alan Meale, in the Chair

Mr Brian Binley
Kelvin Hopkins

Sir Peter Soulsby

Ordered: that Counsel and Parties be called in:

The Petition of The British Land Company plc.

Mr George Laurence appeared on behalf of the Petitioner.

Bircham Dyson Bell appeared as an Agent.

19394. **Chairman:** Good morning. Mr Elvin?

19395. **Mr Elvin:** Sir, I am grateful to the Committee, given the conditions today, for being patient. Sir, British Land's Petition concerns the proposals for a ticket hall which the Committee indicated in its interim decisions last July. As you know, they have been put forward through AP3 in the format which was approved by the Committee following day 47. British Land have concerns about their ability to redevelop the site, and I am pleased to say, I think we have reached agreement. We will need to detain you for a little longer because I have scribbled down something and maybe if I can refine that a bit more before I give it as a precise undertaking. It is in order to preserve British Land's interest so they can redevelop so far as possible. We are prepared to give undertakings effectively provided their structures and the redevelopment remain structurally independent of the Crossrail works and then certain consequences will flow from that.

19396. **Chairman:** It will not alter the scale of the internal—

19397. **Mr Elvin:** All we are concerned to do is ensure that the Crossrail works and the operation and safety of the railway is protected, other than that we have no interest in impeding British Land's right to develop over-the-top. Indeed, as Mr Mould pointed out yesterday in the context of Land Securities, from the compensation point of view, it is not in our interest to impede British Land any further than is necessary. What we would like to do, if the Committee is willing to go and have a cup of coffee and wait for a little longer, is try and put that into one paragraph.

19398. **Chairman:** How long do you think you will need?

19399. **Mr Elvin:** Can I say 15 minutes?

19400. **Mr Binley:** That would be very helpful as I need to be away by 12.00.

19401. **Chairman:** Firstly, can I apologise to you and thank you for being patient because you had to wait around this morning and because of the weather we could not start on time and, secondly, give you the good news that the coffee shop is open down the corridor. Can we adjourn for 15 minutes.

After a short adjournment

19402. **Chairman:** Mr Elvin?

19403. **Mr Elvin:** I am pleased to say that we have reached an agreement and an undertaking to resolve this matter. What it concerns is this the current 100 Liverpool Street, British Land's holding, although I think it is vested in one of its subsidiaries at the moment.¹ All Crossrail is concerned with is being able to construct the new ticket hall here and protect its maintenance and operation in the future. What we have agreed is an undertaking in these terms. Crossrail will, in its acquisition of the freehold land necessary for the Broadgate ticket hall in AP3 and its proper protection, either grant a new lease on the same terms on which British Land or its subsidiaries hold the land of Network Rail at the moment with the addition of covenants which will protect the efficient operation, safety and maintenance of Crossrail and its infrastructure, and a covenant that any works by British Land or its subsidiaries will not be structurally dependent in any way on Crossrail's structures, or if such covenants can be agreed by way of variation, Crossrail will simply vary the existing lease.

19404. If a new lease is to be granted, it will be for a term of 999 years from the existing term of commencement date, but if British Land does wish to redevelop in a way which is structurally dependent on Crossrail's works and structure, the lease will be only for a term of 125 years with a right to extend such a lease at any time to a maximum of 999 years from the current term commencement date if proposals are then brought forward which are structurally independent of Crossrail works. That is

¹ Crossrail Ref: P142, British Land Holding at 100 Liverpool Street (SCN-20070208-001).

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the undertaking. The basic purpose of that is if British Land is going to redevelop the site in a way which does not impinge structurally on the Crossrail station, then they will keep their 999 year lease with slightly varied arrangements to protect the Crossrail structures. If they want to redevelop and they have to ask us to use part of our structure to support the new building, they get a shorter lease in case we have to redevelop the station in 100 years' time, but if they then change their plans in a way which is independent of the Crossrail structure, we are happy for them to extend that back to the 999 years they have got at the minute.

19405. We curtail their freedom to develop only to the extent to which we need to in order to maintain the Crossrail structures and the safety of the railway. I hope that is a sensible solution to this quite complex site.

19406. **Chairman:** Well done.

19407. **Mr Elvin:** I should say that a lot of people have worked behind the scenes and there are other far more complex bits of agreement than this, but this represents the essence of the position.

19408. **Chairman:** Congratulations on that. Mr Laurence, have you got anything to say?

19409. **Mr Laurence:** We are content. I was in the happy position of being exempted from participating in the detailed discussions which were going on in the corridor, so I can say perfectly independently, as it were, that listening to Mr Elvin, it sounded all right, and I hope it will be all right, but I just want to record the possibility that some sharp-eyed land lawyer on our side will spot a problem. I hope there will not be one because all the discussions have been held in a very constructive spirit, not just on this issue but, I am instructed to say to the Committee, on other issues as well on which we petitioned. As a result of what has been resolved today, we very much hope that we will not need to trouble the Committee on any aspect of our Petition. Thank you very much for the time you have given us.

19410. **Chairman:** We are very happy also.

19411. **Mr Elvin:** Thank you, sir. I wish to thank you again for being patient while we sorted those matters out.

19412. **Chairman:** Can I inform everybody here that we will now not be sitting next week at all because of difficulties and we will next meet at 10.00am on 20 February in this room.

Tuesday 20 February 2007

Before:

Mr Alan Meale, in the Chair

Mr Brian Binley
Kelvin Hopkins

Mrs Siân C James
Mrs Linda Riordan

Ordered: that Counsel and Parties be called in.

The Petition of Grand Central Studios

Mr Clive Newberry, QC appeared on behalf of the Petitioner.

Sharpe Pritchard appeared as Agent

19413. **Chairman:** We will now move on to today's session. The first hearing will be with the Grand Central Studios represented by Sharpe Pritchard. Mr Taylor?

19414. **Mr Taylor:** Thank you, sir. Sir, the Committee may recall that this particular petition was part-heard on day 20 on 23 March. It relates to the Grand Central Studios property at 51 to 53 Great Marlborough Street, which you can see on the plan in front of you.¹ The property lies above the proposed westbound tunnel for Crossrail, about 250 metres west of Tottenham Court Road. The Petitioner is the leaseholder of part of the property and has no legal interest in the subsoil. I will just outline where we have got to because obviously some considerable time has passed since 23 March of last year. The studios were built between 2003 and 2006 in the knowledge of the safeguarding of the Crossrail project and the Petitioner is, of course, concerned to protect the noise environment of the sound studios, the noise arising during the operation of the construction railway and, indeed, the operation of the Crossrail scheme itself.

19415. We got to the point last time where we heard part of the evidence in chief of Mr Ivor Taylor. The Committee may remember that day particularly well because that was the day that Mr Elvin revealed the true extent of his encyclopaedic knowledge of the Harry Potter movies and, indeed, the Lord of the Rings saga, which is etched on my memory. We ran out of time, however, before Mr Ivor Taylor could complete his evidence and, indeed, before he was cross-examined. I am pleased to say that since that time there have been considerable discussions between the parties with a view to narrowing the issues and there has been some success to the extent that the Petitioners and the Promoters have agreed a groundborne noise design criterion to be applied to Crossrail once in operation. There remains a dispute, however, as to the appropriate groundborne noise design criterion to apply to the construction railway of the Crossrail project and the

Petitioners are also concerned to secure compensation in the event that a design criterion is breached and losses are caused to the sound studios. The Promoter will contend that it is necessary to identify a noise criterion for the construction railway that allows sufficient flexibility to enable the project to be constructed, whilst ensuring that a noise environment within the sound of the studios is not compromised. The Promoter contends that is achieved by offering a criterion of NC25, and the Committee may remember about the NC curve last time and they are going to hear a lot about it this morning, I am afraid. The Promoter's criterion is offered to be achieved within the studios in all reasonably foreseeable circumstances; the Petitioner, however, contends that a more stringent criterion should apply and Mr Newberry will explain that to you shortly.

19416. So far as compensation is concerned, the issue relates to a hypothetical, what if the railways provided breach the criterion that are identified as appropriate and the Petitioner claims that in those circumstances compensation should be payable? The Promoter has offered undertakings to the effect that in the event that a design criterion is breached and if that breach is due to a failure to install the railway specified in the undertaking offered, or is due to a failure to maintain the railway appropriately, steps must be taken to remedy the failure. The Petitioner argues, however, that is not good enough. They suggest instead that the National Compensation Code should be extended for them so they have special treatment to allow them to claim business losses notwithstanding that no land is taken and where there has not been a lack of care in the execution of the project, and they seek to justify that petition by suggesting that there is no certainty that the design criterion will be met. The Committee will be aware, of course, that the Promoter's case is that the National Compensation Code is to be applied and that in any event there is sufficient certainty in the modelling and the project to be able to design the construction and operation of the railway to meet the criterion.

¹ Crossrail Ref: P143, Location of Grand Central Studios, 51-53 Great Marlborough Street (WESTCC-9303-001).

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19417. **Mr Taylor:** That is a brief outline of the basic position of the party. I hope I have done that fairly; I am sure Mr Newberry will correct me if I have not, but I will hand over to him.

19418. **Chairman:** Mr Newberry?

19419. **Mr Newberry:** Good morning. That was a very helpful summary, Committee. Can I add one or two additional points. When we were last before you, there was an issue concerning whether the nature of the foundations of the studio were wrong. You may remember we thought they were on piled foundations, that turns out to be wrong and they are on something called “pad” foundations. The effect of that has enabled Crossrail to offer a standard during the operation of the railway which is acceptable to the studio, known as “NC20—3dB”, and that will enable the studio to function if that standard is met. As Mr Taylor has indicated, the problem arises from our perspective when the railway is being constructed and, in particular, when the tunnel boring machines are doing their work within the order of 100 metres or so of the studio. When that process is going on it is my understanding that NC25 is being offered, and you will hear both from Mr Bell and Dr Hunt that the nature of the modelling exercise and the accuracy that can be attributed to the model leads us to believe that that standard probably cannot be met and, even if it could be met, the operation of the construction of the railway will adversely affect the NC 20—3 in a way which renders the studio inoperable. That is where we stand at the moment on that issue.

19420. So far as compensation is concerned, if, of course, Crossrail’s predictions are correct and everything works smoothly and the studio can function, then, of course, the issue of compensation would not arise. If, on the other hand, the uncertainties attributed to the model render business incapable of being conducted because of the sensitivity of the studio then we say, in those circumstances, we will have to close, and it is inequitable to harness the statutory system which debar us from compensation. If they are wrong, we have to go and close and Crossrail would have it we do so without any form of compensation whatsoever. We think that is inequitable and unfair.

Mr Ivor Taylor, Recalled

Re-examined by Mr Newberry

19421. Committee, we were dealing with Mr Ivor Taylor last time and we got, I think, to paragraph 22. Mr Taylor, you were about to discuss what is the most critical part of the studio’s work. I wonder if you could take us forward on that, please.

(Mr Taylor) Good morning. The most critical part of our work is voice recording itself. Voice is something which we all learn to very clearly and instantly identify in tonality, origin, ethnicity and sounds around that voice. We can hear somebody speaking from the other side of the world and we

might have talked to them for three or four years and we will instantly recognise the voice, we know it is somebody we know. Our job in commercials is to record the voice with the correct intonation the correct delivery the script calls for and the correct clarity as well. We record the voice in the voiceover booth, it is listened to time and time again and often you will have many, many takes, and I described earlier the Julie Andrew’s session which took 300 takes. You listen to it very carefully, you are listening for defects and for the artistic side and the technical side. Once that has been done, then we find out the other things that are recorded in the studio which may be sound effects, sounds effects which you have got from the computer or sounds effects you have created yourself, where we record things such as the door opening because that is what is required for that script. All those elements are listened to individually, appraised individually and put together and checked for how they fit and how they sound, and that is the process we make in a final mix. In that environment we need to exclude all identifiable sound sources. I mentioned last time about how we check the voiceover, sitting in a chair and it squeaking, paper rustling noise, a voiceover when you are taking the script, they cannot touch the paper like that (indicating), all those will shatter completely the illusion that you are trying to create, and our concern about the Crossrail noise is that noise is identifiable as a rumbling or a train, people hear those noises and if that intrudes into our voice recording anywhere, into the recording of sound effects and other issues or into quality control, you can have a situation where you have recorded the voice and it is perfect, but you have another extraneous noise. You check an extraneous noise on the recording and also in the monitoring environment, so there was no contamination, the recording is clean. The voice recording is a very pure start but then moves into the production environment which is the control and in that again you would listen with high acuity, very high levels, trying to detect things that are incorrect and at the same time working to very tight deadlines and the service of the clients. That is what we do. Is now the right time for me to report on the Marks & Spencer’s commercial, which I could play the Committee if it is appropriate and the work we have done on the BBC Two re-launch which was promoted on BBC Television with the BBC Two Idents, all the work which we are very proud of?

19422. **Chairman:** How long will it take?
(Mr Taylor) Five minutes.

19423. Then I think we will suspend the Committee and come back.

After a short break

19424. **Mr Newberry:** Yes, Mr Taylor.
(Mr Taylor) (Marks and Spencer Christmas television advertisement shown):² We have been doing all the Marks and Spencer food commercials

² Committee Ref: A220, Grand Central Studios, Marks and Spencer, BBC Radio 2 and BBC2 re-branding idents (WESTCC-9305A-035).

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which have achieved a huge impact for Marks and Spencer because they speak of quality. They raise the image of Marks and Spencer's food significantly. The voice is Dervla Kirwan's voice. It is a voice you recognise and a voice that is very smooth. It is recorded with great attention to detail and intonation. That voice take, which is about 30 seconds, took two hours to record and there were 25 retakes of the recording. Inside that retake there will be places where the engineer, Gary Turnbull, will have spliced in and out words which did not quite fit the delivery. Gary joined us when he was 25. He is 35 now. He joined us as a runner; he is now a top post-production engineer in commercials. He is home bred. We train our people inside. (BBC Television Advertisement for BBC Radio 2 shown): With this we were trying to create the effect of Elvis with a super band in concert. The super band are the artists who are on BBC Radio 2; Elvis is dead. He does not exist but after this commercial, some people thought we had recreated him. It involved a voiceover artist performing with a microphone in front of a projection screen about three or four times the size of that in Studio 9—which is where we did all the noise tests with Crossrail and our noise experts. There was a three to four hour session, which involved drinking Coca-Cola, eating hamburgers and fries to get in the mood, and the voiceover artist had a microphone of that sort of era and age and he acted out the Elvis performance. It was a three or four hour session with about sixty voice takes to it. We were supplied with music and everything else was completely mute. The crowd is not a real crowd; it is a created crowd. The voice is not Elvis; it is a created voice. It achieved 37,000 hits when fans uploaded that to YouTube in one day—so Elvis now lives forever on the internet in that guise as well. Also, the Elvis Foundation put it on to their website—which is a tribute to how well they thought we had managed to do it. It is the BBC team who did all the work and we were recruited to do the sound. We would not in any way take the credit of the huge team behind it, but we have played a very budget-conscious role—which is surprising because people think the BBC throw money away and they are actually very budget conscious—and we played a huge time role as well, which was to get this done and get it done on time. (New BBC Two idents shown): Many years ago I remember seeing a BBC Two radio-controlled number scoot under the screen and that was the BBC Two hero logo. It was invented in 1989 and it became iconic. You saw the number go in many different guises: it was sophisticated, it was a ruffian, it did this, it did that, and it was the branding of BBC Two. It changed BBC Two audience percentages in a positive way, big time. The BBC are in a huge re-branding process as they align for the digital age. We were asked to do the sound for the new idents that they have created. Again, it is a team-working media: five different directors. Again, the budget was a very important issue, and that is a function of time, but we were working for the BBC: at the end of the day, they are the holders of quality, and if the quality of the work is not technically up to it then it will not even get to the next

stage, which is the creative side. I am going to try to play you three or four of these clips. I have nineteen Idents which ended up in 54 different versions. We did the sound for all of them. The engineer is the same engineer for Elvis, another home-grown engineer, Majhindra Thind. We call him Munzie and he joined us when he was 19 years old. He is a British Asian and he is now 32. He has gone from being a runner, making tea. He is completely unqualified; completely house trained. He is now one of the hottest properties in commercial post-production sound engineering in the UK. His work is of world-class standard. (Cappuccino ident shown): The chocolate at the front is not chocolate. That is foam and it is tea leaves sprinkled on to cardboard. Chocolate does not sound right. You have to record that in the studio. It is a very quiet sound, as are the sugar lumps and as is the spoon on the side of the cup. No two sugar lumps are quite the same and no spoon going into a cup is quite the same. You have to match it to the action and you have to make it sound right. We were supplied with the music for all these by a company called BeatRoot. That is what we call the sound bed and we have to balance all the sound effects against the sound bed and get it to fit the director's requirement. Just looking through my notes, Cappuccino was one day's work. It took eight or nine hours' work to achieve 15 seconds. (Sea ident shown): That is very relaxing. The sea going through the gap is not real sea. That is computer: CGI done in Soho. It is nothing to do with us but it is very impressive because you cannot get the sea to work in that relaxing way. The sounds are underwater explosions. They are not at all peaceful; they are actually quite violent. Munzie's job was to take those explosions with other sounds and to mix them together to give you the illusion of that wonderful relaxing sound as the sea comes through but it is actually an explosion. That was a whole day.

19425. **Chairman:** How many more do you have, Mr Taylor? I think we have the general idea.

(*Mr Taylor*) I will show you one more and then call it quits. (Tagging ident shown) There is one where they do it to a policeman. The tagging ones are the aggressive ones. There are also peaceful and relaxing ones. That is what we do. Thank you very much for that.

19426. You do a lot of work, Mr Taylor, for the BBC. Thank you for showing us.

19427. **Mr Newberry:** When you were going through your commentary on production of those various commercials, you indicated that (a) they took a long time and (b) that there was a repetition of what you called "takes".

(*Mr Taylor*) That is correct, yes.

19428. As I understand it, that is in a world where Crossrail does not exist. Can you tell us, please, why it takes so long in a pre-Crossrail world to achieve that level of perfection of the sound reproduction?

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(Mr Taylor) Simply put: our clients have very high standards and we have very high standards. No two sounds are ever the same. You will have a situation where a sound is made and that is the sound you want. You can try ten times to make that sound and you only get it on the tenth time. Or you might get it on the first or the third time. That goes for sounds. If you are recording in Foley, it goes for the voices you are recording. Otherwise, we are doing 30 seconds of a commercial and we could go in, do it, and in five minutes be out, job done.

19429. They are brilliant sounds, so you can put them together.

(Mr Taylor) Thank you.

19430. If you can create sounds, can you not create silence?

(Mr Taylor) No. Silence is virtually impossible to create. Silence is the absence of sound and sound is around at all times. Even in the quietest of environments, there will be some sounds. Having no sound at all is very uncomfortable and very unpleasant. If you go into a thing called an anechoic chamber, there is no reverberation and also no sound. It is extremely unpleasant. You can start to hear your blood and your heart and the hearing mechanism in your ear working. You do not want absolute silence. In our situation, we are looking for no recognisable unwanted sounds. In this room there is a background hiss. The background hiss is acceptable in this room. The only really annoying thing I can hear at the moment in this room is a tick, which I think is the projector or the clock—and I can never work out which one. You have all become used to that sound, so you do not notice it, but when I entered the environment I noticed that sound immediately. If we recorded this sound and put it into a commercial, you would not hear the background hiss but you would hear the tick.

19431. You cannot take those sounds out.

(Mr Taylor) No. The way we record it, they become inside the sound. We then manipulate the sound and raise the level or lower the level and those ticks, rumbles and silence or whatever it might be—and in this case a train—will stay in that sound. It is a bit like starting with faulty materials when you build a house. If you build a house, you start with foundations and you want to have good quality foundations, using good quality materials. When we build a commercial from the ground up, part of the whole approach we take is to have very high-quality foundations and very high-quality materials that we build up, so that when you put this commercial or this sound into a big cinema or onto the radio or into a listening environment you can hear the clarity. You have nothing that disturbs. You have no clock ticking that you can hear. I listened to a BBC interviewer the other day, the and there was a hum, and the voice record is there and he has not taken his watch off. I am sitting there listening and, rather than listening to the voice, I am listening to the man's watch ticking. You cannot take sound out. It is technically impossible. If it was do-able, in time

terms our clients would not accept it. We sell time by the half-hour. These things can take time. They can also sometimes be done very quickly. Our day is a moving feast. We do not know until six o'clock at night what we are doing the following day. Six studios, half-hour sessions, chop/change, chop/change the whole day through, but you cannot predict and you cannot plan. Our studio functions on the concept, as do all the studios in Soho, that there are eight/nine hours a day where you can record sound without external contamination and that is our business environment. If we could take out noise, we would love to do it. We would be multi-multi-millionaires. I have seen it done in a university laboratory under controlled conditions in Barcelona and that is the only time I have ever seen it. I thought I would never see that in my lifetime.

19432. You used the word "contamination", can you just indicate to the Committee the effect on the type of operation you have described in recording these commercials of the nature of the contamination of the train underneath the studios. What is that going to do in the real world to your work?

(Mr Taylor) First, it is unacceptable in the end product. The reason it is unacceptable in the end product is because it destroys the illusion. If I am talking about Christmas puds from Marks and Spencer and a train goes past, people will hear it, even when it is very, very quiet. Your hearing is incredibly acute because it is designed for safety. It is designed to stop you getting killed by the sabretoothed tiger who has just put his paw beside you. I can be talking to you, hear a sound behind me, and I will go, "What's that?" We have all had that happen to us. We all know it happens. The same thing occurs in commercials, in TV, in sound and in films. That is why it is so essential to keep recognisable, external, unpredicted sounds out. In operational terms, the clients would be sitting there and they would ask to do that again. After two or three occurrences of that, they would be unhappy with the session and when they left they would not come back but would go to another studio.

19433. **Mr Binley:** It seems to me we have a problem. There is a conflict between what the Promoter says, which is that they will produce a "use of new rail (smooth track without corrugations or discrete irregularities) installed at the start of the works with joints achieving variation" whereas you are saying, that you really need a floating, continuously welded track. That is the nub of the difference, is it not?

(Mr Taylor) We have looked long and hard at this. We do not design railways.

19434. I understand that.

(Mr Taylor) I believe we have agreed with Crossrail a noise standard that allows us to operate once the operational train is in place. There is a problem with the ten-month construction period, where the noise generated would in our view be completely audible in the kind of environment we are talking about

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when we are doing voice takes and when we are doing mixing. That would cause our business to be extinguished, which is a problem.

19435. **Mr Taylor:** I am sorry to interrupt but I may be able to clarify. The Promoter is committed to floating slab track which is provided for the operational railway. The argument we have here is about the specification of the noise criterion to be applied to the construction railway, which for obvious reasons cannot be built on floating slab track. The particular issue with which we are concerned here is not about floating slab track for the operational railway. That we are committed to.

19436. **Mr Binley:** Thank you very much. I understand.

19437. **Mr Newberry:** Whether or not it is impractical to have floating track when you are building the railway is an issue we will perhaps have to look at later on. Mr Taylor, we have been told that the construction period is of the order of ten months. On the Promoter's case at present they are not going to provide floating track at all during that period, therefore it will be short stretches of track without the technicalities of floating. If that is the case, and that maintains to be the Promoter's case, what do you understand is likely to be the impact for that ten months, first of all, on the production of commercials and, secondly, if one is looking at a ten-month period, on the impact on your business?

(Mr Taylor) For my sins I am also the finance director of this business. What would happen is that we would basically see clients taking their work elsewhere. We would also see key staff feeling that there was no potential future for them inside the business, because how do you cross the tenth-month divide, where your business effectively would be reduced by 70 or 80 per cent and in reality that translates to 100 per cent, where staff are not working? We would lose staff, which are our biggest single asset, and we would go out of business. It is as simple as that, unless we could find some operational working of schedule for the trains, or something that would allow the noise criterion we have agreed with Crossrail—which I would say is the existing noise criterion we have. We are not asking for any more than we have. This is my understanding from the noise experts. The constructional train period is loud. We would hear those noises and they would get onto voice takes, they would get onto Foley work, they will make clients go elsewhere. It is as simple as that.

19438. My understanding is that the tunnel-boring machines are operating 24-hours a day, seven days a week. Is that right?

(Mr Taylor) I am not an expert—though I am more of an expert than I used to be—on tunnel-boring machines. There is a period of time which we accept is unavoidable when the tunnel-boring machines will pass. I believe these machines are quite long and we know that when they are passing they will make a lot of noise and they will damage our business. That is

unavoidable. My guess is that that is probably when these large monsters go underneath the building, which is probably a period of a month. These machines need a service railway to bring concrete segments to put after them, otherwise the tunnel falls down. That, again, is my current understanding. The problem for Crossrail—and I know they have tried very hard to find ways to work around it—is that you have to have the trains going at a certain speed, otherwise there are not enough segments and the tunnel-boring machine slows down and stops which has huge problems and cost issues for the contractor. I think I am right in saying that underneath us they have brought the train down to five kilometres per hour. It is on track which is not floating track, it is slab track, so it is noisy. The noise prediction, as I understand it, is on the NC25 curve. We have experts who will speak to that in the dB terms. My experience of recording studios is that we are looking for a smooth, uncontaminated noise. You can have quite a high noise level sometimes and you can still record in it, but in any recording work you do you are looking to record the thing you want and nothing else. I would say that we want the voice and nothing but the voice, but you might want the sprinkled coffee (the sprinkled tea leaves on to cardboard) and nothing else but that. If you have NC25, the primary identifiable noise component is going to be the train and you are going to hear it. It is as simple as that. It is 8dB above our agreed with Crossrail—and we are all, as I understand it, happy with that as a noise requirement for the operational side. That operational requirement is our minimum. That is what we currently have. Our studios are designed on the commercial basis of lowest cost, highest performance, Crossrail changes that whole situation.

19439. Can you explain the difference in the operation of the studios between the control room and the booths? For example, where would the Elvis Presley commercial primarily be dealt with?

(Mr Taylor) The Elvis Presley commercial was almost entirely dealt with in the control room, not a voice recording booth. The voice recording booth has a higher standard of noise isolation, so for Marks and Spencer the voice would be done in a voice recording booth, but there are many occasions where you would need to act and move and in those situations the recording is often done inside the control room. You may turn off equipment inside the control room to be able to do that.

19440. I wonder if we could have the exhibits. The Chairman was not here before and it may be helpful to see what a control booth looks like. Which is the best one to show, Mr Taylor, is it number seven?

19441. **Chairman:** List this as A221.

(Mr Taylor) Number seven is best.³

19442. **Mr Newberry:** Can you explain what goes on there and where the sensitivities lie?

³ Committee Ref: A221, Grand Central Studios—control room (WESTCC-9305A-031).

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(Mr Taylor) This is the control room. The voiceover booth is just to the left of the picture and is much, much smaller. In the control room you listen to everything you record in the voiceover booth, you will listen to everything that is recorded in the control room at other times, and you will listen to source material which has come in from outside. We will be taking, sometimes over telephone lines, broadcast quality voice recordings in other studios all over the world, sometimes we will be receiving recordings by email from all over the world and we have to listen to those recordings, fit them into whatever the creative script is being acted out at the time and we may need to check what noises they have got. Often we find that the material which has been supplied is faulty. We then have to have it re-recorded which is often a major problem, or we re-record it ourselves. Behind the screen there is a very large set of speakers with a very high quality projector to the right of the picture. Clients sit on the nice shiny leather seating area in front of the console and that is where we do all of our work.

19443. Are you saying that, for example, during the construction period, with the noise generated by the construction of traffic, if I can put it that way, it would contaminate the work being carried out there?

(Mr Taylor) Absolutely. It contaminates the space before you start the work. A client will come in and have a look at the facility. They will ask to look around the studio. They will walk into a studio—and studios by definition are, both in the control and voiceover booth, always deemed to be quiet, in other words, you cannot hear identifiable noises—and if a train goes past, “I can hear trains, I am not going to work here”, we do not get our business. In operational terms, I am listening to something which has come from another studio, “Was that a train noise on that voice tape or was it our train noise? Let us try again, it is our train noise”. Again, the clients will not put up with that.

19444. Can you put up number six, please.⁴ Can you explain, in the context of the construction traffic associated with building the tunnelling et cetera, the impact on what is going on there? Is it more intensive or less impact?

(Mr Taylor) It is a two-edged sword. This is inside the voiceover booth and the voiceover booth has a higher standard of sound isolation than the control room. On one side it will keep the sound out, on the other side it will make the sound more identifiable because there is less sound inside the room. Again, you will hear the sound of the train on the voice recording. Effectively that makes it virtually unusable.

19445. Whichever part of the studio one attempts to work on, whether it be the booth or outside the booth, the railway is going to infect the working area, is that right?

(Mr Taylor) Yes, absolutely.

19446. In the sound recording world, preparing the new BBC Two commercial, which you have just demonstrated to us, on a scale of one to ten of desirable work for a world-class studio where does that type of work you?

(Mr Taylor) One. Every single studio in Soho competed for that work. We know for a fact that the producers were contacted directly on a personal basis to try and get that work. We did not contact the producer for that; we obviously know the producer very well, but he wanted to use Munzie to do the work and he wanted to do that work in our facility. In respect of where it stands in the pantheon of great commercial work, I think it is world-class; it is a fantastic re-branding for BBC Two. Time will tell whether it will achieve the greatness of the Number Two Hero and that is a very, very hard act to follow, but it is definitely worthy of following the Number Two Hero, and it could definitely be used as a design process of how they make the Hero as the next identity for a corporate brand which BBC Two is, effectively. The fact that we have our name attached to it is a reason for us to be very proud. We are very, very proud of Munzie because he was trained in our facility and we are very proud of our work for the BBC.

19447. Is there any other aspect of the studio in your exhibits that you want to draw particular attention to the Committee, Mr Taylor?

(Mr Taylor) No, hopefully I have given a good feel for how our facility works. I would like to say a word about the numbers game, which is going to decide the fate of my and Carol’s company. I have a semi-technical background. I am not qualified but I do understand dBs and I do understand this but I will not speak directly about it. Crossrail have done an excellent job as far as I can understand on modelling and trying to arrive at a predicted noise forecast for the operation of the railway. I am not speaking about the construction of the railway. They are using modelling techniques and are using a world-renowned expert and we fully respect that there is a huge amount of experience and judgment in those areas, but I have worked in acoustics and one of the things I know is it is virtually impossible to predict with great accuracy the acoustics level inside a room when you are looking at outside stimulus. We have done a lot of work in looking around to try not to debunk Crossrail because that is not an appropriate thing for us to do, but to say this prediction of noise forecast that we have been given is it a safe prediction? We have come to a conclusion, and we are presenting our evidence afterwards, that it is a bit of a roll of the dice. They might be right but not necessarily. If the dice rolls in the right way, we are okay, if that dice rolls in the right way we will not even know it is there, but if the dice rolls in the wrong way, we could be out of business. We have two options. We have the experts of Crossrail saying they can accurately predict within quite fine tolerances what the sound levels inside the studio will be once Crossrail is built. On the other side, looking at

⁴ Committee Ref: A221, Grand Central Studios—voiceover booth (WESTCC-9305A-030).

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academics, we have academics who say, actually it is not that accurate. It is a science and it is an art and involves huge amounts of judgment. The accuracy we have been offered is an overestimate of accuracy. I do not know who is right because I am not a scientist, but I do know that both parties are highly qualified and world-class people in their own right and we are faced with one set of experts saying, “It is going to be this” and another set saying, “It could be that”, but this is likely to be something completely different. It might be much better or it might be much, much worse. It is a roll of the dice. We think it is wrong that we as a business should be asked to take that risk. Crossrail, in constructing the railway, we think is doing so in the good interest of Soho and the business we are in, but there is a risk attached to it for Crossrail. Will there be enough passengers? Will they run into a boulder? Will they do this or will they do that? Would there be these problems or that problem? It is a commercial risk of Crossrail taking the building and they have taken this risk and are putting it to a company who will operate that and hopefully the whole thing will financially work. Going past our facility, we have been asked to bear some of that risk and that does not seem fair. Our feeling is if it goes wrong we should be compensated, it is as simple as that, because we have been asked to assume part of the overall risk of constructing this railway. It does not make logical sense to us.

19448. On that point, Mr Taylor, it may be suggested to you that when you took the lease of your premises you knew, or ought to have known, that the line was safeguarded. First of all, were you aware when you took the lease that the line was safeguarded?

(Mr Taylor) Yes, we were.

19449. Why did you acquire the lease, Mr Taylor will say to you, when you knew it was safeguarded? Did they tell you in that safeguarding that you were likely to be afflicted with noise levels that run inside the booth?

(Mr Taylor) No. Carol and I built our first studio about 100 metres from where we currently are in Marshall Street and that was in 1992. It was four studios, the same marketplace, and around that time I think this whole thing with Crossrail was coming forward; the whole performance was going on. When we built our studios in Marshall Street, which is roughly 100 metres from the footprint of the safeguarded area, we knew Crossrail might happen. We saw what happened, we saw the huge performance, and we had views about it, but it did not happen. The view appeared to be that Crossrail was not going to happen, very solidly and firmly. It felt that it was not going to happen for the foreseeable future. If you look at the safeguarded route, you have to take another thing into account, which is that the safeguarded route noise footprint, as far as recording studios, is much bigger than the safeguarded route. If you take that into account, the safeguarded route effectively blocks out about 20 per cent of the available land area where you place a top-class commercial studio in Soho. The first thing I

would say is safeguarding in noise terms is a massive issue and my understanding about safeguarding is do not put foundations down and do not put a huge building that is going to make it difficult to build a tunnel. We also took a view that in 2003 when we started to look for the building which we now have we looked very long and hard and we found our building. It is a very, very good building for the kind of work that we do and we contacted Crossrail. I did not do this contact, Carol, my business partner, the managing director, did it, and Crossrail said it would not be built. We were being told by Crossrail that it was not going to be built and also we thought, if they do build it they know they are going to be going straight through the heart of Soho. Soho is the sound centre of the UK. It is one of two or three premier centres in the world. Sound is an essential part of everything we see on the media; surely when Crossrail go through they are going to take full cognisance of the damage they could cause to the Soho post-production sound community which trickles on into the Soho video editing and film; every single community you look at that works in that area, it is incredibly compact and successful. They are going to do, I believe, in Paris when they put in a tube extension close to one of the museums, they specified special trains in order to make sure there was no noise contamination in the museum—a large museum in an empty space, you are going to hear it. We have always assumed that Crossrail would build the railway and specify the trains and take into account that Soho is a world centre of excellence for sound. As first proposed, we were rated not as important as a theatre and we were rated not as important as a church. Crossrail have reduced the noise specification for our facility from dBA 30 Lmax all the way down—after a huge amount of work to explain to them what in my opinion they should know, it is their responsibility to know, their are experts in building underground tracks,—NC20—3 which is a completely different noise spec but it is a noise spec that we work to, so we expect them to be aware of this stuff.

19450. **Chairman:** The line of route has been decided and Crossrail is going ahead if this Bill goes through. You talk about compensation, is it cash, is it compulsory purchase, or is it extra investment? Where is it you are at?

(Mr Taylor) To be honest, I am not at anywhere. What I would say is we have looked very long and hard at how we might be able to rebuild the studios, that is a cash investment issue in order to make these facilities work with the tube in place, so it needs higher noise standards and it does not work for practical reasons. I think everybody is accepting that there no way you can rebuild the studios without terminating the business and starting again. It goes to compensation for extinguishing the business.

19451. **Mr Binley:** I have not been a businessman for a long time and am clearly not in your business, but I recognise the great sensitivity that you referred to and have great sympathy because I know how difficult it is to start a business, so please believe me,

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I am with you in that respect. I do not quite understand what you mean about you cannot build something from new and then move into it and that would give you exactly what you want.

(Mr Taylor) If we could find the right building inside the Soho area, that would be a possibility. It would be very destructive to the business. We are a very small business. We have spent, in investment terms, £4-£4.5 million on that building and that is a huge amount of money for a business of our size.

19452. I understand.

(Mr Taylor) Theoretically, and maybe in the real world, what we will have to do at some point, is find another location inside Soho, hopefully, and then try to move to that location.

19453. Soho is absolutely vital to your business?

(Mr Taylor) If you go north of Oxford Street, east of Charing Cross Road, west of Regents Street and south of Piccadilly your business will halve, literally.

19454. I understand that.

19455. **Mr Newberry:** Would you put up slide 3, please?⁵ The last time you summarised this, Mr Taylor. As to the question the Committee Member raised as to why in Soho, they are the three bullet points that you spoke to last time. Taking the last one first: Soho Post Production has a world-class reputation. A bit like being in Harley Street.

19456. **Mr Binley:** I am happy with that.

19457. **Mr Newberry:** Thank you very much.

(Mr Taylor) Would it be any use to put up my page 8, which shows the layout of the current studios in Soho?⁶ The black lines are the existing tube lines, the blue line is the proposed Crossrail route, and the red dots are sound-recording facilities. The interesting thing is that in general terms the red dots have all migrated away from where the existing tube lines are. There are some red dots on the tube lines—hand-built recording studios of a world-class standard on tube lines. You can do it, you just have to have the tube line there so you know exactly the amount of noise they make and how to insulate it and isolate against it. They have all taken the reasonably practical and sensible route of going to the middle because it is cheaper to isolate if there is no train, in the middle. Crossrail, unfortunately, it is unavoidable—I would not dream of suggesting you change the route or anything like that—scores a pretty good bullseye right on the top line of all those studios. Where can we move to? Where are the places we can move to? There will be places, there always are places, but they will involve time and money, and I am 55 years old. It has almost broken Carol and myself building this facility.

19458. You would have to find premises and, presumably, expend again an order of magnitude of £4.5 million in order to recreate what you have now. **(Mr Taylor)** Absolutely.

19459. **Chairman:** Why do you have to? You have said you will lose business; halve your business if you move outside the area.

(Mr Taylor) It is a very interesting question. It goes back to the roots of why Soho became a place where film people started. It is theatre-land. Theatreland is a stage where you can go and watch actors, actresses; you can hear them and you can see them. When film started people wanted to see who was going to go into films, so the agents started to set up offices in and around theatreland. This is big, general stuff but this is the belief why Soho has become so centralised. From films, it is TV, it is radio, it is commercials—it is all the media we do. So there was a huge congregation of work, support work and casting work in the centre of Soho. You have situations where people can walk from one studio to another studio, to another studio. That is the artists, the actors—they can go to theatreland. So they can come in and do a session during the day and then they can go and have a coffee and then be on the stage at night. You have the West End. People doing this work can walk around; so they can be working on BBC idents with us and go round the corner and be working on other projects elsewhere. If the picture editors have got a problem working on BBC idents they can literally walk up the road about 100 metres to the Mill—

19460. **Mr Newberry:** Can you put up number 4, please?⁷ This goes to the question that has been asked.

(Mr Taylor) It is this compactness and it is something very special that has occurred. Nobody intended it that way but it means the actor walking across Oxford Street, or those other areas, takes himself away from the core of the technical excellence, and that excellence is about speed as well. That is about being walking distance and not taking taxis.

19461. Taking that last bullet point, Mr Taylor, on the slide there, you say the service providers for broadcast, cable, satellite, video, film, computer graphics and the internet have all now set up shop in Soho.

(Mr Taylor) That is correct.

19462. To take the premise that has been suggested to you, if you move out of Soho, would all these service providers for broadcast cable, satellite, etc, move with you or would they remain where they are servicing the Soho market as it exists?

(Mr Taylor) I know where I am in the food chain. No, not at all. A classic example of how volatile a business we would be working in: you may have heard of the electricity power cuts in Soho in the heatwave last August. We lost three days through

⁵ Committee Ref: A221, Grand Central Studios—Why in Soho? (WESTCC-9305A-027).

⁶ Committee Ref: A221, Grand Central Studios—What harm can Crossrail cause sound studios in Soho? (WESTCC-9305A-032).

⁷ Committee Ref: A221, Grand Central Studios—A brief history of Soho Post Production (WESTCC-9305A-028).

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power not being reliable in Soho. People were booking facilities elsewhere, trying to find facilities, outside Soho. Because it was affecting a large part of Soho all of the people using Soho were trying to find out: “Okay, if EDF do not get it working again, where are we going to get our work done?” Work was starting to move out and could have left Soho en masse. It will not come back again. This sort of work is volatile; it is very hard to get it back. There was an actors’ strike—

19463. **Chairman:** The question I asked is if you moved out, why then would it not move with you?
(Mr Taylor) Because our clients would use other competing facilities against us inside Soho. The engineers we have got would leave us and go and work inside Soho. Soho is—a terrible phrase—where it’s at, as far as the work we do. It is absolutely essential.

19464. **Mr Hopkins:** If I can just go through what you have been saying: the problem is not when the railway is running because we are going to have quiet technology; it is while the railway is being constructed that is the problem.
(Mr Taylor) That is correct.

19465. Some sound studios are already very close to tube lines and they have insulated themselves to deal with that noise problem.
(Mr Taylor) That is correct.

19466. Within your studio facility, the serious problem you have would be during the construction for quiet voiceovers. It is the quiet voiceovers you have a problem with.⁸
(Mr Taylor) It is quiet voiceovers but it is actually just as much the monitoring of the recoding you have done, which is done in the control room. So you have to be able to listen. It is not something you openly talk about because it is assumed, but it is quality control. The engineers have a responsibility to make sure that the tapes and the work they have done is pure and uncontaminated, and you check it inside the control room. If you have got a train going past how do you know what was right and what was wrong, unless you can play it again, but the clients will not put up with it.

19467. The crucial thing is what actually goes into the recording—the tape, or whatever.
(Mr Taylor) In technical terms you are correct. In commercial terms the critical thing is that we have clients who want to use us. What would happen is that the clients would not put up with the disruption to their schedules and the extension of their time. They are just not interested—full stop. They are absolutely not interested. The work would just move to facilities which did not suffer that problem.

19468. What is the feasibility of, first of all, insulating the small boxes that you use for voiceovers for recording? That would be quite a simple thing to do, they are quite small.

(Mr Taylor) Okay. It is a very good question. The answer is quite complicated. Firstly, we are a working studio. Where we currently are at the moment, with our landlord, when we took our lease we had a clause put into our lease that we had to have 48 hours’ notice if our landlord was going to use a hammer drill (if you can imagine the noise) anywhere in the building, because that noise could disturb us. We built the rooms to a very, very high isolation standard. Improving the isolation for voiceovers would involve a massive amount of work that we would hear in all the other rooms. What will happen is in an attempt to try and make the facility more soundproof we would make it unusable for the purpose for which our business is. So the actual act of trying to fix the problem would kill us. The medicine is more dangerous than the disease. What would we have to do? The voiceover booths would have to be totally dismantled and completely rebuilt with yet thicker plaster board and more wood—a higher mass of materials. Ignoring the fact we could not work in the facility because of the noise and the dust, that could be done, but it would be uneconomic. The control rooms are another whole question altogether, which is where you are listening to where you have contamination of the sound. The control rooms in the lower ground floor are what they call mass slab isolated, where the heaviness of the slab is used to help keep the sound out. It is a question you had probably better ask of the acoustic designer David Bell of White Mark. My understanding is that the only way you can isolate the control rooms more is, basically, you would have to take them away and build a completely floating room inside that area based on rubber which is the same technique as used for the voiceovers—thick walls—and one of the things that happens is the whole room inside gets smaller, and we then drop below Dolby certification for the licences for Studios 8 and 9 downstairs. The rooms get smaller so the whole physical layout of the room has to start to be accommodated. So it is effectively rebuilding entirely the ground floor, or the basement facility, and whilst you are doing that you could not work. You cannot do it out of hours. Westminster Council will allow you to work until half-past eight at night. If we were still trying to run our business we would have a two-hour window in the evening and a one-hour window in the morning where we could actually do this work. It is uneconomic and completely unfeasible.

19469. **Mr Newberry:** Mr Taylor, can I ask you about the statement you have made about reducing the size of the room, flowing from the question you were asked. You indicated that you would get below the Dolby standard. Can you just remind us of the importance of meeting the Dolby standard in terms of doing the work or attracting the work that you need to attract? If you are non-Dolby compliant in

⁸ Committee Ref: A221, Grand Central Studios—control room (WESTCC-9305A-031).

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terms of the size of your facility, so you would not get the appropriate certification, what is the effect and the consequence of that?

(Mr Taylor) Dolby certification is required specifically when you are working for film. We currently do commercials for cinema, we do trailers for cinema. It is a growing part of our business and we see it as very important. We have recently done the sound for a short film. All film work, fundamentally, touches Dolby, or Dolby touches all film work, because it is a recognised, *de facto* standard of quality performance for films on sound. They specify a whole raft of parameters for sound and, also, physical parameters on the sizes of the rooms the location inside the room of the mixing console, the speakers, the monitoring and how things should work. Again, I would defer to David Bell on this, of White Mark Designers, but my understanding—and this is purely a practical understanding—is that if we had gone for a floating room we would roughly lose about one foot, maybe more in head room. It then becomes quite cramped vertically and then what happens is because the picture size has gone down, vertically, the left to right dimension shrinks enormously. If you take a foot to eighteen inches off, this picture of the Nike lady dancing gets much smaller. This is a Dolby premier size room. We are no longer in that category of room. The sight line changes. Everything changes. You take everything away and it is a different commercial proposition.

19470. Would you get Dolby certification or not?

(Mr Taylor) No, not with that room. If you took a foot off that you would not get it. If you took a foot off any of our Dolby certified rooms; if you reduced them in size, the certification would change and that would effectively change the profile of our business. We would not be able to do the work that we currently do.

19471. Would that have a terminal effect or would it boost business?

(Mr Taylor) I would be amazed if it would boost business. I cannot see any reason why it would boost it at all; all I can see is that it would reduce business. If we actually lost our Dolby certification we would lose about 25-30 per cent of our turnover, and anybody who has been in a small business knows that if you lose 25-30 per cent of your turnover you are very lucky to survive. It is as simple as that. There is not the flexibility. These businesses look very flash, they look very trendy and they look highly profitable; anybody who works in this area knows there are incredibly tight margins. There is no potential for us to lose 30 per cent of our business. That takes us out.

19472. If you want to remain a world-class studio and if you want to keep that accolade which you have currently got, would you retain that description if you were not Dolby certificated?

(Mr Taylor) No, we would be second-tier. There is not a single one of our competitors who has not got Dolby certification. It is a requirement. It is almost

a badge of honour to a certain extent. It is: “Are you in the club or are you not in the club?” A lot of the time the Dolby certification is not used, in reality, for the work that is done, but if you have not got it (for all film work it is used) then you are not a world-class facility.

19473. If the majority of your competitors, if not all of your competitors, in Soho do have it, and as a result of what has been suggested you do not have it, where are you in the competitive pecking range within Soho?

(Mr Taylor) To use the A, B, C list, you drop down into the C. A is the studios which are Dolby certified, very, very high quality—and we are, by no means, the only one in Soho—there are B-listed facilities who are Dolby certified, who are respectfully speaking, not such high quality establishments, and then there are C-listed studios who do not have Dolby certification, and down we go. As I said, it is a fundamental requirement of the club to work at the highest standards on any material on any project that you might be lucky enough to do in business. We did the cinema trailers for the latest Bond film *Casino Royale*. We are a small post-production facility in Soho; we are not a massive establishment. There is a very large facility called De Lane Lea where they mixed *Casino Royale* but we did the trailer for *Casino Royale*, which is effectively a long commercial. To do that you have to have the same Dolby certification as a large mixing station. We are very proud we did it, and we think it was a really cracking good soundtrack. We could not do that. We would not even get asked. You would not get talked to.

19474. **Mr Binley:** Of the 59 studios listed in the document, only five of them have six or more studios. Is that also related to quality or does that not have an impact on top end quality at all?

(Mr Taylor) I would not in any way suggest that because you do not have six studios you are not a top quality facility. Grand Central have four studios and we deem ourselves to be a top quality facility. The extra studios, basically, move you to a different serviceability for your client base. Our clients have a constant flow of work; they need to have that service, and because work is always chopping and changing—“Are you coming tomorrow? No, you are not. Fine. Oh, you are coming”—all that sort of thing is what our business is about. Having six studios gives you much, much greater flexibility. We run eight engineers from six studios to give us more flexibility on which engineer and which studio, and all that sort of thing. There is a critical mass that gets you into the A group as well.

19475. **Mr Newberry:** I have no further questions in-chief.

Cross-examined by **Mr Taylor**

19476. **Mr Taylor:** This is another case where there are a lot of Taylors involved. We are going to have three doing the one Petition. I will try and make it as

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clear as possible. Mr Taylor, you have already confirmed that you knew when you were buying the interest in the property that Crossrail had been safeguarded, and you gave an indication in your evidence that your business partner was told by Crossrail that Crossrail would not be built. That was the effect of your evidence.

(Mr Taylor) That is correct.

19477. Presumably, given the particular importance of the noise environment within the studio that you were going to build, you instructed your solicitors to obtain confirmation of that from Crossrail in writing. Is that right?

(Mr Taylor) No, it is not correct. We never had much luck getting much from Crossrail in the early days.

19478. Did you attempt to get confirmation of that in writing?

(Mr Taylor) I would suggest you should address that to my business partner, Carol Humphrey, who is dealing with that specific point.

19479. When you were getting your studios designed, what steps did you ask the designers to take to enable additional mitigation to be provided if Crossrail were to come along, so as to preserve the acoustic environment of the studios?

(Mr Taylor) We did not ask that question, because we are not aware of any method or technique by which you can design a studio or insulate against sound that does not yet exist. We are not aware of that. We saw nothing from Crossrail giving an indication of what the sound levels would be. As I understand it, it is impossible to design against sound that has not yet arrived, unless you spend a huge amount of money over-engineering the isolation. Everything is possible always. So the conundrum would be we do not know how loud Crossrail is going to be; we do not know how fast the train is going to be; we do not know whether it is going to be a commuter train or a freight train. Are their trains going to be fast or slow? How big will the trains be? How much will they weigh? What will the track be? What sort of track will it be? None of those questions could be answered.

19480. Did you—

(Mr Taylor) If you could answer them you then get into how do you translate those answers into a prediction which you can then turn into a build specification? We are not in a situation where the variabilities are so enormous. The only safe thing to do is either walk away from the premises or put a massive amount of concrete in. If you are told by Crossrail that is not going to be built, you have already gone through one whole scene where Crossrail was going to happen, it was not going to happen, it was going to happen, it was not going to happen, and there are only so many buildings available in Soho. When you take into account the huge noise print that Crossrail puts into Soho, I do not honestly understand what one is expected to do.

19481. Did you ask the designers of your studio what steps could be taken to preserve the possibility of providing additional mitigation in the studio if Crossrail came about? Yes or no.

(Mr Taylor) Yes.

19482. You did?

(Mr Taylor) Yes.

19483. What was the advice that they provided to you? What mitigation, what safeguarding for additional mitigation has been provided in the studio?

(Mr Taylor) Their response was that they cannot design to isolate, they cannot design mitigation to noise levels that do not exist of unspecified character and unspecific intensity. That is once it is inside the building, let alone when it is in the actual train tunnel itself.

19484. Was it Mr Bell who gave you that advice?

(Mr Taylor) That would have been in a casual conversation when we were sitting in the shell of Studio 8 downstairs before it was fitted out.

19485. I will take that up with Mr Bell. The interest that you have in the building in which the studio is located is a leasehold interest that does not include any interest in the subsoil of the property.

(Mr Taylor) That is correct.

19486. When you acquired your interest did you seek any advice as to whether the acquisition of that interest would give rise to compensation under the National Compensation Code in the event that Crossrail was built and there was a noise impact on the studios?

(Mr Taylor) The answer to that one is no, and we are just not that good legally. We are a small company. You are talking about questions that I now understand, but as a small businessman basically trying to earn in crust in Soho (I know it sounds a bit silly to put it that way) you are asking me complicated legal questions. I now know about compensation; I now know about interests in subsoil rights—I did not know that then so I could not answer that. I did not understand it.

19487. Did you instruct solicitors to act in the acquisition of your interest?

(Mr Taylor) The acquisition of what interest?

19488. The acquisition of the interest in the property in which you now have—

(Mr Taylor) The leasehold interest? Yes.

19489. When you had the studios designed I presume that they were designed to particular criterion. Is that right?

(Mr Taylor) I think the conversation was along the lines with David Bell. Was that enough of a response?

19490. That is fine. If it is not a matter for you I will take it up with somebody else.

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(Mr Taylor) To specifically answer, we asked for world-class studios acoustically and we did not want to be able to hear outside noises inside the studio.

19491. I will take the matter up with Mr Bell, as he designed the studios. Prior to your first appearance at the end of March 2006 my understanding is that your company instructed a Mr Kahn to advise as to the appropriate noise criterion to apply to the studio in order to protect them from noise from Crossrail and, indeed, to present evidence as to the undertakings you were seeking. Is that correct?

(Mr Taylor) Yes.

19492. I wonder if we could turn up the presentation that Mr Kahn prepared for his appearance back in March, GCS SK18, provided to the Promoter all those months ago.⁹ “Undertakings sought”. Mr Kahn, who I think the Committee is familiar with from his appearance in relation to the BBFC building, indicates that one of the undertakings being sought is that Crossrail should be designed and built to achieve NC25 rating or quieter in all sound studios and booths. Do you see that, Mr Taylor?

(Mr Taylor) Yes, I see that.

19493. He also says that a minimum design approach should be floating track and resilient clips, smooth track and wheels throughout operation, no joints near studios, speed limiting required. All of those four elements are now offered to you in the undertaking put forward by the Promoter.

(Mr Taylor) My understanding is that that is correct on the completed system but not on the construction system—on the completed train, not on the construction train. As I understand it, those four bullet points you read are part of the undertaking that has been offered for the completed railway, but they are not for the construction of the railway.

19494. That is your understanding, is it? I will not take up time taking you through that. In relation to Dolby certification, I am right in saying that if NC25 is met that meets the requirements of Dolby certification.

(Mr Taylor) NC25 is one number inside the Dolby specification. David Bell will speak better to this but it also specifies that it should not have tonality in the noise spectrum, which is the NC25 you are talking about—tonality in the noise spectrum re. identifiable sound. That is a really technical area of explanation and I would prefer that to be dealt with by David Bell.

19495. In terms of monitoring noise within Studio 9 itself, when one is sat in front of that rather amazing-looking control desk and producing an advertisement, I want to ask one or two questions. The sound in an advertisement is highly compressed, is it not?

(Mr Taylor) No.

19496. Is not the reason advertisements sound louder when one is watching them on the television compared with the normal programme one is watching due to the fact that advertisements are compressed?

(Mr Taylor) Not in our commercials, no. If I could speak to where you are going, I think what you are saying there is there used to be a practice to compress all sound for transmission to a high level and this is because of limits in the transmission systems. We pride ourselves at Grand Central of using as little compression as possible in our commercials because that gives a wide open feeling to the commercial rather than the American compressed sound which is, I think, what you are referring to, so in the context of Grand Central’s commercials, the engineers are trained and instructed not to use excessive compression. Compression has a role to play at times but it is not heavily compressed.

19497. Prior to applying compression, it is standard practice to apply a low shelf filter which is used to remove or filter out the very low frequencies in the sound one is compressing so as to obtain a higher level of compression on the sound?

(Mr Taylor) Again, I think you have been misinformed there. A low shelf filter would change the character of the sound. What you want to do is you want to capture the sound impurity, you would then equalise the sound, and it may then be further processed, expanded or depressed. It is very bad practice to apply to the elements of the commercial, over the usual layers, to provide a blanket of low frequency roll-off. It is an old practice that went out seven to eight years ago, maybe more than that. It is an old practice and it is, in our view, a shoddy practice.

19498. If it were the case that the criterion being put forward by the Promoter to protect the studios during construction was the same as the design criterion that was applied by your designers, it would be difficult, would it not, for you to sensibly argue that you would lose business during the construction period because the sound environment within the studio would be precisely the same as that which the studio had been designed for?

(Mr Taylor) I do not understand the question, I am sorry.

19499. **Mr Taylor:** It does not matter. I will take it up with Mr Bell.

19500. **Mr Newberry:** Mr Taylor, just on that last point, looking at GCS SK18 and the second bullet point your attention was drawn to, Crossrail should be designed and built to achieve an NC25 rating or quiet in all sound studios and booths, that is the level that has been offered in relation to the construction of the railway, is that right?

(Mr Taylor) That is correct.

⁹ Crossrail Ref: P144, Grand Central Studios—Crossrail Bill Undertakings Sought (WESTCC-9305-034).

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19501. Does the train need to be quieter than NC25 outside the studio in order to guarantee NC25 within the studio?

(Mr Taylor) Sorry, I do not quite understand the question.

19502. If you have got a train underneath the studios rumbling along at NC25, does that guarantee NC25 within the studio, or is that something I should ask Mr Bell?

(Mr Taylor) You should direct it to Mr Bell or Dr Hunt.

19503. Low shelf filter. First of all, what is a low shelf filter?

(Mr Taylor) You all know bass controls turn down the bass and you all know the treble controls turn down or turn up the high frequency. A low frequency shelf filter is designed to cut out low frequency rumblings. The specific reason why they were invented is when you pick up a microphone and hold it like this (indicating), you create a shaking sound, your hand shakes and you cannot stop it. Any good quality mixing console will have a response going down to one or two or three hertz and the low class filter is used to get rid of frequencies which can be very high level and can cause problems for the electronics around about 20 hertz. If that is the frequency response, it goes along, hits 20 hertz and goes whack! like that, you can get low class filters which you can move up so they take more and more off. The more you take off, the more it affects the way the sound is. There is no such thing as a free lunch in audio, as in everything else in the world; if you take off the frequency, you will thin the voice. The first thing you do when the train goes past, and the train has got a low frequency in it, is put a low class filter in and the train will disappear. Unfortunately, what you have also done is taken out not just the train—going back to your question about keeping down the noise—you have taken out part of the voiceover’s voice, so you have got a 60, 70, 80 low class filter on that which all change the way the voice sounds, so we do not use those low class filters to solve those sorts of problems.

19504. Have you seen in any of the Crossrail documentation, or any of their responses, a suggestion that a low shelf filter will solve the problem you have been complaining about?

(Mr Taylor) No, and if I did I would think that the person suggesting it did not fully understand the nature of my business, if it was being suggested for my business.

19505. **Mr Newberry:** Thank you very much, Mr Taylor.

19506. **Chairman:** Thank you, Mr Taylor. We are now going to break until 11:50 for coffee.

The witness withdrew

After a short break

19507. **Chairman:** Mr Newberry?

19508. **Mr Newberry:** Thank you, sir.

19509. **Chairman:** We are just worried about the number of Taylors we have got.

19510. **Mr Newberry:** I share the same concerns ...

19511. **Mr Newberry:** Mr Bell, could you give us your full name, please?

Mr David Clifford Bell, sworn

Examined by **Mr Newberry**

(Mr Bell) My name is David Clifford Bell. I am somewhat amusingly called “Decibel”!

19512. Are you the owner of a company called “White Mark Limited”?

(Mr Bell) I am a major shareholder and managing director.

19513. Tell the Committee what that company does, please.

(Mr Bell) We are an acoustic executive design company. We are ten years old next month. We work in the audio and video post-production, television and music recording industries all over the world. We specialise in building production facilities for film and television. We work in the music business and do music recording in studios. We have built a lot of the major studios in Soho; I would like to say it is the majority, but one has to bear in mind I am under oath and not quite certain, but we have done a large fraction. We have certainly built over 90 audio control rooms within a quarter of a mile of the intended path of Crossrail. I have an honours degree in physics and am a chartered engineer, a member of the Institute of Engineers and a member of the Institute of Acoustics. To try and set a level for our expertise, we have won a TEC award in 2003-04 with the Hit Factory Studio in New York. This is the first time a non-American company has won the award as Americans do tend to regard the award being for American firms.

19514. Can you tell us what a TEC award is?

(Mr Bell) It is a series of awards for technical excellence in audio and we were awarded it for acoustic design of Hit Factory Studio Six in New York, which is one of the world’s most successful studios in music recording. It has since sadly been demolished due to the property values rising and it has been re-developed. In a survey of advertising agency opinion advertisers were asked about top sound engineers for *Campaign* magazine. The top three engineers were working in studios we had designed, as were three of the remaining top ten in the world. We have projects in Los Angeles, New York, Wiltshire, Glasgow and London and we have worked all over the world. A recent project for the Film City development in Glasgow, which is a modernisation and improvement of the Govan town

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hall, the big studio there which we designed, has become the first to gain the premier licence level of Dolby Laboratories Licensing in Europe. I believe there are two in Russia and there is some debate as to which bit of Russia and therefore whether they are in Europe, but certainly the first in Britain and Western Europe. We were asked by Ivor and Carole, as we have been asked by most of their competitors, to design studios for them. As Ivor states, buildings are very difficult to find that are suitable for studios to be built in because, as is the way with things, Soho developed because of the range of businesses there, the proximity to theatres and the artistic, bohemian nature of the place; artists and advertising agencies grew from there. Sadly, most of the buildings in Soho are Victorian warehouse buildings with wooden floors. You can be posed with all kinds of problems trying to put Dolby theatres over antiquarian bookshops and very inappropriate places. Buildings are very difficult to find, particularly buildings that are big enough to take studios to work in film environments because the studio has to be of a certain size. We are asked by many clients to look at buildings to say, "Please, this is a beautiful building, it is right next to Saatchi & Saatchi", and whatever other reason, "can we build a studio? It is going to be great for our business", and we have to state whether it is suitable. What we do is we look to see how much mitigation we have to put into the building to stop extraneous noise coming in. One of the things that we do before we can start is to ascertain what sound is there that the studio needs to be protected from. The issue is that we are tasked with assessing the building as suitable and what steps we have to build to make them suitable for the work undertaken within them. The work Grand Central does is dependent on them being able to mix projects for commercial release in cinemas and for future film release as well as for television and other releases. This requires, as we have heard, that they have a Dolby Laboratories licence and there are a number of levels of Dolby Laboratories licensing but they all require that the studio has the background, the noise level for internal, largely air-conditioning generated but equipment-generated, noise of NC25, open microphone areas for booths or Foley work, which is where people record footprints or skin effects which is the sound you get when people run hands over shoulders and things; it can be quieter. The control rooms of NC25 are set by Dolby. The important thing to realise about the noise curve is this is the background level against which everything else is listened to. In this room we have background noise going on, it is not silent, there is a hum from the projector and you can hear a background noise here. The issue is that in order to make a very careful analysis of the sound that is coming out of loudspeakers, if you are going to listen to Dervla Kirwan's voice and assess whether it is suitable for a commercial and compare it to any one of a number of any other female actresses' voices, the people in charge of doing this, the engineers, have got very acute hearing, very great musical balance, they are listening to the difference between, say, Joanna Lumley's voice, which has humour and a different

intonation to Dervla Kirwan's voice. One voice is going to communicate trust and middle class aspiration and all these things that are important to selling something that is different, in the director's eyes, to Joanna Lumley's voice which communicates something else. I have got to give them an environment in which to listen really, really carefully to all the subtleties coming off the voice and the technical excellence with which the voice has been recorded for later use, so we can make that judgment. Any distraction must not be allowed. The important thing to realise about the noise levels in the studios is that the equipment, the air-conditioning noise and all other bits of fans in the room, must meet this NC25 noise level. This is a smooth curve, you have seen it a number of times on graphs, and the idea is that that curve of background noise, which is colourless, does not have tone or hum in it. If there is enough of a slight hum in the room that was comparable with the hum coming from the projector you would not hear it, strain as you might, if that was projector was completely smooth. As an analogy perhaps, if you can imagine a low frequency rumbling in the room, that is a low frequency emphasis in the noise, it is creatable in terms of looking through light at a piece of glass that is slightly reddened. You would not ask someone to look at an oil painting to see how good it was through a piece of glass that had a red tint in it. That is exactly what we are trying to establish with the NC25 background noise; we are establishing a colourless, neutral background against which to hear the things you are listening to in the room. The second part of designing the studio is there are people going on in the building, people wandering around bringing cups of tea; there are people driving past in lorries and the underground trains running underneath the buildings and we have got to make sure that the sound that comes in through studio boundaries that we erect is not heard. What that means is that any of the noises which come in are masked by a smooth and clear noise established within the room. As I said, I am charged with making an environment in which these balances can be made. I have got to make this room work in the way that it is going to work. I am charged with that as a designer who has made my reputation and the reputation of my company on being successful with that—touch wood—in every occasion apart from one and we put it right, believe me, at our expense. In order to do that, then I have to assess the external noises coming into the building which may be internal, interrupting or intermittent and cause momentary lapses of concentration. The thing to realise is you are listening to the quality of the voices, but the quality of the silence immediately before the voice is almost as important as the voice. I remember working in a classical record company a number of years ago; the gap between tracks is terribly important on a classical record for you to clear your mind of the previous and anticipate correctly the next one, so silence as well as noise is very important. The judgment of those things must not be subject to any interference. Turning to the technicalities of the design, therefore, what we can do is we measure the

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vibration noise coming from the building noise that is coming from the environment in which the building is sitting, nearby tube trains, nearby roads, whatever; in fact, we do not do that, we get specialists to do it. In this case, there is a gentleman called Tony Wolf who spent his life working for the BBC and successfully helped them develop studios at the BBC which are mounted over the Bakerloo Line. He is a world-renowned expert and we have always used him in Soho for studios of this nature. He came in and gave us a forecast of the noise we might expect from the Central Line which is not very far away. We made an assessment and it was such that we thought you could just get away with it. I went to the prediction again, taking someone's forecast as to just how close is this going to be. This building, which is a fantastic building in many ways, the basement is not high enough to allow us to float the control rooms. It is not high enough because the rooms are the width, length and height defined by our requirement of sightlines and for meeting the various requirements of Dolby, for client expectation and things. We cannot get the studio shallow enough to allow us to float the floor. We looked quite seriously at digging out the basement in order that we could gain enough headroom to float it. One studio further down in Bateman Street which was responsible for *Life on Mars*, which is on at nine o'clock tonight, and *Hot Fuzz*, the film which is all around at the moment on the side of buses, incidentally only had three studios. Nigel Heath, who is the principal engineer, and his two assistants are world-renowned. We dug that studio out in order to give it enough headroom to fit into the building they had been able to acquire. When it came to Grand Central there was an assessment that we could get the external noise from the vibrations caused by the floor, and the vibrations that the floors would in turn cause in the walls and the ceilings of the rooms we were building, we would get that to be low enough to be masked by the NC25 noise that we were introducing to the room with air conditioning and other equipment noises that were within the room. The prediction is very, very tight. During the building of the studios, we did go on a number of occasions, in the evenings when building work had stopped, and listen to see whether we could attain it and to make assessments. It is a testament to that, in fact, that in the studios, now that they are complete, when the tubes are loaded you can just—just—hear them very, very occasionally, maybe one or two a day. In the evening, when they are loaded, you can just hear them. So we got it almost exactly right. We are not talking about the prediction now, we are talking about what we can measure. We can measure that it is there and we can just hear it. Any louder and we would be able to hear more of them.

19515. What is it you are hearing?

(Mr Bell) The tube noise of the Central Line.

19516. How far away is the Central Line from where you are taking your readings?

(Mr Bell) The length of Marks and Spencer. It is 40 metres or 50 metres. It is shown on the map, so it is no distance away. Having looked at the vibrations within the floor that are going to be caused by the passing trains and tubes, we then look at the other noises within the building and we build very heavy walls, very heavy ceilings and we use specialist doors to keep the percussive noises of people walking around in the building and of other studios out to this same level, which is below the NC25 level, at such a level that we cannot hear it. The vocal booths we have floated on concrete floors, sitting on rubber mounts which are designed to keep out the vibrations of the tube and the noise of the rest of the building to a higher level, because we need to work them at a quieter level of noise. An interesting point, which illuminates what was being said to Ivor earlier on, is that within those rooms we do a lot of acoustic treatment. In the voice rooms in particular we do an enormous amount of absorption at low frequencies in order to prevent low frequency booming of the voice, because low frequencies are very important to the colouration of the voice. The idea that you would, as a matter of course, filter out low frequencies from voices is not really at the top end of the market. You would not do that.

19517. On the question of low frequency sound in the context of trends, is this a particularly identifiable problem? Is this one of the things you look at when you are trying to deal with trains at low frequencies?

(Mr Bell) Absolutely. As Ivor said and the map showed, the studios tend to congregate into the middle.¹⁰ The two contra-indicating pressures are (1) you need to be quiet and (2) you try to make it as economic as possible, plus basements are where buildings are generally strong enough in Soho to take the big shells that are required to keep the extraneous noise out. The basements tend to be where you want to be and, unfortunately, that is where the tube noises are at their worst. There are a number of studios that are built in this way without floating shells, and Lypsync and HackenBacker are two I can think of, but, equally, there are studios in buildings that did require floating shelves for the reasons of noise or for the reasons of the fact that there were other studios close to them and they could not be kept out without floating. Those include Ascent Media and Molinare. We have indeed built a studio very close to tube lines just north of Oxford Street. It is not in this market, it is a television post-production place of its own. The noise from the Central Line is very, very high indeed and we there did extreme measures to keep it out and we successfully kept it out to the required level. But here we assessed that the Central Line, which is an old rattly tube line of great age, was the baseline against which we would design the isolation of this studio. We have kept it out to such a level that it is just discernible on occasion. It sets a very good benchmark for what is and is not discernible in

¹⁰ Committee Ref: A221, Grand Central Studios—What harm can Crossrail cause sound studios in Soho? (WESTCC-9305A-032).

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studios and I think it is the basis on which we have devised the sound level that we have agreed for the running railway, which is NC20—3, which is a noise level at which the current tubes do not break but only just do not break. We are setting it at that level because that is our experience of what is and is not discernible in the studios and what is and would not be problems.

19518. That level, Mr Bell, is different from NC25. Is that right?

(Mr Bell) It is 8dB lower. You can imagine if you have a white noise, if you have a neutral background noise, we are trying to protect the studio from pulsed noises of a tube running past. Tubes generate tonal noises because there are wheels going around, there are fixed gaps between sleepers, there are lengths of rail which resonate, so they produce tonal noises which tend to be low frequency boom—and you have possibly seen the curves on a number of occasions throughout the months you have been dealing with this. It is a tonal noise and it is interrupted, because it starts, it runs and then it stops. That has to be prevented from entering the room. In order for that to be prevented from entering the room it needs to be a certain margin below the noise level that is in the room or you will hear it and it will disturb your train of thought, it will disturb your concentration. On another point, if you have a noise in the room that is exactly NC25 and you put another noise of NC25 next to it, they will add together and the sum total will be greater than NC25. It is not enough to have another noise that is itself measurable at NC25, since when you add them together they will rise higher than the NC25 total, which you do not need.

19519. What is being offered by the Promoter in the context of the construction of the railway before operational railways kick in is NC25. I want to understand how that is going to work in practice and why you were uncertain or had doubts about that offer by the Promoter being acceptable to the operation of the studio during the construction period. Could you explain that to us, please.

(Mr Bell) We built the studios. We struggled hard to get them as quiet as they are. We worried a lot about how loud they would be, given the forecast we had, and we were very careful. We have attained a level in the studios of the current tube lines, which is NC20—3. We know that you can just hear those. We know that if it is louder than that we will hear them progressively more easily as the level rises. We are unable to believe that we will not hear the trains if they are louder than that level. This is a level that Crossrail have accepted as a design target for the running of the finished railway. NC25 made by the trains alone, taking into account just the noise made by the train itself—which is what I believe they are saying—is 8dB louder than that. I am sure others in the room will correct me, but, if it is well over twice as loud, it will, in my view, be clearly discernible in the room and I believe that during the period of the construction railway four trains pass an hour for 24 hours a day.

19520. NC20—3 within the studios was the operational level.

(Mr Bell) The acceptable level of noise caused by passing trains, yes.

19521. The Promoter says “accept within the building nothing more than NC25” and you are saying that is 8dB greater than NC20—3.

(Mr Bell) It is, yes.

19522. Or thereabouts.

(Mr Bell) Thereabouts, yes.

19523. What are the practical ramifications on the operation of the studio of the impact of having an intruding sound twice as loud as the operational level of NC20—3?

(Mr Bell) There are two separate schools of practical ramification. One is the technical disturbance caused to the engineers. The engineers, bear in mind, are selected for their musical ability, their artistic acuity and their hearing capabilities. These are people for whom hearing is their life. They are going to be able to hear the disturbing noise and it will directly impinge on their ability to do their job properly in terms of both disturbance and in terms of uncertainty, in terms of whether they are hearing it in the take or whether they are not. It will give them an unsettled feeling as they are working on the technical work. A second and perhaps fundamentally stronger reason is that, although that uncertainty will impinge on the time it takes to do the work and the happiness of the engineer, it will also impinge on the clients’ happiness with the studio and the clients feeling that the studio is up to their standards in terms of use. I know there are many other studios in Soho because I have built most of them, and the capability of people to walk out of the door and go somewhere else is very, very easy. I know that the competitive studios do not suffer from this problem because I built them. I know that 750, Zoo (which we did not build) and Wave are other studios that work in competition with Ivor and Carole’s studio. It is for others to judge where they sit relatively in the league table, but they are all at the top of the premiership of studios. They are sitting waiting for Ivor’s clients to walk out. I have every confidence that they will if tube noises are heard in the studio. I further have every confidence that at NC25, in the studios you will hear the tubes passing.

19524. **Mr Binley:** Could I ask a couple of questions concerning the Foley standard of NC25, or are you coming to that?

(Mr Bell) I have introduced those standards as showing that there are a number of standards available to which rooms can be specified. If we are looking at those things, I have to make a judgment, as the designer of these studios.

19525. I understand that. Does that standard have to be applied in any part of Grand Central Station? I want to be clear in my mind of that.

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(Mr Bell) We have not designed any of the rooms to be NC15. NC20 in the booths and NC25 in the control rooms.

19526. You have brought it in to give us an understanding of your wide expertise.

(Mr Bell) I am trying to say that there are more strict standards that apply to various rooms which we are not saying we need to apply to. Just to go further, the BBC have long designed studios to their three curves: type 1, type 2 and type 3 curves. These have been very stringent curves that have required studios to be very difficult to build and very expensive to build and limited buildings. We have made a judgment that you do not need necessarily to meet those strict criterion and we are not asking to meet them.

19527. **Mr Binley:** I wanted to dismiss that from my mind. It is in the book and I wanted to get it out of my mind because it is not directly relevant to the case we are discussing. Thank you.

19528. **Mr Newberry:** You are saying that you are not asking for an unreasonably high standard.

(Mr Bell) We are not asking for an unreasonably high standard. We are claiming that it is a very reasonable standard. Those standards are used by our competitors Munroe Associates and Recording Architecture and ourselves as world standards for this kind of work. In addition Dolby specify NC25 for the control rooms. It is what we need. That is the standard for the background noise in the room. We then must design the isolation criterion to keep any tunnel noise out below that. The BBC studios, type 1 and type 2, are lower, more difficult standards to meet than what we are asking for. We are not asking for something that is outrageously ridiculous. It is just acceptable.

19529. Going on to your next point, is there anything you want to add to what you have said or have you covered that?

(Mr Bell) I think we have covered it. The emphasis here is that the noise curve is to ensure that there is no tunnel noise, that the colouration in the room is neutral. Below that noise must be no interjection of external noises. They must be designed to be at a low enough level not to burst into the room and disturb the concentration of the engineers, the confidence of the clients or, in extreme cases, to get onto the recordings themselves, as Ivor has pointed out.

19530. Then you have a paragraph commenting on the noise curve specified relating to broadband noise. Could you elaborate on that?

(Mr Bell) I think I have covered that. It relates to all sorts of things, mechanical plant and external noise such as traffic. There has to be no tonal content in the background noise and in some cases the air conditioning noise is advanced to the limit of the NC25 to cover for any other noises in the room that may be there. The NC25 is taken as the smooth curve to make sure that there is no colouration. As I have

said, you are listening to the sound in an uncoloured way, like you are looking at the painting not through a piece of coloured glass.

19531. Turning to the last point on that page, you say: "To this end, care is taken to ensure that the isolation of the rooms from such noises is such they are kept to a level which is 10dB lower than the continuous background noise."

(Mr Bell) Yes. Again, I may not have said that as clearly as I might have done. If a helicopter lands across the road or a boat pulls up and sounds its siren on the Thames, the sound will burst into the room. A very, very low level of such a tone can burst into the room, even though it is at a lower level than the background noise here because it is tonal and you are tuned to pick these things up. We have to make sure that these tonal and pulsed and intermittent noises that happen outside the studio do not break into the studio. In order to do that, we take them to be, hopefully, 10dB below that continuous background noise. In effect, now that we have a studio with the NC25 noise in it and the tube noise outside, we have measured and we think that we do not need to go to 10dB but only to 8dB below that. So 8db below NC25, which is 3dB below NC20, is the standard that we are putting forward. If you are up at NC25 with a pulsed intermittent and tonal sound like a railway train going through, I am confident you will hear it.

19532. I would like to ask you about the time you were advising Grand Central and what could have been done. It has been suggested to Mr Taylor that, because the company was aware of the safeguarding, you should have constructed the studio in a way to deal with Crossrail several years in advance of this inquiry. How do you react to that proposition?

(Mr Bell) We can only design for the noise we know we are designing to keep out, if you follow me. We designed to keep out the old, rattly, loud Central Line which is not that far away, on the understanding that the new tube line, the new Crossrail line, would be built to a higher standard and would be at a lower level of noise ingress than the Central Line. It was our opinion that it was impossible to design for something which we did not know. The commercial pressures are such that we only have to engineer the studios as far as we can possibly go to do the things that we know about and that we can measure about. It was of some comfort to us subsequently that Mr Thornely-Taylor, the acoustician on Crossrail, has said that the new Crossrail trains will be no louder than the Central Line in the buildings along the line of the track, which means that our assessment of designing for the current Central Line was perhaps the right step to take. He himself has confirmed at a meeting which I was at, hosted by UK Post, that there should be no worry that the trains would be louder than the Central Line. We have designed and have successfully kept out the Central Line.

19533. When was that said to you by Mr Thornely-Taylor?

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(Mr Bell) In my own personal presence, it was said at the meeting with UK Post. I am sure someone can provide a date for that, but it was reported to me as being said at other meetings earlier than that.

19534. I just want to be clear that you were there when it was said.

(Mr Bell) And, indeed, I believe Crossrail did not produce the forecast for this building until we pressed them to do so.

19535. I would like an answer to my question. What you just said Mr Thornely-Taylor said to you, was to you personally, in your presence, is that right?

(Mr Bell) It was to the meeting in general. I was a member of the meeting there.

19536. When was it? Was it this year or last year?

(Mr Bell) Last year in July.

19537. You say as a result of your initial researches as to how you should design the studio and how you did design the studio, in the light of what Mr Thornley Taylor said to you in October of last year bears out your design criterion?

(Mr Bell) Yes, it does.

19538. Thank you very much. Can we go over the page to the next page, and I think you have covered this but I would like your input on this point relating to the tonal nature of sound in the context of railways. What is the particular area which one has to be concerned with where you are dealing with trucks on rail or trains on rail? What is it that is exhibited which causes you concern?

(Mr Bell) The issue there is it is predominately low frequency noise which is difficult to deal with. It is also tonal and bi-tonal. If you look at the curve on the graph of such a noise, it exhibits a spike. This is one of Crossrail's drawings. There are spikes raised in that which represent themselves as tonal content and by that it means the noise is not a broadband noise, it has got a pitch to it, it has got a tonal content. That tonal content means that is more disturbing to the people who are trying to concentrate on something else and less easy to mask the broadband noise. It is the tonal, low frequency and pulse nature of the railway which causes the problem.

19539. Why is a tonal quality of sound less easy to mask?

(Mr Bell) Because you are trying to hide a specific tonal, I am struggling with words to describe how to say this but, you are trying to hide something which has got a pitch and it is identifiable and it starts and stops because the train arrives and goes away underneath a smooth noise tunnel.

19540. So far as what has been offered by the Promoters, this NC25, why do you say in layman's terms that that is not sufficient to deal with a low tonal frequency?

(Mr Bell) Because I believe you will hear it clearly in not only laymen's but experts' terms.

19541. It is not sufficient to mask?

(Mr Bell) No, the NC25's smooth noises in the studio in my opinion will not mask sufficiently well the train noise if it is set to a maximum of NC25.

19542. What level do you say, from your standpoint, would mask the tonal noise? If it is not NC25, what should it be?

(Mr Bell) I think you could say, without it being my opinion, what we have done is we have got a railway, the Central Line, we know it is right on the edge of what is audible, and we admit it, so we know that NC20—3 must be right on the edge of what is acceptable. Any higher than that is a problem. If it helps I could show you in terms of audibility this graph which is part of the offer on the construction railway.

19543. Can that be put on the screen?¹¹

19544. **Chairman:** Mr Newberry, can you help me? I am getting more and more confused. Is what you are asking for a change in the undertaking of NC25 or is it compensation?

19545. **Mr Newberry:** It is both, Sir.

19546. **Chairman:** You are asking for both?

19547. **Mr Newberry:** Yes. I am saying if Crossrail are wrong on their NC25, you have to take a view on that, then we say it is going to ruin the studio and in those circumstances, we cannot endure that for ten months. Our business will close and under statutory code we are not entitled to compensation and we should be treated as if we were entitled to compensation. The other argument is, is there a level that we can put forward which would do the trick and which the Promoters could live with so that if that would achieve the objective, it may be that compensation would not be payable. The range of sounds is quite complicated as to what will get through. Tell us what that is intended to convey, please?

(Mr Bell) That is the prediction from Findwave of the construction railway below the studio with short rail lengths, so there is likely to be a rail joint below the studio. You can see that the noise curve plus the uncertainty exceeds NC25 and indeed comes up to nearly NC30. There is another graph later on where Crossrail have offered to weld the joints so there is no joint below the studio, that graph is lower down, it is graph one of a set of four, it is at a lower level but comes up above the NC20 line and is the basis of their offer NC25.¹²

¹¹ Committee Ref: A221, Grand Central Studios—basement studio 9—temporary construction railway, no rail joint below the studio (SCN-20070220-001).

¹² Committee Ref: A221, Grand Central Studios—basement studio 9—temporary construction railway, no rail joint (WESTCC-9304-011).

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19548. That is page 1254 of this series.

(Mr Bell) You can see there, that is a lower noise prediction for the construction railway with no joints below the studio, ie they have been welded together. I believe Crossrail will talk about that later. You can see that that forecast noise with its uncertainties as apportioned to the uncertainty of the prediction by Crossrail takes that up above NC20 and therefore would be higher than our specification and, therefore, I believe would be audible.

19549. Those little T symbols that are on top of the thick horizontal line, what are they intended to do?

(Mr Bell) They are and, again, I believe Crossrail will be talking about this later, the levels of uncertainty or variability that finally predict and may be acceptable?

19550. Is that the 5dB?

(Mr Bell) That is the 5dB mentioned. One of the worries we have about this and the others is that the forecast is of a certain level and uncertainty needs to be applied to that because there are various unknowns about all kinds of aspects of the track, the soil, railway roughness, all these things, all of which are factored into all prediction models. It worries us that if the prediction model is slightly wrong and that uncertainty is larger, my client's business goes out of business. If the thing is louder than the loudest predicted thing, it will certainly be and absolutely be discernable. For the construction railway at their predicted levels we think it will definitely be discernable.

19551. There is a difference between you and the Promoter on the contemplated variation from the prediction, which is on Mr Thornley Taylor's graph, he acknowledges as 5dB, is that right?

(Mr Bell) Yes.

19552. You say that could be higher?

(Mr Bell) No, we say there is a possibility it may be louder and the issue is if it is higher our client's business goes out of business.

19553. You said it is a greater range than five?

(Mr Bell) Yes. On a construction railway itself, we think the level forecast for the train, ignoring the uncertainty of it unless it is significantly lower than the forecast, it will be observable anyway but the uncertainty we are concerned about anyway because we are worried about the downside of the uncertainty causing the level to rise to such that our business is extinguished.

19554. I think that pinpoints an area of disagreement between the parties. If we could let Dr Hunt elaborate on that, but could you say, from your standpoint, what is the derivation, not the differences, of the variables, what you called uncertainties? What areas should the Committee be concerned about?

(Mr Bell) This is not my area of expertise, my area is designing studios rather than forecasting sound waves, but, as I understand it, the contents of water and soil, the geological makeup of the soil, the actuality of the foundations, all of these things, the weight and distribution of the train, the roughness of the track, the maintenance, there is a huge raft of things, all of which have a certain uncertainty in them, when added together tend to worry us as to the consequences of that prediction being wrong and on the lower side. If it turns out that the train is louder than predicted, we think there is a high possibility that it might be louder. We are not saying it is going to be, but we worry that it may be and the problem is that the downside of it being louder is my client's business goes out of business. Crossrail seem very, very confident that the forecast is accurate, that the areas attributed to the forecast are accurate, our view would be if they are that confident, the downside of it being wrong is so catastrophic for our client, perhaps the measured performance of the railway is a better measure of whether it is going to disturb the client or not than the design aspiration.

19555. The last question I want to put to you is this. It has been suggested to Mr Taylor that the size of the studios could be shrunk by various mitigation measures. In other words, a sort of retrofit of the studios. What do you say about the practical merits of that and/or its consequences in terms of Dolby?

(Mr Bell) In terms of the size of the studio for their function, Dolby specifies a large array of criterion, not just the noise. They have specified how wide the loudspeakers need to be so that you could imagine if you were going to pan a sound to the left, the right or the left, the speakers would have to be a certain distance apart, so that it is representative of what you are going to hear in the cinema at a later time. They also specify that those speakers have got to be inside the picture so if you reduce the height of the room that is available, the picture must get smaller and the speakers will then have to come in and the angle will get narrower and it will fail—additional aspects to the fact that the ratios of the room, width to length to height, are important as to how various standing waves build up in the room due to playing sound in the room. If you change those alterations, in fact if we brought it up around about a foot, we would be getting pretty close to the height of Studio 8 being half the width of Studio 8 and the numerical relationship is bad. There are lots of factors which prevent it happening. It would also make the rooms very low and very uncomfortable to be in but, from an acoustic point of view, they are at the limit which is why we spent quite a lot of time trying to see whether we could dig down the foundations.

19556. **Mr Binley:** Would you help me, Mr Bell, and perhaps bring up map eight on the Grand Central Sound Studio.¹³ It may have been done before but I would like to see exactly where Grand Central is situated as one of the red dots.

¹³ Committee Ref: A221, Grand Central Studios—What harm can Crossrail cause sound studios in Soho? (WESTCC-9305A-032).

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19557. **Mr Newberry:** It is in Mr Taylor's slide.

19558. **Mr Binley:** Can you point out exactly which one is Grand Central Sound Studio?

(Mr Bell) I believe it is that one. (Indicating)

19559. Because of your knowledge of the area, I need to understand, there are 11 studios in total, either on top of or touching Crossrail. Can I ask how many to your knowledge, and you seem very knowledgeable and I accept that totally about the area, how many work at the same standard as Grand Central?

(Mr Bell) None of those.

19560. That is pretty important.

(Mr Bell) I could point out where the others are.

19561. I would be happy for you to do that, but it seems to me that that is a vital piece of information because we might be confused to thinking all 11 of them have the same problems as Grand Central and, therefore, we could expect 11 people in front of us on this Petition but there are differences, are there not?

(Mr Bell) Yes.

19562. That is what I am trying to understand. Of the really top quality ones, only one, Grand Central, is in this position?

(Mr Bell) In the top commercial aspect of work, yes.

19563. That explains my concern, thank you.

19564. **Mr Newberry:** Just to follow on from that question, in short form, Mr Bell, you tell us that they are not working to the same standard, what is the critical difference or differences between those that are not operating at the same level and Grand Central?

(Mr Bell) I am not saying they do not work to the same standard, they work under different conditions whereby disturbance may be more or less manageable were it to occur. The extreme left one of those, I do not know which it is, I would guess it is Aardvark, which is a music composition studio where a guy sits and composes largely keyboard related music, he has a small booth which does music samples and to make a sample sound he will put it into the computer and create it, he does very little on an open microphone.

19565. **Mr Binley:** Again, for my benefit, the 'heroic 2' business, which has always got on my nerves, quite frankly, but that is a personal view, the particular one where silence and sound seem to be vitally important, and I understand they all were, was the two sugar lumps dropping, do you remember that? Would other people on this site be doing that sort of work because the silence before that and the amplification of the sugar drops dropping was pretty startling and full of impact. So from that I gather from many of the things you are saying, would any of these other people on this route be working at that level?

19566. **(Mr Bell)** The Bridge, which is the next one may be doing similar work but it does not work at the same level. They are also higher up in the building. We are in the basement and they are a number of floors above that.

19567. I wanted an explanation. It is their fault for not being here, I recognise that point too. If they are not looking after their own interest, so be it, but I just wanted to understand that.

(Mr Bell) There are other studios which work at that level, for example Wave, which is pretty much bang in the middle. One day I was waiting to do some work in there and they were doing an advert on good and bad food to eat. They were comparing one person eating fish and chips and another person and the person was there in the booth recording the picking up of a chip and the dunking of it in salt and various things of this nature, and the background noise of that was terribly, terribly loud. Not only the recording, which was done in the booth there, but then the subsequent listening of the sound and how it sounded and whether it needed, as Ivor said, the quality of the noise which was required for the dropping of the cappuccino pieces onto the coffee—you have had the advantage of seeing it, I was on the wrong side of the screen, and my memory is not as good as it might be—but sometimes the use of sounds which are not what it is that you are doing are used and that is because when you listen to them on a loudspeaker on playback the actual sound of a cappuccino hitting the coffee does not sound right so you have got to balance it. You may find that the dropping of grains of sand on to a duvet may sound better but you have got to judge that when you are looking.

19568. From what you have told me of the 11, some would not be working at the same operation but even the ones that were would have their studios situated in a different format at a different level and whatever, so the same rules do not necessarily apply?

(Mr Bell) They take their own measures. As Ivor was saying, one of the studios that is fundamental on that line works in long format film and they may be left for three months.

Cross-examined by Mr Taylor

19569. **Mr Taylor:** Mr Bell, the comment that you say that Mr Thornely-Taylor made regarding the parity of noise levels of Crossrail and the Central Line, was that made in the context of the operating railway or the construction railway?

(Mr Bell) That was made in the context of the operating railway.

19570. Can we turn up, please, page 33 of the GCSS exhibit?¹⁴ This is a basement plan of the studio produced by Mr Ivor Taylor to the Committee. We

¹⁴ Crossrail Ref: P144, Grand Central Studios—Basement Plan with Crossrail's location under Grand Central Studios Basement (WESTCC-9305-009).

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can see on it the line of the Crossrail tunnel and we can see the larger area, which I believe is Studio 9. Is that right?

(Mr Bell) Eight. Nine is the one to its left.

19571. You are quite sure that that is Studio 8, not 9?

(Mr Bell) Yes, it is.

19572. I believe that is the booth there, is that right?

(Mr Bell) That is right, yes.

19573. The NC numbers that we see marked on here, those are, as I understand it, the NC standards that you were asked to apply when you designed the studios.

(Mr Bell) Yes. More correctly (I think it would be semantically correct) I applied, as a person who designs studios.

19574. Thank you, that is very helpful. Because the booth is isolated, as I understand it (and perhaps you can help me), if the NC25 level is met in that studio then because of the way you have designed it, NC20 would be met in the booth.

(Mr Bell) It is likely, yes. Under the conditions of the noise that we design the studio on, it is. If you can imagine, the booth is a mass, it is a room, with a concrete floor and, in this particular case, laminate plasterboard applied to the construction walls and ceiling, sitting on rubber mats. The resonance of the rubber mats is designed such that reasonably foreseeable low frequency noise will not pass through that, but it is feasible that very high levels of very low frequency noise would cause it to not work in that way.

19575. If we turn to page 20 of the exhibits that you have produced, I think this is your page dB5 in the bundle you have produced.¹⁵ Here you explain that all the studios that your company have designed for professional use have been built to the following standards, and you apply NC25 to control rooms and NC20 to voice rooms. Those are the only two we are concerned with in relation to Grand Central.

(Mr Bell) That is correct.

19576. You explain, underneath that, that it is also true for those studios designed by Munro Associates and Recording Architecture, who are the other leaders in the field.

(Mr Bell) Certainly so, yes.

19577. So it is right, is it not, that the NC25 and NC20 levels are accepted across the industry as levels which are appropriate to protect the noise environment within professional studios of this sort.

(Mr Bell) They are the noise levels of the background continuous noise due to equipment noise and air conditioning noise and other extraneous broadband noise in the control room. It is a broadband noise floor that is acceptable in those areas.

19578. So these are the criterion that are applied across the industry generally.

(Mr Bell) Generally. There are other people who apply different ones, usually more stringent—BBC codes one, two and three are more stringent.

19579. The criterion which you are asking the Committee to impose upon the construction railway is NC20-3 expressed in the third octave band—so it is frequency specific.

(Mr Bell) Yes, that is also true.

19580. Have you ever been asked, or have you ever designed a studio to meet criterion expressed in that way?

(Mr Bell) I have been asked to design a studio that meets the NC25 and NC20 criterion, which are the ones we are bothered about in those two areas, and it is always expected of me that external noise is inaudible within those studios.

19581. That is not an answer to my question, with the greatest respect, Mr Bell.

(Mr Bell) Yes, it is.

19582. Have you ever designed or have you ever been asked to design a studio applying a criterion which is expressed as an NC curve, minus a particular level of dB expressed in the third octave band? Yes or no.

(Mr Bell) It depends whether we are trying to go through the semantics of your question or whether we are trying to get into the spirit of what it is that we are trying to achieve. The background noise in the studio is NC25, in the control room. It is expected that extraneous noise is not audible. In order that extraneous, pulsed and non-continuous internal noises are not heard in the control room then they must be below the NC25 broadband threshold. That, as I was suggesting earlier on, applies to external noise generated by a train, and in our ability to measure it at Grand Central, that means it needs to be 8dB below NC25 or, as you express it, NC20-3.

19583. I have asked the question twice. I have a simple rule which is I ask three times and if the witness does not answer I move on and make submissions about it. I put the question again: have you ever designed or been asked to design studios that would accord with an NC rating minus a particular decibel level expressed as third octave bands? Yes or no.

(Mr Bell) I have been asked to design control rooms with NC25 and in which external noises like trains are inaudible. That is an implication of the standards to which you refer. So the correct answer could probably be “yes”.

19584. NC20-3dB expressed in third octave bands was a level identified through measurements within the studio, was it not?

(Mr Bell) It was indeed. We had a meeting on October 13 when the two sides met and it was agreed that we should quantify what level would render the

¹⁵ Committee Ref: A220, Evidence of David Bell, White Mark Ltd—DB5 (WESTCC-9305A-020).

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trains inaudible. We duly met and measured the background noise and that was the standard that was derived following that measurement process.

19585. That measurement was achieved by switching off all the equipment in the studio and everybody leaving the room. Is that right?

(Mr Bell) Absolutely, because what was required was a mathematically correct representation of the external noise of the train so that it could be measured later and compared with any subsequent noise made by the railway being constructed. Thus all the background noise of the studio and anybody there and any other extraneous noise was removed from the equation for that measurement process to be accurate and correct. It was an attempt to quantify the level of tube noise alone that needed to be met in order for it not to be discernible once the rest of the studio was switched on and working. This methodology was agreed between us before we did it by both Crossrail's acoustic specialist and ourselves as the best way to quantify the tube noise so that it could be compared to the forecast for the rail noise, because the forecasts for the rail noise are for the railway alone and not for the rail and anything else.

19586. I want to ask you a couple of questions about tonality. As I understand it, tonality occurs where there is a pronounced spike in a particular frequency in a sound.

(Mr Bell) You introduced the term "tonality". Tonality is where there is a frequency or frequencies which are predominant in the background. There are various types of noise which are declared as neutral. For this case, NC25 would be declared as neutral.

19587. Can we have, please, page 11 of the exhibit 9304, which should be a graph.¹⁶ Here we have the forecast of the temporary construction railway with no rail joint. Where in that graph is the tonal spike?

(Mr Bell) Where it is expressed in third octaves it may be foreseeable but it is expressed in octave bands, which tend to mask it.

19588. Just to confirm: you have produced no evidence, have you, of the third octave band spikes in your evidence-in-chief?

(Mr Bell) Third octave band spikes of what?

19589. That support your contention that there would be tonal noise with Crossrail.

(Mr Bell) Crossrail have produced enough graphs of their own which show potential tonal spikes.

19590. **Chairman:** That was not actually the question.

(Mr Bell) I have produced none. Unfortunately, we are in the position of being studio designers and not railway forecasters. Therefore, we have to rely on the—

19591. I understand that, but it was the question put. **(Mr Bell)** We have not produced any evidence on tonality.

19592. **Mr Taylor:** I have one last point. We heard before from Mr Taylor that you had a discussion with him informally when he was still in the building as to whether steps could be taken in the design of the studios to take into account the possibility that Crossrail might come along—in other words, that you could make some sort of tacit provision.

(Mr Bell) I am sorry?

19593. You will remember when I asked Mr Taylor about what steps—

(Mr Bell) I am sorry, wrong Taylor!

19594. Mr Ivor Taylor explained that you had a discussion about what steps might be taken. What technical work did you do in advising the studios to examine what might be done to make tacit provision for additional mitigation in the event that Crossrail were to happen?

(Mr Bell) There is a reasonably long answer. Yes, we had that conversation and my answer is that we took the best we could do at the noise that was available there and then on the basis that, as I said at an earlier point, the Central Line is reasonably close and reasonably loud. If we could meet the current noise generation by the Central Line my judgment was we would stand as good a chance of keeping the new, modern, well-constructed isolated railway noise out. The fact of further mitigation is that we did consider digging down a floor to try and get us enough headroom, but it was not possible to do so; the foundations of Grand Central, which I think is a good thing for everyone concerned, are massive and did not prove excavatable.

19595. So what actual technical work did you do to examine the possibility of making tacit provision for further mitigation in the event that Crossrail came along?

(Mr Bell) I am sorry; I am not certain what technical work you are asking about.

19596. Did you attempt to identify what the forecasts were for groundborne noise in this area that Crossrail published at the time? Did you take those forecasts into account in any design?

(Mr Bell) We were unaware of any forecasts being made for that building at that time. I believe subsequently we looked but we found that no forecasts had been made for that building and were not made until quite recently.

19597. Did you ask Crossrail for any information about forecasts of ground-borne noise?

(Mr Bell) No, I did not. We took the advice from the clients that Crossrail did not appear to be forthcoming with such information.

19598. Last point: you explained in your evidence-in-chief that one of the things you are asked to do when you are advising clients on design is to state

¹⁶ Committee Ref: A221, Grand Central Studios—basement studio 9—temporary construction railway, no rail joint (WESTCC-9304-011).

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whether the building is suitable. Did you advise your clients whether this building would be suitable if Crossrail was built?

(Mr Bell) No, because there was no criterion available for what noise Crossrail might make for such advice to be offered.

19599. So the position is this, Mr Bell, is it not: you built the studios not making any provision whatsoever for changes in the studio should Crossrail be built?

(Mr Bell) No provisions were possible in the footprint of the studios and given the height of the building as available.

19600. **Mr Taylor:** Thank you very much indeed. Those are all the questions I have.

19601. **Chairman:** We will now adjourn till 2.35.

After a short adjournment

19602. **Chairman:** We will resume. Before we deal with the last witness, Mr Elvin, you have some good news for us?

19603. **Mr Elvin:** Yes. You have had the Corporation of London Petition also listed for today; I am responsible for the Barbican Hall and noise aspect. Mr Cameron is appearing on both that and Billingsgate—Billingsgate still remains—but in the time available to us this morning, we have resolved the issue of the Barbican Hall, and Mr Cameron is going to explain to you for the record what agreement we have reached.

19604. **Chairman:** Mr Cameron?

19605. **Mr Cameron:** Thank you, sir. Sir, as you know, the City of London Corporation are responsible for and run Barbican Concert Hall and Barbican Arts Centre. They were concerned about the effect of the operational railway and the construction railway on their ability to maintain the world-class auditorium conditions in the Barbican, but they are satisfied now that, subject to a detailed undertaking which I will not set out in full to the Committee, that certain specifications can be met, but if I can explain why they have come to that conclusion.

19606. The Corporation are satisfied that, if a specification is adhered to, the operational railway will not interfere with the use of the concert hall. The effect of the undertaking which the Promoter is prepared to give by way of a deed of agreement will be to provide that the nominated undertaker will adhere to certain specifications in relation to rail construction, rolling stock and maintenance. That is all in relation to the operational railway. As far as the construction railway is concerned and the construction of the railway, the City accepts that during the passage of the tunnel boring machines there will be an adverse effect on the Barbican Concert Hall and that performances, recordings and

the like will not be able to take place while the tunnel boring machines pass. The Promoter has agreed to give notice of when those tunnel boring machines are likely to pass.

19607. As far as the construction railway is concerned, a specification has been agreed for the construction railway, train speeds have been agreed for the construction railway and other details have also been agreed, but I do not need to go into those in detail. Secondly, the Promoter has agreed not to use the construction railway during public performances at the Barbican. There will be some noise intrusion in the Barbican as a result of use of the construction railway when recordings are taking place, but the Promoter has agreed to consult with the Corporation and the Corporation trust that that consultation will lead to minimum interference.

19608. So having told you all that, sir, in short, detailed agreement has been reached. The agreement is based upon a specification for the operational railway and the construction railway. As a result the City Corporation are satisfied that the operation of the railway will not interfere with the use of the Barbican as a world-class concert venue. There will be interference when the tunnel boring machines pass, but thereafter during construction there will be no interference with public performances, there will be some interference with recording but it is hoped that that is kept to a minimum and, on that basis, sir, we have been able to settle that element of the Petition, although unfortunately we are going to have to come back and trouble you on Billingsgate Market but we hope it will not be a long appearance.

19609. **Mr Elvin:** Can I thank the Corporation of London. We have had a genuine dialogue and efforts to balance the public interest of constructing this railway against the public interest of a world-famous concert hall and I am pleased to say that both sides, after very productive and helpful dialogue over the last few months and this morning, have come up with what we think balances those two interests. I am grateful to those who have helped.

19610. **Chairman:** Thank you very much, indeed. We will now resume the hearing for the first case.

19611. **Mr Cameron:** Thank you, sir, for letting us interpose with that.

19612. **Chairman:** Thank you. Mr Newberry, have you concluded with the last witness, Mr Bell?

19613. **Mr Newberry:** It looks as though I have, sir.

19614. **Chairman:** It looks as though he has done a runner!

19615. **Mr Newberry:** He is clearly more frightened of me than Mr Taylor!

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(Mr Bell) There are so many Mr Taylors.

19616. I have only got one or two points for Mr Bell. The address you have just heard from Mr Cameron relating to the Barbican may impact upon us because, as I understand it, the correspondence has been passing between Crossrail and ourselves relating to what offered to the Barbican and will be offered to us insofar as it is relevant. Having only just heard what has been said on behalf of the Barbican, I am not sure how that impacts on the rest of my evidence, so, in short, may we have five minutes just to consider what we have heard and it may cut down other evidence? I am not guaranteeing it but it may.

19617. **Chairman:** Yes, I think that is okay. We will suspend for five minutes.

After a short break

19618. **Chairman:** Mr Newberry?

19619. **Mr Newberry:** Thank you, sir. It has not helped a great deal, but thank you for the time. Mr Bell, can I ask you this in relation to the point that was taken, have you ever been asked to design a studio to NC 20—3, third octave? Do you remember that question that was put to you?

(Mr Bell) I do.

19620. Do you recall the stance of the Promoter, what they were initially prepared to offer by way of standards when we started out this exercise?

(Mr Bell) 25dB—I am sorry.

19621. It was higher than that?

(Mr Bell) It was 30.

19622. Then do you recall what it went down to?

(Mr Bell) It went down to 25dB.

19623. Twenty five, and then we come down to 20?

(Mr Bell) 20NC.

19624. How would you have known, on the basis of the stance that the Promoter has adopted, what their position was if you had to design it?

(Mr Bell) I would not have known.

19625. **Mr Newberry:** Thank you very much.

Cross-examined by The Committee

19626. **Mr Binley:** I am slightly concerned about the perception that might be directed to us, that actions should have been taken in 2003, when I think the company undertook the lease of the building and you started your work, and I want to ask two questions in that respect. The first is, as I understand from all that we have heard, depth and dimension of a given tunnel and the plans laid for the tracking of that tunnelling can have a sizeable differential on the way noise and vibration affect a given building, is that correct?

(Mr Bell) It is correct.

19627. I want to know whether those sorts of details were available, in planning terms, in 2003 in order to be able to get that information, to your knowledge. I know you are not the expert.

(Mr Bell) To my knowledge, not. At certain times during recent months since last March I have been planning out where the tunnels are and even yesterday in discussion with Crossrail they did say that the position marked on the maps, as currently positioned, are still only indicative and could move about.

19628. **Mr Binley:** I am grateful to you.

19629. **Chairman:** Mr Newberry?

19630. **Mr Newberry:** I have no questions. Thank you very much.

The witness withdrew

19631. **Mr Newberry:** I am going to call Dr Hunt now, please.

Dr Hugh Hunt, Sworn

Examined by **Mr Newberry**

19632. **Mr Newberry:** Dr Hunt, can you give your full name to the Committee, please?

(Dr Hunt) Yes, my name is Hugh Edmund Murray Hunt.

19633. Can you tell us what your occupation is, please?

(Dr Hunt) I am a senior lecturer in engineering at Cambridge University.

19634. You have produced a presentation, is that right?

(Dr Hunt) Yes, I have.

19635. I think the thrust of your evidence is to help explain the uncertainties which can prevail in numerical models, is that correct?

(Dr Hunt) That is correct.

19636. It is not an attack per se on Crossrail, but you are telling us of the phenomenon that exist in relation to deficiencies of mathematical models generally, is that right?

(Dr Hunt) That is correct.

19637. **Mr Newberry:** In the context of that theme, can you put up, please, the page “Sources of Uncertainty”¹⁷

¹⁷ Committee Ref: A221, Sources of Uncertainty (WESTCC-9305A-004).

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(Dr Hunt) It is the next page, I believe.

19638. **Chairman:** We will list this as A 221.

(Dr Hunt) It is next page after that.

19639. **Mr Newberry:** Could you take us through those sources of uncertainty? Before you do that, are you familiar with the Findwave model?

(Dr Hunt) I am not familiar with it in detail, but I am familiar with the nature of the Findwave model in so far as it has been published in the public domain.

19640. What has been available to you, you have looked at?

(Dr Hunt) Yes.

19641. With that in mind, can you take us through the sources of uncertainty with the Findwave model in mind, please, starting with model assumptions?

(Dr Hunt) Yes, in general I have been interested in trying to understand why it is that predictive models have uncertainty built into them. It is then a question of how can we make them better, and if we understand the sources of uncertainty then we can move towards improving those models. I have divided the areas of uncertainty into seven areas which you see listed before you. I can go through them very quickly one by one. At some stage or another, before you begin to write software, to make predictions you have to decide which laws of physics you are going to use. There are various things we need to do.¹⁸ For instance, we need to understand that elasticity is a linear phenomenon, by which I mean that if you push on something with twice the force you will get twice the deflection. Interestingly, some of the simplest problems are not linear. The example I like to use most often is that of a tuning fork, which, once hit, you cannot hear until you place it onto a table, and when you do place it onto a table it is much, much louder than it is in free air. The only way you can explain that is using a non-linear model. I am not saying this is at all relevant to the exact process of modelling vibrations on railways, but it is an example whereby a non-linearity is present and if you inadvertently ignore it that can lead to a significant error. Damping models are very important. Damping is all about how quickly things die away. If I hit a piece of metal, it rings like a bell; if I do the same to a similar sized piece of rubber, it is dead. Rubber is a highly-damped material and a piece of metal is a very low-damped material. In a construction of a tunnel in soil, we have a mixture of all sorts of materials and all sorts of different damping characteristics. Understanding the damping in detail is essential to get an accurate model. As a body of scientists and engineers, we do not understand damping. The next slide refers to the excitation model. We need to know about the way in which the wheel which is not perfectly round moves along the rail which is not perfectly smooth. The models that we have which are presented in many conferences and many

journals go a long way to understanding the excitation model but they are certainly incomplete and there are errors which arise from that. Next Slide please.¹⁹ All computer programmes are inherently inaccurate because you have to make some kind of assumption about the real world to fit them into computerised language. For example, if I wanted to find a circle, you have to do what Archimedes did when he was trying to get a value for π : you divide your circle into perhaps six points to make a hexagon or eight points to make an octagon. How many points do you need around a circle before you can really call it a circle? How many points do you need around that circle before, for instance, the value of π would be correct? That is an example of what I have called here the discretized models needing to be checked for convergence. Also, we know by using any software that we do find bugs and those bugs need to be found out and sometimes they can be hard to find. Also we sometimes find that when we want to run a computer model quickly there is a limit to the amount of time and resources that we have to cut our model smaller or so on and that leads to errors. That is what I have called the truncation error. The slide headed "Shoe-horning" the picture on the left shows a train running through a tunnel and the tunnel is not perfectly circular and the ground around is not perfectly flat.²⁰ There are roots from trees and there are inclined layers and perhaps there is a river nearby, yet the computer model will not have all these things and I have to use my judgment to fit the things that I am trying to model into the model. What kind of assumptions, what kind of judgment might I use to deal with these things. Different people will make different assumptions and therefore they will get different answers. My guess is that two different people using Findwave, for example, or my own Pipe-in-Pipe model will get different answers, even given the same measured data for soil parameters and so on. Next slide please.²¹ The next area is data gathering. We know we have to try to figure out what the soil properties are, what the tunnel characteristics are, what the foundation characteristics are, where the water table is, the geometry of the buildings and so on and so forth. We have to know how accurate that data is because, as the adage goes, "garbage in garbage out". I am not saying we are putting garbage in but we are putting data in which has some sort of error associated with it and, inevitably, if there is uncertainty in the data provided to the model, there must be uncertainty coming out. We also assume, for instance, that if we measure properties at the ground in one place they will be the same as they might be were they measured somewhere else. Perhaps, also, if we measure them on the Monday they will be the same as if they were measured on a Tuesday, or if they were measured in the summer they will be the same as they would be in

¹⁸ Committee Ref: A221, Model Assumptions (WESTCC-9305A-005).

¹⁹ Committee Ref: A221, Computer Model Correctness and Convergence (WESTCC-9305A-006).

²⁰ Committee Ref: A221, Shoe-horning (WESTCC-9305A-007).

²¹ Committee Ref: A221, Data Gathering (WESTCC-9305A-008).

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the winter. There are some things we simply cannot measure. What are the soil properties directly underneath the tunnel. It turns out that this is a very important part of the model. It is very hard to obtain data for that kind of place.²² I have mentioned the excitation model before. There are so many things that we do not truly understand about the excitation model. We can presume that we understand what is going on but I have listed here a few things: unsprung masses, vehicle speed and so on, but we find that if we take the same train running over the same piece of track at the same speed that we will get different measured sound levels or measured vibration levels. Why is that? Perhaps it is because the train is not following exactly the same track line on the rails or perhaps it is because the interaction between the wheel on the rail is not exactly what we think it might be. But there is some uncertainty there.²³ The measurement point is a clear source of uncertainty. If we take a room such as the one we are in here, we know that this room is probably going to be different from the one next door. What kind of detail do I need in my model to be sure that I have got to within one or two or three or four or five decibels, a good answer for prediction of sound levels? Likewise, whereabouts in the room am I going to make my measurements? We all know that if you go to a venue to listen to music, there are some seats from which you hear better than others. The nature of rooms is that they are variable. One thing which is shown in the colour-coded diagram is the dB level variation you might get in the ground. The white circle in the middle represents the tunnel. The scale is given in metres. This represents a cross-section through the ground 40 metres wide and 40 metres high, so 20 metres up and down from the tunnel, and 20 metres left and right. You can imagine that somewhere where near the arrows are pointing represents the position where the foundations for the building might go. The difference in colours, depending on where the arrow heads are, go from yellow to orange-ish to light blue and dark blue. There is a variation there of plus or minus 10dB from place to place. This diagram shows the effect of what kind of variations you might get with small, but reasonable within the levels of uncertainty, changes of soil properties. You can see then, depending on exactly where you think the foundations are for the building, that you might find the building will act as a receiver for vibration much more effectively in one particular case but less effectively in another. Do we really have enough detail in the model and our knowledge of the building to be sure?²⁴ Then I turn to validation. We really need to be sure that whatever model we use has been used often enough to demonstrate to us all the range of predictions. We do not just want to see the best predictions, we want to see the worst ones as well. If we are trying to forecast the weather we need to know that sometimes the weather forecast is really bad and sometimes the weather forecast is really

good, so that we get some feel for how much we should trust the weather forecast. My feeling is that, generally speaking—and it is not just on Findwave but all models of which I speak—we are not in a position to have followed through the validation process sufficiently to have confidence in making accurate predictions. I know that the world of the weather forecasting is very, very far down the track on that. You may not know that the weather forecast that we get is an amalgam of several collaborating or communicating communities of weather forecasters and they all have to agree on the weather forecast for the next 24 hours and when they do agree our weather forecast is robust. When they disagree, we get what we call unsettled weather or uncertain forecasts anyway. You can see this little quotation at the bottom from the world of Microscale Meteorologists. These are the ones that look at pollution dispersion. If you have a chimney which is spewing out horrible stuff, we want to know that pollution levels are modelled. I think it is very nice that they consider that models are “only of use if their quality (fitness for purpose) has been quantified, documented and communicated to potential users. It may not be appropriate to talk of a valid model but only of a model that has agreed upon regions of applicability and quantified levels of performance” I just do not think we have those agreed upon limits of applicability and we do not have quantified levels of performance. I have given two examples that Findwave used in published literature on the next slide.²⁵ The one on the left was published at a conference I attended in September 2004 and the one on the right Findwave has used against the same set of measured data published as part of the validation process for Crossrail. The next slide shows an enlargement of both graphs.²⁶ The red line is a prediction made by Findwave for the Crossrail validation and the blue line is a prediction made by Findwave for the conference in Buxton a few weeks earlier. The black dotted line is the measured data. It is in the nature of things that when you have the measured data in front of you it is very easy to say, “I can see how I can make my prediction better because I can adjust my data” and indeed my prediction would be better. What has happened, perfectly sensibly, is that the loss factor, which is a very important parameter which can be used to change predictions by a large amount, has been adjusted to get better predictions. However, the question I would ask is: How confident are we that in our present case, when the measured data is obtained, that the model will actually agree very well. When we have the measured data available to us, it is very tempting to re-run the model and to get the better agreement. In this case, you can see the model differences where I have marked 8dB there.

19642. **Chairman:** Are you talking about the model used for the whole of the Crossrail project or just for a particular part of it?

²² Committee Ref: A221, Excitation (WESTCC-9305A-009).

²³ Committee Ref: A221, Measurement Point (WESTCC-9305A-010).

²⁴ Committee Ref: A221, Validation (WESTCC-9305A-011).

²⁵ Committee Ref: A221, Findwave Validation Graphs (WESTCC-9305A-012).

²⁶ Committee Ref: A221, Findwave Validation Graph (WESTCC-9305A-013).

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(Dr Hunt) I am talking about models in general, of which Findwave is one, of which my own Pipe-in-Pipe model is another. I am talking about areas of uncertainty inherent in the process of modelling. Therefore, yes, indeed, it does apply to the whole project. Just to sum up then with this slide here.²⁷ Let us suppose we are going to talk in quanta of 5dB because I do not think anyone is inclined to use a finer scale, but that plus and minus 5dB is reckoned to be really good and the best model that we might like to think of. I feel in my own opinion that there are six areas of uncertainties about, let us leave out the computer model itself, I do not know whether Findwave has been checked to make sure there is no bugs in it, and I am not familiar enough with Findwave, but let us look at things which are not to do with Findwave but to do with all models. I would say it is not at all unreasonable to suppose the various assumptions each have a 5dB uncertainty to them. How do all these add up? It does not make sense to add them all up. You could end up with plus or minus 25dB but we do know that models are better than that, so this is why we have to go through a validation process. A validation process needs to be robust, transparent and include the best with the worst. I have no doubt that in a few years' time as a community we will have gone through that validation process and have a much better idea of what is a true and representative area to apply. In the meantime, I think 5dB plus and minus is unreasonably tight. If you look at measurements and modelling, you will find that it is pretty much everywhere, the best you can get is plus and minus 10dB. That is why I had this plus and minus 10dB figure which I like to use as my figure.

19643. **Mr Binley:** As a complete layman whose only concern is trying to deal with this matter, you have opened up a whole new world to me. I want to relate the world that you have opened up to what we are talking about with regard to this particular issue before us. Are we talking about NC25 as a standard which is being applied and lowering it to NC20? How does your margin of error relate to that? Is it a direct transference and you are saying plus or minus ten points on that scale?

(Dr Hunt) Yes. I do not think there is much point in going back to one of the slides we saw earlier this morning, but if you imagine a slide that had those little vertical bars, which were 5dB in length, I would expect those bars, in my judgment, to be plus or minus 10dB which is in fact what we see. That has been published in and around this particular case. You will find that, indeed, the data goes up and down, it is data which in fact Rupert Taylor has just republished in the last few days. There is a prediction line and the data goes up and down and around that plus or minus 8 or 10dB.

19644. It becomes pretty useless in those terms?

(Dr Hunt) It does not become useless at all. There are standards which—I have to say the setting of those standards and the meeting of those standards

is not my subject, I am into the modelling process—need to be agreed upon and we need to strive for those standards and achieving those standards is the ultimate goal. We need to know what they are. NC25 and NC20 are standards and, likewise, octave bands or third octave bands are agreed procedures by which we might go towards meeting those standards. Ultimately, the question is what do we do if we exceed those standards? Essentially, if we exceed those standards, we are, by an objective nature, saying this is too noisy. We are going to use predictive models to help guide us to design a good railway so that we can in all probability meet the standards but because there are errors and predictions always have errors—

19645. How do we judge potential error rates of that kind with the sorts of very, very fine figures that we hear are necessary with regard to the process, the matter we are discussing today presents to us? How do we relate those two things and come to some sort of sensible judgment?

(Dr Hunt) We heard earlier that the best studios are not built above railways so what is happening is here we have got a railway which is being built under the studio, so the predicted models are saying that the vibration and sound levels will be below NC25 by a sufficient amount to satisfy those in the recording studio; they may not be. This is a very sensitive site and it is awkward. Ultimately, it may turn out that it is nice and quiet and the studio can operate perfectly normally but it may turn out that it cannot.

19646. **Mr Hopkins:** Your summary of uncertainties, the possibility or probability of all of them pointing in one direction is unlikely, it is a possibility, and, in fact, some of them may counter each other, some may be plus and some may be a negative, so one could take an extreme case but that might be very rare. You have also had the opportunity of looking at a large number of existing situations where there are tunnels with continuously welded track, soundproofed, under London Clay or sand or whatever, and one can look at empirical evidence from elsewhere across the country, not just in London, to get a normal distribution of noise effects. You are talking about the possibility of one end of that normal distribution, an extreme end of that noise distribution. Anything is possible. We might walk out and be run over tomorrow, but it is an unlikely possibility, most of us will survive. I think there are some probabilities to all of this and it seems to me that you are saying it could be an extreme case and therefore it might be difficult.

(Dr Hunt) I can say really that if you look through the various published papers and what people are presenting at conferences, what you will find on the internet, what Mr Thornely-Taylor has published and so on, the plus and minus 10dB looks pretty much the norm and my worry, of course, is that people only publish their best results. If you run a model and you get a prediction which is whatever it is and then you have got lots of measured data and say, "I have done something wrong here", then you say, "I am so stupid. I forget to put the decimal point

²⁷ Committee Ref: A221, Summary of Uncertainties (WESTCC-9305A-014).

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in here”, so you run it again and you get a better figure and it is good, but in the absence of measured data, would you run the model again? I think what you are suggesting should be done and it has not been done, and that is to do lots a predictions, a priori predictions, before doing measurements or at least without the measurements being known to the people doing the predictions. That is very rarely done, because usually what happens is the person who is writing the paper to be presented in the ninth c International Workshop on Railway Noise which is coming this September, those people will have the measured data and the model predictions side by side and will produce a nice presentation. There you will get the plus or minus 10dB. My worry is if plus or minus 10dB is present in the best of models, best of predictions, I think that really is where my reason for saying plus or minus 10dB comes from. I should also say my 10dB also comes from my own experience of running my own predictive model which has been cross-validated with other models, and you can very easily get plus or minus 10dB there. You made the point earlier that sometimes these things add up and sometimes they do not. There is a graph which I am not sure whether it is going to be presented later on, but it shows a prediction with a peak of 80 Hz and a couple of troughs on either side, whereas the measurement does not seem to show those peaks and that is entirely consistent with the fact that you get strong excitation from around 80 Hz. It is also possible, as I showed in the previous slide with those coloured plots, that you can get peaks and troughs at different frequencies on either side and the two things can cancel out or they can reinforce. It is a close-run thing. It could be up by 10dB or it could be down which is precisely what we see all the time.

19647. I have some knowledge of statistics as a student and in use of my daily life, but in politics we are used to using statistics dishonestly! Except for me because I am always truthful but we have seen what can be done with statistics. My point is still that even if it is this plus or minus 10dB for each of these factors—

(Dr Hunt) I am not saying that it is.

19648. Even if it was, the probability of them all pointing in one direction is two times, two times, two times, two times two, or something.

(Dr Hunt) I am not saying that the models are out by 25dB, I am saying that plus and minus 10dB is a good working figure.

19649. My final point is are you saying that there is no objective data anywhere about the vibrations from trains in tunnels affecting ground buildings?

(Dr Hunt) I am saying there is no objective statistical data of the types you are quite rightly suggesting there should be showing predictions made over a large number of sites by a large number of different people and collecting the data, adding it together, and saying, “All right, this is the mean area and these are the outliers”, no, not available, very sadly not available.

19650. **Mr Newberry:** Dr Hunt, what I would like to do is on your summary of uncertainties if you are able to indicate under the various headings which you have identified what it is specifically about the Findwave model in terms of assumptions and shoehorning et cetera, what it is that concerns you about the assertion that the model can be accurate to plus or minus 5dB?²⁸

(Dr Hunt) In model assumptions, for instance underneath the railway we have a rail pad, this is the pad which goes underneath the rail it is made of rubber. It has got core particles in it or whatever, it might even have dimples on it, and it is well known by the manufacturers of these pads that these are non-linear. In fact, they are designed to be non-linear in many cases. The manufacturers themselves cannot provide dynamic data for these rail pads which is particularly accurate. Then if we are talking about ballast mats or under-sleeper pads, this is an under-sleeper pad (indicating) again this is a material which has non-linear characteristics. I would wonder whether the non-linearity has been included properly. Ballast itself is a highly non-linear material. There are various models which have been used to predict the performance of ballast. The ones I have seen published are okay, but in my opinion I think they miss the point. The way in which the ballast functions is different from the way in which it supposed to function and that is a subject for discussion.

19651. Pausing there, Dr Hunt, this is under the subject of linearity, and you have looked at various materials which are not linear.

(Dr Hunt) They are not linear, and the soil itself underneath the tunnel is not linear.

19652. Is the Findwave model a linear model?

(Dr Hunt) It is not a linear model. I know that. It has, for instance, frequency-varying damping and frequency-varying loss factor—in fact, the very use of the loss factor itself is a non-linear model. So it is not a linear model, but without looking in detail at the model I cannot say what is inside it but I would be extremely surprised if it did include the kinds of non-linearities I am talking about because the data that is being put into the model, as far as has been published, does not make any reference to the non-linearities of which I speak.

19653. Given that you are dealing with a model that is non-linear and dealing with linear properties, what does that lead you to conclude in terms of the accuracy, in this context, of plus or minus 5dB?

(Dr Hunt) I suppose I should say that one of the biggest sources of error here is in modelling of damping, and that I notice that the Findwave model uses a frequency-varying loss factor and that it uses the same loss factor both for compression modulus as it does for shear modulus.

²⁸ Committee Ref: A221, Summary of Uncertainties (WESTCC-9305A-014).

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19654. What does that mean?

(Dr Hunt) That means that waves that travel through the ground travel as pressure waves. For instance, if I clap my hands, that wave travels through the air as a pressure pulse but solid materials can resist shear. So that if I were to push sideways on a block of rubber it will resist motion, whereas if I push sideways on water and air, water and air then these will not resist the pressure. Within soil and within materials generally you can have two types of waves that travel, a compression wave and a shear wave. In soils, it is pretty well recognised that the way in which pressure waves travel through the soil, the damping associated with it does not have a sliding motion, any sideways motion, of the grains of soil, whereas with shear motion there is a sliding motion. So it is perfectly reasonable to assume that the loss factor in shear will be greater than the loss factor in compression. I am pretty certain that that will be the case, but in order to make those measurements and distinguish between the two requires some pretty careful measurements, but I know that Findwave does not distinguish between the two. It may turn out that there is no need to distinguish between the two, but I have not seen any evidence published or otherwise to say that it is not important. In my view it is important to distinguish between the two, and not distinguishing between the two will lead to errors of, again, perhaps 5dB or more.

19655. So that is looking at soil.

(Dr Hunt) That is looking at soil.

19656. There is an uncertainty because of those two factors you have identified, and your perusal of the model has not explained either at all or satisfactorily why one option as opposed to another is being pursued.

(Dr Hunt) That is right. It is interesting, perhaps, to say that a change of loss factor by going from (if I get this from my memory right) 0.1 to 0.15 will give you a 6 or 9dB difference in vibration level at the surface of the ground for a 15-metre deep tunnel. That 9dB is already more than the 5dB that we are hoping to get from Findwave. That change in loss factor from 0.1 to 0.15 is completely within tolerance that is used by Findwave and which is expressed in the data that we have had in front of us.

19657. What is the next factor?

(Dr Hunt) I do not want to say anything about the computer model. The Shoe-horning: I suspect that for London it is probably not too bad; we have got fairly level horizontal layers, we have got a fairly stable water table; the tunnel is fairly level. I say "fairly", there are always going to be small effects—the tunnel is ever so slightly curved. What kind of influence will that have? If it is half a dB then we need to know that. The tunnel is not going to be perfectly, perfectly uniform in wall thickness and the ribs in the tunnel and detail of tunnel construction—we have to make assumptions there. I think we have to bear in mind that the area around Soho is full of other tunnels, other foundations and other buildings with

piles, and so forth. Do they need to be included in the model, or do we make assumptions about the error associated with ignoring them? The error associated with ignoring these things, which is the shoe-horning effect, for 5dB is a perfectly sensible and, perhaps, rather conservative estimate. Without going through the statistical process who knows?

19658. Could I ask you, finally, just on the question of validation, is Findwave, so far as you can see, a properly validated model such that one can predict accuracy to 5dB?

(Dr Hunt) I do not believe there is any model which is sufficiently validated to achieve that kind of accuracy, so the answer is, in my opinion, no. My own model is also not validated to that kind of accuracy.

19659. You have appeared at conferences, of course you have, and I think you have also appeared at conferences with the Promoters' noise witness. Is that right?

(Dr Hunt) Yes.

19660. Can you tell us, please, not in any sense of criticism but in terms of published papers, was the paper which I think is based on Findwave, subsequently published, as it were, as an authorised and validated publication post-conference?

(Dr Hunt) Are we talking about one presented at the conference in Buxton in 2004?

19661. Yes.

(Dr Hunt) At the conference at Buxton, all the papers—an invitation was extended to have those published in a special issue of the *Journal of Sound and Vibration*, and my own paper was published there. The paper based on Findwave was not published in the journal.

19662. That is after the conference?

(Dr Hunt) After the conference.

19663. What is the procedure for securing publication post-conference?

(Dr Hunt) The procedure is that you are invited to submit a paper, essentially the paper that you presented to conference and it is sent to reviewers. You then get comments back from the reviewers and the reviewers will say: "Yes, your paper can be published" or, perhaps, "No it cannot be", but usually: "Yes, it can be, subject to the following corrections and changes". You make those corrections and changes, the paper goes back to the reviewers and the reviewers then accept or reject these changes, and on the basis of that the editor of the journal makes a decision whether or not to publish.

19664. Do you recall the paper at Buxton was based on the Findwave model?

(Dr Hunt) Yes, the paper at Buxton was based on the Findwave model. I am sure it must be. Mr Thornely-Taylor will confirm my answer but I think the answer is yes. I see diagrams in it which would

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lead me to believe that it is Findwave that is used, but I cannot see the word “Findwave”. Yes, it is Findwave.

19665. To sum it up, Dr Hunt, have I understood that the thrust of your evidence is that mathematical models in general—Findwave is no different from that generality—to predict accuracy of 5dB is not something you can support in terms of relying on a model to that level of accuracy? You say that a proper figure on the current state of learning is 10dB. Is that the broad thrust of the point?

(Dr Hunt) That is.

Cross-examined by **Mr Taylor**

19666. **Mr Taylor:** Dr Hunt, have you ever used the Findwave model to predict groundborne noise?

(Dr Hunt) No, I have not.

19667. You have not?

(Dr Hunt) No.

19668. Do you know how Findwave deals with the sort of non-linearities that you were talking to the Committee about?

(Dr Hunt) No, I do not.

19669. Who knows more about the uncertainties associated with using Findwave, Mr Thornely-Taylor, who is an author of the model, or you?

(Dr Hunt) Mr Thornely-Taylor will know more about the uncertainties associated with the aspects of the model itself, but I have been working for many years—close on two decades—on the nature of modelling and of the data required of models and of the non-linearities inherent in the materials used in models. So I would say that I may well know more about certain areas of the nature of the elements that are inherent in the Findwave model, but I do not have intimate familiarity with Findwave itself.

19670. You have never carried out an exercise using Findwave in relation to groundborne noise and then comparing that with measured results?

(Dr Hunt) I have never used Findwave, but I have seen the published results and the published predictions that have been used by Findwave, and the error inherent in those is 10dB.

19671. Let us bring up your slide 13, if we may.²⁹ When you are talking about error in modelling by 10dB or 5dB, you are talking about the difference between measurement and the forecast at a particular octave band. Is that right?

(Dr Hunt) I would talk in third octave bands, because I think that is what we have agreed to talk in but, yes, I am talking about the errors inherent in the modelling. On this slide I show that two runs of the model, these two runs as published, are different, and they are also different from the measured data.

19672. Were the assumptions used the same in the two runs of that model?

(Dr Hunt) I do not know; they are two separate, published predictions. It seems a point to note that two published predictions were different.

19673. If a different loss factor, for example, was used between the two model runs, would that account for differences between what might be forecast?

(Dr Hunt) My understanding is that a different loss factor was used.

19674. So there were different assumptions.

(Dr Hunt) Yes. The question I have is that if you make the different assumptions in the light of having the measurements in front of you then you are likely to shift the curve closer to the measurements because it makes sense to do so. In the absence of the measured data in front of you, would it not have been simpler to accept that the blue curve as is: “I have run Findwave now and this is my prediction”, then, a few months later, when measurements were done we might have noticed a large difference, but given that the model and the measurements were available at the same time I wondered whether the adjustment to the model would have been made.

19675. I think you have explained to the Committee that your identification of the margin of error of plus or minus 10dB comes, in particular, from your experience of groundborne noise modelling from your Pipe-in-Pipe modelling?

(Dr Hunt) It comes, in particular, from my reading of a large number of papers on the subject, my attending a large number of conferences, the use of my own model and inter-model comparisons, my understanding of the nature of damping and all sorts of aspects of my own experience in this field of study.

19676. The one thing it does not come from is your experience of Findwave?

(Dr Hunt) Indeed.

19677. In relation to Pipe-in-Pipe, am I right in thinking that the Pipe-in-Pipe model assumes the tunnel is a perfect cylinder?

(Dr Hunt) It assumes that the pipe is a perfect cylinder.

19678. But the Crossrail tunnel is going to have a concrete invert inside the tunnel, is it not?

(Dr Hunt) I have not used Pipe-in-Pipe to make any predictions for Crossrail, so I can say very simply that the Pipe-in-Pipe model would not be a good model to use to make predictions for Crossrail and I have not used it for such.

19679. If it would not be a good model to use for predicting Crossrail, why is it a good model to draw conclusions about the reliability of the Findwave model?

(Dr Hunt) Because there are characteristics inherent in the nature of the radiation and vibration from an underground source which the Pipe-in-Pipe model

²⁹ Committee Ref: A221, Findwave Validation Graph (WESTCC-9305A-013).

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throws up and so, in my view, it puts into question the possibility that the vibration levels around the foundation of the building are uniform enough to suggest that changes in detail are not going to make much difference. I think that the important point to make is that the Pipe-in-Pipe model is used in conjunction with other models to test their validity by cross-model comparison and I would be delighted if we could find time to do a cross-model comparison between Pipe-in-Pipe and Findwave.

19680. Pipe-in-Pipe assumes there are no segmented tunnel markings in place, does it not?

(Dr Hunt) Indeed.

19681. Pipe-in-Pipe assumes the soil is uniform between the tunnel and the surface which in reality it is not.

(Dr Hunt) Pipe-in-Pipe is not intended to be making predictions for Crossrail or for any other purpose, but it illustrates the physics of vibration propagation from tunnels in an extremely clear and uncomplicated way and it is also in the public domain, open for anyone to use and to compare with their own models, and my purpose of putting Pipe-in-Pipe out in the public domain is to start the kind of dialogue and the type of inter-model comparison process which I think is desperately needed in this field of endeavour.

19682. Pipe-in-Pipe does not assume any buildings are present at ground level.

(Dr Hunt) Of course it does not.

19683. In Findwave, there is a concrete invert, it does assume segmented lines and it does not assume that the soil is uniform and it does assume that there are buildings at ground level, does it not?

(Dr Hunt) I am very pleased that it does. It would have to in order to be a good predictive model.

19684. I am going to try and explain quite a complicated point but if I fail Mr Thornely-Taylor will do it much better than me. Perhaps if we could put that up here on the screen.³⁰ It is the two graphs here I am interested in. What we are concerned with here is whether or not uncertainty in the model will actually be of any consequence to a criterion which is applied in terms of NC curves. That is right, is it not?

(Dr Hunt) Sorry, I was looking at this. Can you repeat that?

19685. Yes. What we are interested in here is whether the uncertainty that is inherent in the model is going to be of any consequence when applying a criterion and then trying to design to a criterion which is based on NC curves.

(Dr Hunt) Indeed.

19686. Here we have some validation curves produced by Mr Thornely-Taylor and unfortunately the lines were not covered and so I have had to write in my rather bad handwriting the predicted models on the graphs, but we have got the NC curves shown. The bottom line is the NC15, then there is NC20 and NC25 and I have to say these are not Crossrail data, as I understand it, it is from the Greenwich Validation Study so it is the same one we were looking at previously that you produced the coloured graph on. Once we look at it in terms of NC curves, the large error that you identify at the bottom end of the forecast has no real consequence in terms of meeting an NC curve at a higher level because the curve moves out error. That is right, is it not?

(Dr Hunt) No, it is not.

19687. You see the real difference at the various bands between predicted and measured is very small and it is not the large difference you identified.

(Dr Hunt) You have not asked me a question.

19688. That is right, is it not?

(Dr Hunt) No, it is not. Do you want me to say what I think is right?

19689. **Mr Taylor:** No, I have put the point, that is all I need to do, thank you.

19690. **Mr Newberry:** I will give you the chance, do not worry.

19691. **Mr Taylor:** Can you answer this: in your experience, have you ever had to advise as to the specification for track that should be used so as to meet a groundborne noise criterion based on octave bands?

(Dr Hunt) No.

Re-examined by **Mr Newberry**

19692. **Mr Taylor:** Thank you.

19693. **Mr Newberry:** The question that my friend was not too interested in the answer, can you leave those two graphs up and have a look at this, please?³¹

(Dr Hunt) Are we going to talk about that one?

19694. We are going to talk about both, I just want the Committee to see what you have got in front of you and this is dealing with third octave band mid-frequency, do you see that? That, I am told, is directly related to what has been shown to you except that does not reveal the third octave band which you have got on that drawing in front of you. If that is the case, assuming that to be right, what is the latter diagram indicating and does it support what you have been saying?

³⁰ Crossrail Ref: P144, Findwave Validation—Comparison of measured and modelled results—Up Tunnel and Down Tunnel (Octave Band Mid Frequency, Hz) (SCN-20070220-003).

³¹ Crossrail Ref: P144, Findwave Validation—Comparison of measured and modelled results—Up Tunnel and Down Tunnel (a Octave Band Mid Frequency, Hz) (SCN-20070220-004).

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(Dr Hunt) I wonder if it would be possible to put the bottom half, both pages on together but leave that one where it is actually. Move the left-hand one to the left-hand side, that is good. As far as I understand, I have not had the opportunity to study these in detail just now. The left-hand curves are in octave bands, the right-hand curves are in third octave bands, so the first thing to notice is that there are peaks, as indeed the Pipe-in-Pipe model would show you. It is important to consider third octave bands in order to see what has been called earlier “the tonality” of the sound. These up and down curves, if you look at the top right-hand graph, the curve goes up around, there is a down around 12Hz, up around 20 and down around 25, up around 35, down around 45 and up around 75 and so on. These ups and downs are exactly the sorts of things you see using the Pipe-in-Pipe model, I cannot say for sure that the ups and downs you see there are due to the variations that we see in the simple model like Pipe-in-Pipe but just to say that it is necessary to go to third octave bands to see this kind of tonality. That is the first point to make. It does mean that the octave band curves would go rather smoothly through the curve, so you would then miss out on the sharp spikes going up and it is those sharp spikes going up that I think are our greatest concern.

19695. Why are they not revealed on the graph on the left-hand side?

(Dr Hunt) Essentially if you think of octaves, and you go up in octaves there is a wide range, a big difference in notes, C1, C2, C3, C4 and then if you go C, E, G sharp, C, and so on.

19696. It is ascending down.

(Dr Hunt) Those are the third octaves and so you suddenly realise you have got a greater resolution. If I go into a room which is very reverberant I shout into it and you will get a note and that particular room will pick up that tonality; we do not know what tonalities we are going to be expecting in a given room, so we have to be prepared for whatever tonality it is being picked up by a given building or a given room and if we do have a tonality, then really the ear is very good at picking those up. The left-hand curve has smeared out those tonalities, does that help?

19697. Yes, that does help. The third band octave graph, is that plus or minus 5dB or more?

(Dr Hunt) Let us, for instance, just look at the peak around 20, if I can remember my octave bands, because there is going to be a 32Hz octave, a third octave band, somewhere around here there is a trough. I am looking at the bottom of the right-hand graph. There is a trough, then a 32Hz octave band and then it goes up immediately to the next third octave band and the difference between them looks to be of the order of eight or 10dB, so there is up and down there of the order of 10dB down to 10dB up, so there is a noise there of, say, plus or minus 5dB. This is all predicted and what we do not know is where the measured curve would go through that, so however I deviate there is an internal deviation up

and down of the order of plus and minus 5dB but we do not know how the deviation would be from the measured data.

19698. You need another line on the graph, is that what you are saying?

(Dr Hunt) If we look on the left-hand graphs there is another line on the graphs, it is the measured data and, yes, you indeed need another line, but what I would like to think is that we agree the predicted levels for a given site before we do the measurements and then put the line on and then collect all the data, both good and bad, so we can get a true feel for what is the likely variation between predictions and measurements.

19699. When my friend asked the question about the NC standards and whether the curve smoothes out the error, you gave a fairly emphatic answer of “no”.

(Dr Hunt) I cannot remember exactly what the question was but I can remember at the time thinking that the shortest and simplest answer was no.

19700. It is certainly the shortest answer. Can you recall why you were so emphatic in saying no?

(Dr Hunt) The first thing is that the left-hand curve is in octave bands, not third octave bands, and if we were to look at the kind of zigzaggedness of the third octave band curve you can imagine that they would begin to approach the levels we are concerned about. We also have to bear in mind that there are two sorts of errors. There are random errors about the mean and then there is error of the mean. The zigzaggedness that we see in the right-hand graphs is about the mean and basically the plus or minus 5dB on their own. For the errors in the mean, I would like to see the statistics of that error based on *a priori* measurements of a number of sites around London, including the worst predictions as well as the best ones. My concern is that that particular set of data does not really help us understand the likely errors.

19701. On a plus or minus 10dB your view is that plus or minus 10dB is a good working tool, if I can describe it in that way. The Promoter says it is plus or minus 5dB, so there is that difference between you. You said in answer to my friend’s question that you had come to that conclusion (that is, plus or minus 10dB as a good working tool) based on your reading on the subject; your attendance at conferences, either as a listener or a participator, I imagine; your own model; and inter-model comparisons. That is the background and your answer to that question. Then my friend picked on your model and said that your model does not have certain characteristics which are in the Findwave model. In order to come to the conclusion of your plus or minus 10dB, could you have come to that conclusion without reference to your Findwave model; that is, based on your reading, conferences and inter-model comparisons?

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(*Dr Hunt*) Indeed. I reached that conclusion many years ago. In fact, I gave up on the possibility of producing a good predictive model because I did not think it was worth doing. It was never going to be possible to make predictions of sufficient accuracy, so I have now concentrated on developing a model, the Pipe-in-Pipe model, which does its best to display usefully the physics of what goes on around tunnels and to help others develop their models by acting as, if you like, a ground base by which other models can be compared. That really is the purpose of the Pipe-in-Pipe model. There is another graph as well. I do not know whether Simon Kahn is going to talk about that later.

19702. **Chairman:** I think you have made the point.
(*Dr Hunt*) Okay.

19703. **Mr Newberry:** Just to stay with the point about the source of your learning and the conclusion you have reached from it, in terms of Findwave has there been any inter-model comparison in the academic and engineering world whereby Findwave has been validated by inter-model comparison?

(*Dr Hunt*) I have not seen that in published literature. In my reading, from what I have seen Findwave has been validated against measured data. Unfortunately that does not really help us to know whether the model itself is robust, because inter-model comparisons are extremely telling. If two people disagree,—it is a bit like that wonderful bit in *Apollo 13* where they are getting their slide rules out and five people all have to get the same answer before the coordinates are beamed up to Apollo so they can set the gyroscopes. They have to get five engineers to agree on the same answer and if they disagree they have to do the calculation again. That is the way we do things if we want precise answers: we get several different sets of engineers to agree and then we have confidence.

19704. I want to understand the significance of your observation relating to Findwave and measured data. What is the significance of that point you are making, please?

(*Dr Hunt*) I have always believed that making a measurement and having a model to compare with that measurement is a spot check which says that this model works for that set of conditions. The hugely important thing about doing a cross-model comparison is this. I was at a conference about ten or 12 or 14 years ago where we were invited to enter into a benchmarking test where there was an agreed set of data. From memory, I think there were 81 different runs that we had to do for our computer models and we had to produce various outputs for the models. The variation from those models was enormous. It really just sends the message that no matter how confident you are in your model there will be disagreement. This benchmarking process is very important. At the time I did not have a model which I could use to participate in that process, but had I had a model at the time I would have

participated. That benchmarking process is available, published and it makes very sombre reading.

19705. **Chairman:** We are going to have an adjournment for five minutes.

(After a short break)

19706. **Mr Newberry:** Ms Humphrey, could you give your name to the Committee, please.

(*Ms Humphrey*) I am Carole Humphrey. I am managing director of Grand Central Sound Studios. I will try to be brief. I have no graphs; the only exhibit I have is myself.

Ms Carol Humphrey, sworn

Examined by **Mr Newberry**

19707. **Chairman:** Excellent.

19708. **Mr Newberry:** How long ago did you found the company?

(*Ms Humphrey*) In 1990. We built the first set of studios in 1994, so we have been in business 13 years. We built our first set of studios in Marshall Street in Soho and we built the second set of studios whilst operating the first set of studios in Great Marlborough Street over the last few years. We have to be in Soho—we have no choice in the matter at all—because that is where our client base works. I think that is something my business partner was trying to explain this morning. Perhaps I could touch on why. Basically, we are in Great Marlborough Street, in the middle of two video post facilities, one of which got an Oscar for *Gladiator* and one of which did *Walking on Dinosaurs*. We are opposite Marks and Spencer, so we are handily based for our client base. Last Friday, a client came in. They were re-mixing a Max Factor television commercial. The client came in and sat down. She and I had a chat, like you do, and she said to me, “I’m going go down into the studio and I’m going to get this done in half an hour—maybe Ivor can do it in 20 minutes. I am then going to get you to send a Wi-file”—which is an electronic audio file—“to The Frame Store, the people who do *Walking with Dinosaurs* and Max-Factor, and, whilst they are laying out that sound to the new cut of the pictures of this Max-Factor commercial, I am going to nip over the road to Marks and Spencer and buy dinner for tonight and I will have a cab pick me up from here in 40 minutes.” And she did it. That is the thrust of why we have to be in Soho, because she could do all the things she needed to do in a productive, timely fashion. She did not have to go anywhere, she literally had to walk over the road to the video post facility, back down the road to Marks and Spencer, get in a cab and go home.

19709. **Chairman:** It may sound unbelievable to some but I know that to be correct. I once met an old lady who said that when she died she wanted to be

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cremated and her dust sprinkled in Marks and Spencer because that was the only way her daughters would ever visit her!

(Ms Humphrey) That is so sad. That is terrible. That is awful.

19710. It is terrible. I get the gist of your argument.

(Ms Humphrey) Yes. Basically there are lots of video post facilities in Soho and there are lots of filmmakers' facilities in Soho. The reason there are filmmakers' facilities in Soho is because when Alexander Calder decided to get into motion pictures just after the First World War he set up an office in Warbrook Street. It was because it was close to the theatres. In the square mile roughly that is Soho, there are loads of video post houses, loads of audio post production studios, loads of film editors, and there are places that specialise in computer graphics—and all within walking distance. I have a client who books her sound with us—she produces Nike TV and cinema commercials—and she would rather work with the Mill, which is one second down the road, than walk to Rushes, which is seven minutes away. You could say she was lazy. You could say she was saving time. Going back to your earlier point, we will lose business if we are not in Soho because there are other places that are in Soho that make it more convenient, if they can go and do their pictures over the road and come back and do the same somewhere else. Our clients get nose bleeds if they go north of Oxford Street!

19711. **Chairman:** Is there anything you would like to add to that, Mr Newberry?

19712. **Mr Newberry:** Not to that. I would like to ask you another question in relation to the situation if the company has to close. If what your experts are telling you in terms of noise impact during the ten months that Crossrail is being constructed happens and your business closes—and as the Promoter would have it, with no compensation—what is going to happen?

(Ms Humphrey) The highly paid experts—and this is costing us a lot of money and we are only a little company—to be here today and possibly tomorrow, if things do not get a move on—it is costing us a fortune.

19713. Do not talk about my fee.

(Ms Humphrey) Actually, Mr Elvin said I could not afford him! Fundamentally we are going to go out of business. We have a responsibility. One of the reasons I am here—because I do not want to spend a huge amount of time taking up more of your time really—is because I owe it to myself, my business partner and the 23 other people who work for Grand Central to give this our best shot. A client rang me up on Saturday morning and told me how fantastic my staff are and what a fantastic job they have done on a very problematical piece of work and how they have stayed there until the bitter end to make sure that stuff got on air in South America. We do not just work for the UK; the work we do goes all over the world. We have been working on a Nike job for a

spot for Ronaldinho that is running in South America and we stayed up until goodness knows when at night to make sure that that hit its air dates in Mexico, Brazil and somewhere else. When you have someone ringing you up to say, “Well done! What a fantastic job,” I think to myself that I need to stand up and be counted here. I would never forgive myself if this all went wrong and I had not said what I feel about my company. And I feel very strongly about my company.

19714. **Mr Taylor:** Sir, on the basis of that evidence, I am tempted to ask questions about my learned friend's fee but I will resist that temptation. Ms Humphrey, can you help me with this. Mr Ivor Taylor said that before moving into the premises you rang up Crossrail and were told that the project would not be built.

(Ms Humphrey) Yes, I was.

19715. Did you instruct your solicitors to—

(Ms Humphrey) No, basically I rang up and I spoke to a guy called Ian Rathbone. I do not know whether he still works at Crossrail or not. I asked him what was going on with Crossrail. I explained exactly what our circumstances were and he said it was not something that should concern us because it would never be built. I said that was quite interesting and obviously quite reassuring and I asked him to put it on the record and he would not do so, and I am not really surprised.

19716. Before you purchased the property—

(Ms Humphrey) We did not purchase the property, Mr Taylor. We have an assignment of a lease.

19717. Before you attained your interest in the property, your solicitors did not write to Crossrail to seek written confirmation that the project would not proceed.

(Ms Humphrey) I am not aware of that.

19718. When the studio was being designed, what information did you procure from Crossrail as to the likely groundfloor noise abatement?

(Ms Humphrey) I did not procure anything. Can I explain something here? I think Mr Taylor has got hold of the wrong end of the stick really. I run the company and I employ people like White Mark to do the procuring of noise information. That is not my field of expertise. We have every faith in White Mark: they have built us and we have been working with them since the 1980s. I have built 20-odd recording studios in my life and we hire professionals to sort that information out for us, because we have to stick to what we are good at. What I am good at is running the company. I make radio commercials from time to time, I clear music for radio and TV commercials from time to time, but I do not design recording studios—although I do choose the fabric colour that goes in them.

19719. Those are all the questions I have.

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19720. **Mr Newberry:** There was a question I should have put, forgive me. My learned friend can come back. Ms Humphrey, have you had meetings with Crossrail where, in the course of those meetings, it was suggested that you acquire the freehold?

(Ms Humphrey) Yes, this was a good one, 13 October, I cannot remember whether it was a Friday or not. We had a meeting with Crossrail and everyone and his wife turned up! We were talking about the possibility of compensation and the fact that we do not fall into whatever category, and we asked the Crossrail compensation person, whose name escapes me, what he suggested we did, had he any bright ideas, as it were, and he said, "Why do you not buy the freehold?" The last time we checked the freehold of our building was worth £32 million, so I thought that was a bit of a facile comment to myself and also goes to show yet again that they do not really understand what it is like to be a little company trying to keep in business and provide the 25 people, including myself and Ivor, who work for Grand Central in a job, fourteen staff of whom are under 30. Seven of my engineers are home-grown. We train people, we take them in at either 18 or 19, maybe after university, and we train them up and give them skills. We do not just give them technical skills, we give them management skills, we give them people skills. If you have the opportunity when you are out and about on Thursday in Bond Street to come visit our studio, then you will see what we do and how good we are at it, and I extend that offer to you. I would be delighted to see you all.

19721. **Mr Taylor:** I do not have any questions. I have got Mr Thornely-Taylor to give evidence on the Promoter's behalf.

Mr Rupert Thornely-Taylor, recalled

Examined by **Mr Taylor**

19722. Mr Thornely-Taylor, if Grand Central Sound Studios had asked in 2003 for information related to ground level noises what would they have been provided with?

(Mr Thornely-Taylor) There is a standard developer's pack which the Crossrail safeguarding team put together in about 1992 and it is sent out to all the people developing property in the safeguarded zone. It gives them all the information they need to predict noise levels from Crossrail which was designed to the point that it was almost ready to go out to tender when the last Bill fell, so its characteristics were known in great detail.

19723. So far as the undertakings that are offered by the Promoter are concerned, can you explain to the Committee what is being offered in relation to the operational railway?

(Mr Thornely-Taylor) The undertaking that is being offered in relation to the operational railway has been agreed, as I understand it, with Grand Central's own noise advisers, and I think we have heard in evidence, if I heard it correctly, that they are

agreed that it would not affect their business and meets all their requirements as far as noise is concerned.

19724. **Chairman:** Can I ask on your previous answer, are you saying that a pack was likely to be sent or was it sent? Is there any record of that?

(Mr Thornely-Taylor) It would have been sent to anyone who needed planning permission for a development in the safeguarded zone. I assume this development did not need that information so it would have been for Grand Central to have said to Crossrail, "Have you any information about the noise from this railway?" And they would have sent the developer's pack.

19725. You are saying you would not have sent that pack because there is no record of that. Can we have a copy of that pack?

(Mr Thornely-Taylor) Yes.

19726. **Mr Taylor:** Thank you. We were talking about the criterion for the operational railway, can you explain briefly how that criterion is going to be met?

(Mr Thornely-Taylor) It is going to be met by the Secretary of State requiring for a nominated undertaker to put in the contracts for the construction of the railway that it includes what will effectively be floating track slabs, which we have heard about on more than one occasion, and continuously welded rail so as to ensure that the predicted level in the studio does not exceed this criterion by calling it the GCSS criterion, being referred to NC20—3 expressed in third octave bands, but it is easier to use GCSS, that is the agreed criterion between both sides.

19727. Thank you. What confidence have you got that that approach will ensure that the criterion is not exceeded?

(Mr Thornely-Taylor) I am a consulting engineer and I have to continue in business for many years to come, I hope, and, as has happened in the past, I am satisfied that the advice that I am giving will produce a result which is satisfactory, otherwise I would not be able to continue as I have for some 39 years with dozens and dozens of railway predictions which have brought satisfactory conclusions.

19728. Let us move on then to the criterion for the constructional railway and there the Committee has heard about NC25 being offered in all reasonably foreseeable circumstances. What do you say about the appropriateness of protection afforded to the studios by that criterion?

(Mr Thornely-Taylor) The criterion itself, NC25, we have heard about and it would meet the Dolby specification requirements. We have seen the predictions that my practice has produced and even if you agreed with Dr Hunt and added ten, the prediction still does not exceed NC25.

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19729. Yes, I think if we put on the graph which we have on the overhead, perhaps you can explain what is shown here and that point about plus or minus 10dB.³²

(Mr Thornely-Taylor) As we have already seen, what is shown here is the actual prediction, the little Ts on top show what happens if you add five, which is the general uncertainty which has been applied to all the Crossrail predictions. That takes this particular T up to the line here which is labelled NC20. Dr Hunt suggests that five should be ten which takes you up to the next one, which is NC25 and we are still all right. In other words, if I should be wrong and he should be right, all is not lost.

19730. Can you explain briefly why the Promoter cannot offer a lower criterion than NC25 given that it has in relation to operational noise?

(Mr Thornely-Taylor) The reason is that as far as operational noise is concerned, the nominated undertaker will have a very high degree of control over the design of the operating railway. The temporary construction railway will be owned, installed and operated by the contractor. Although he will be subject to contract terms, there is a slightly longer and more tenuous link down to what he does. We do not currently know exactly what wagons and locomotives he will use. There are different kinds of constructions, locomotives and wagons. We have put a very large amount of effort into looking at what he is likely to use and these predictions will be based on a requirement passed on to the contractor that he does not use temporary vehicles with, for example, un-sprung axle weight greater than a particular figure, but there are still many things that are much more difficult to control for the temporary railway than there are for the operating railway. Therefore, I would not sleep well if I said to Crossrail that they could give the same undertaking for the temporary railway as they are for the operating railway.

19731. Let us turn to deal with this point about tonality. Here we have a graph showing the output of your model for a forecast for Studio 9, I think it is, no rail joint beneath the premises for the temporary construction rail.³³ Can you speak on this graph and deal with the concerns which have been raised about tonality?

(Mr Thornely-Taylor) Yes, the tonality means the sound is like somebody, for example, blowing a trombone continuously on one note, a musical note, which continues without varying in pitch. Underground railways, as the Committee has heard from the visit we did at 55 Broadway, do not sound like trombones or any other musical instrument, nevertheless, one of the tests of this feature is when you look at a spectrum of third octave bands,

whether one of them sticks out above the others, indeed, there is one that does stick out at 40 Hz. That is the frequency of a very low rumble but the frequencies which are controlling how loud it is are the ones that have come nearest to or, in this case, exceed the so-called GCSS criterion. This is the one we can meet for the operating railway but we are going a bit above for the temporary construction railway. In this region, which is the region which determines what you hear, no single third octave band sticks up above the others and it is not tonal. I can assure the Committee on that.

19732. In terms of the point about tonality within the studio itself, so when somebody is listening to the monitor and are doing a mix or are mastering a recording, to what degree will the human ear be able to perceive tonalities at the lower end of the third octave band?

19733. *(Mr Thornely-Taylor)* This region here, which is way below GCSS criterion, is inaudible. The human ear itself cannot hear anything at any level below this point. If there is a great deal of sound pressure at very low frequencies, and I am talking about tens of decibels above these levels, you would call it vibrations, you would say the air is vibrating, you cannot hear anything. As I just explained above that point, this is the area which determines how loud it is.

19734. We have heard a number of concerns about the recording of the human voice. What is the lowest significant frequency of the human voice?

19735. *(Mr Thornely-Taylor)* Very little energy occurs below this region in the human voice, a basso profundo would do something around here, and sometimes I am a basso profundo! Most of the energy is in this region and in calculating speech interference it is all about this region.

19736. Do you know what the average specification is for a television set in terms of the production of low frequency noise when one is listening to a television or watching it?

(Mr Thornely-Taylor) It is quite common for domestic scientific films to have very little below 100Hz.

19737. Moving on to the points which were made by Dr Hunt in relation to uncertainty, can you explain what investigations you have done to validate the Findwave?³⁴

19738. *(Mr Thornely-Taylor)* Findwave has been used over a long period and it dates from the designing of the Lantau Fixed Crossing in Hong Kong which is the very early 1990s. The way things work, because I am a commercial consultant, is the client says, "We are developing this design and its

³² Committee Ref: A221, Grand Central Studios Criterion—basement studio 9—temporary construction railway, no rail joint (Octave Band Mid Frequency, Hz) (SCN-20070220-006).

³³ Committee Ref: A221, Grand Central Studios Criterion—basement studio 9—temporary construction railway, no rail joint below the studio (a Octave Band Mid Frequency, Hz) (SCN-20070220-007).

³⁴ Crossrail Ref: P144, Findwave Validation—Comparison of measured and modelled results—Up Tunnel and Down Tunnel (Octave Band Mid Frequency, Hz) (SCN-20070220-003).

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predictions as to what it is”, and those predictions go into a report whether we like it or not and they go into the file. Then many years later the railway is completed and sometimes, not always by any means, it is possible to go back and measure particularly if there was a very clear legal commitment. An example is Portcullis House which the Committee will know well. Arup, who were the consulting engineers to the building, placed a very strict limit on vibration—it was in octave bands—from the reconstructed District Line, which the Jubilee Line project built through Westminster Station, and that is on floating track slab, although the rail is in need of maintenance as you can hear a rumble as the train is coming into Westminster Station because of the rail roughness which needs grinding. The Committee rooms in Portcullis House are on the floor above and the District Line runs through the basement of Portcullis House, and very strict requirements were placed on the design of this. The comparison between the predictions made with a very primitive version of Findwave in the early 90s and the eventual upturn was extremely good and we certainly achieved everything that was required. It is that sort of thing which has happened in other places as well, in Denmark and Sweden, where a lot of my work took place. Early predictions match the subsequent measurements when the railway has opened. For example, the Danish equivalent of the BBC building is above one of the tunnels of Copenhagen Metro. I was an external checker for the design work done by the Danish consultants called COWI for the Copenhagen Metro. I subcontracted some work to them a week ago and I asked them all about the broadcasting centre and they confirmed that everything was extremely satisfactory when the railway opened. There is a long history of predictions, railways opening, everything turning out all right, hence the reason why I am still in business.

19739. Unlike Dr Hunt you have not giving up developing ground noise?

(Mr Thornely-Taylor) Findwave is progressing all the time, acquiring new features, it is the future as far as I am concerned and is a very important part of my business. It has grossed seven figures and it is a very successful tool and one of the most important things that I do.

19740. So far as the identification of the plus 5dB uncertainty, how have you arrived at that?

(Mr Thornely-Taylor) This was done specifically for Crossrail. At the end of the previous Crossrail project they sponsored an exercise where we went out and predicted first, measured second, so there was not any shoe-horning, as Dr Hunt calls it. The ground level noise in the basement of Christies’ auction rooms in Kings Street between Green Park and Westminster, that showed that in dBA terms—it is what we usually use, NC is quite unusual—there was an error of 1.8dB, a standard error in the distribution of different levels from different trains. That was a case where we could not measure the actual rail roughness, we had to use the standard

assumption that we use when we do not have rail measurements. The Greenwich validation exercise, which Dr Hunt has talked a lot about, showed that on one tunnel there was 0.3 under-predictions and on the other tunnel there was 3dB over-prediction, so we have taken those two results and generally decided to apply 5dB uncertainty for all Crossrail predictions, and we are applying them to each octave band in this case. What you have seen from Dr Hunt’s evidence is that you do get uncertainties which do cause departures from the measured but what mainly is happening is there is a frequency error. Peaks are occurring in slightly different places in the spectrum and it does mean, if you look at that particular spot (indicating) there can be a big difference between the measured and the predicted because the peak has gone to the left or the right. Because we are either dealing with dBA or these curves it does not matter a lot. If that peak went to there (indicating) or that peak went to there, there is a small change in the overall level, but it is nothing like as great as the difference you would find if you looked only at that one frequency which is basically what Dr Hunt was talking about. When one of my pairs of charts was put up showing how the Greenwich validation exercise, the comparison measure of a model there, is evaluated in terms of normal NC terms, I say normal but normally they are octave bands, shifts in peaks just disappear and the maximum error is something like 1.3dB which is extremely good as modelling goes.

19741. I think the suggestion was that the uncertainty associated with Findwave was to be criticised because there has been no inter-model comparison, what do you say about the lack of inter-model comparison?

(Mr Thornely-Taylor) There has been in Denmark. I have been talking about the Copenhagen Metro. We did a series of predictions there, and as a check, a well known competitor of my firm in Denmark was asked to do their version of it, quite a different process using something called finite element so there is a different mathematical approach, but it is a plain numerical model and they have got very similar predictions. I will, when I have the time, see how it compares with Pipe-in-Pipe. Unfortunately, proceedings here have been keeping me busy and I have not had time to do it.

19742. Let us deal with one aspect more of Findwave. Dr Hunt explained that he was not sure how certain non-linearities were taken into account in Findwave, or indeed whether they were taken into account, and he referred to pad specification and the specification of sleeper pads. What do you say about that?

(Mr Thornely-Taylor) The first thing to make clear is that Dr Hunt was saying that non-linearity does occur or should be taken into account. One of the questions put to him by Mr Newberry suggested that it was a shortcoming of Findwave, as that could not cope with non-linearity. What was suggested was models must be able to cope with linearity and non-linearity, and it does, but it is actually one of the

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areas where there is the least uncertainty because non-linearity occurs in two places, principally, as he said: one is in the resilient pads that go under the rails or the bearings that go under the floating track slab. Of all the things in a track work specification, one of the things that is most closely specified is the performance of resilient elements, and contractors are required to put elements through the most phenomenal series of tests to discover exactly how they behave under the loads that they will be subjected to. That is where the non-linearity occurs—if you squash a rubber bearing it gets stiffer. That is done to a very high degree of accuracy, and the model can reflect that very high degree of accuracy. So that is not an area of uncertainty of any significance. Dr Hunt also mentioned, quite rightly, that the soil can be non-linear, and that is a very interesting topic. In one of the appendices of the specialist technical reports that are in the corner of the room there, the blue reports, there is a long dissertation by me reviewing the literature on the mechanisms in the soil that cause damping. In particular, I took a lot of interest in a PhD thesis by a Norwegian friend of mine, Christian Madshus who has studied non-linearity in the seabed from the point of view of the legs of North Sea oil platforms, which sway about quite severely, and it is important to understand exactly what the soil does that they are supported from. That all leads to the conclusion that at the tiny displacements that are involved in ground-borne noise, tiny fractions of huge movements that North Sea oil platforms make, the non-linearity disappears to virtually nothing, and there is effectively no contribution of this hysteretic effect, as it is known, on the damping of soil where we are concerned. So Dr Hunt is right in principle but it has no consequence in the case of an underground railway making groundborne noise.

19743. Dr Hunt also said that the Committee ought to adopt a plus or minus 10dB approach to any modelling, and he explained that was based on his experience, and indeed upon using Pipe-in-Pipe. What do you say about that contention in relation to Findwave?

(Mr Thornely-Taylor) It is not necessary. The work that I have been describing at some length has shown that a 5dB uncertainty is adequate. All projects compile a risk register and they ascertain what the risks are of all sorts of things turning out different ways. The risk associated with something going wrong with a 5dB uncertainty is well within the normally accepted uncertainties in the design of any major project. You could put 10dB on all predictions and you would have a much more expensive railway, and it would probably be much quieter than you need.

19744. What relevance are conclusions drawn from operating Pipe-in-Pipe to its validation, when trying to draw conclusions about uncertainties using Findwave?

(Mr Thornely-Taylor) The uncertainties in Pipe-in-Pipe are not quite what they seem. They are largely to do with this point I made about the peak cropping

up in a slightly different place. There is at any one frequency a very large difference when a peak moves up or down in frequency. One of the things Dr Hunt said and did—one of his celebrated physical demonstrations—at the meeting (which I think probably is the reason why he is here) when he told a group of people for the Institute of Acoustics at the Royal Society about Pipe-in-Pipe, was he showed that it is very sensitive to position on the ground, and that a 5 metre movement in position gave a very large difference in prediction. He marched across the stage saying if the tunnel was here it would be 10dB different at one frequency to if the tunnel was here. It was quite impressive but, of course, we are always predicting groundborne noise in buildings and buildings are always more than five metres in size. The excitation of the foundations of the building means that what comes into the building from different parts combines in the complete excitation of the building as a whole. You do not see those effects in practice. You do not. We can go at random to any location above any underground railway and do vibration measurements. We find an effect with distance as we move away from the railway but it does not go up and down by 10dB, I can assure you. If necessary we can go out and do it again just to prove it.

19745. Thank you. Is there anything else you wanted to draw to the Committee's attention at this stage?
(Mr Thornely-Taylor) I think we have covered everything.

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19746. **Mr Hopkins:** You have got lots of experience in actually measuring after models have been decided and predictions made. Your experience, you were saying, is of experiments comparable to tests at plus or minus 3 decibels.

(Mr Thornely-Taylor) Yes.

19747. Have you found many cases where there has been plus or minus 10 decibels?

(Mr Thornely-Taylor) There have been some cases where I have predicted too high and, actually, Portcullis House is a case in point. The actual vibration in columns of the building immediately the railway opened, although the spectrum was the right shape, was lower than predicted. If I was going to be pedantic I would say it is plus five, maybe minus something rather more than that, but plus costs money and minus does not, so we tend to concentrate on the risk of predictions being too low rather than the predictions being consistently too high and being built to expensive railways, but exceedances are the things to worry about and 5dB is, from an engineering point of view, an acceptable margin to use.

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19748. It is a question of scale, is it not?
(Mr Thornely-Taylor) Yes.

19749. Ten decibels over is a very big jump.
(Mr Thornely-Taylor) It is a huge jump. If you were out by 10dB you would have got the amount of energy wrong by ten-fold, and instead of there being one watt per square metre coming through as vibration there would be 10 watts coming through. You would have to make a heck of a mistake to be 10dB out.

19750. **Mr Newberry:** Can I just get a steer from you as to timing? I do not think I can finish by five o'clock.

19751. **Chairman:** Then I think we will rise because I cannot keep the stenographers beyond five. Are you talking about with this witness or—

19752. **Mr Newberry:** Yes, I shall be more than ten minutes with this witness.

19753. **Chairman:** Then we will rise and return tomorrow at 10.00 am.

Wednesday 21 February 2007

Before:

Mr Alan Meale, in the Chair

Mr Brian Binley
Mr Philip Hollobone
John Pugh

Kelvin Hopkins
Mrs Linda Riordan
Mrs Siân C James

Ordered: Counsel and Parties be called in:

19754. **Chairman:** Good morning. Mr Newberry, I think you were going to cross-examine Mr Thornely-Taylor?

19755. **Mr Newberry:** I was and I am, but I think Mr Taylor wants to introduce a document.

19756. **Chairman:** Before you do that, Mr Taylor, let me remind you that today we will rise about 11.45 so that Members who may wish to attend Prime Minister's Question Time may do so and also for everybody here to get themselves a cup of coffee at the bottom area there.

19757. **Mr Taylor:** Mr Thornely-Taylor was giving evidence and you will remember yesterday an issue came up as to what was in the developer's pack which is available to Petitioners or those affected at the time the interest in the studios was acquired. Mr Thornely-Taylor has overnight identified the relevant part of the pack and we have produced copies which I think have been handed around to you. It is headed Noise and Vibration Assessment and Mitigation to Report on the Resilience of Slab Track Tunnel Vibration Predictions, produced by Rupert Taylor Limited in March 1998.

19758. **Chairman:** Can we list this as A223.

19759. **Mr Taylor:** If my learned friends could happily agree that I ask Mr Thornely-Taylor to explain a bit about this document, if that suits the Committee? Can you explain to the Committee what this document is and how it might have been of use to somebody who was about to acquire an interest in a property say, for example, to build a new sound studio in determining what steps they might have to take and what the consequences of Crossrail might be for those premises?

(Mr Thornely-Taylor) Both Crossrail lines 1 and 2 have been safeguarded for some years and the consequence of that is anyone making a planning application within that safeguarded area has their application sent to Crossrail who require that they satisfy Crossrail that Crossrail noise criterion will be met. They are sent a safeguarding developers' information pack, most of which is about matters including settlement, but also including this report which we have in front of us. You asked me to provide this yesterday and it contains the results of predictions of what the tunnel wall vibration will be all around the tunnel wall; there is a laid-out plot

showing how the vibration differs in different parts of the wall. It gives a very simple model for doing a worst case prediction to what the ground level noise level will be. As I mentioned yesterday, it seems apparent that there was no change of use here, or for some other reason no planning application was made, but this pack was available for anyone interested to know what the noise from the new proposed Crossrail was going to be.

19760. **Chairman:** I want to ask again, was it sent out? Do you know that?

(Mr Thornely-Taylor) I do not know that it was sent out. I believe it is the case that no planning application was made, so it would only have been sent out if requested.

19761. **Mr Taylor:** Thank you very much indeed.

19762. **Chairman:** Mr Newberry?

19763. **Mr Newberry:** Good morning, Mr Thornely-Taylor, on the pack, thank you for producing that. The works that were done to Grand Central Studios did not require planning permission, I am sure you accept that?

(Mr Thornely-Taylor) I understand that to be the case.

19764. If, it therefore follows, the only opportunity to get this document was if you had made a planning application then it, of course, would exclude those who do works to a building that do not require planning permission?

(Mr Thornely-Taylor) No, it is available to anyone who asks for it.

19765. The steps taken by Crossrail to make it available were limited to those who were applying for planning permission and had an arrangement with their local authority?

(Mr Thornely-Taylor) No, it is available to anyone who asks for it.

19766. How would one know to ask for it?

(Mr Thornely-Taylor) I think it was made clear in the evidence from the Petitioners yesterday that Crossrail had been a very big issue for the whole of the recording industry since the early 1990s.

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19767. The steps which Crossrail took are perfectly reasonable but limited, i.e. any person making a planning application for the alteration of their building would be alerted to the existence of this pack. If you were doing work that did not require planning permission you would not, end of story.

(Mr Thornely-Taylor) No, in the evidence of David Bell yesterday he explicitly said you could not design a studio above a railway about which there was no information. There is information and if requested would have been sent out.

19768. That is not an answer to my question. My question is directed to the steps which were taken by Crossrail to make the document available to those who were acquiring premises or doing work to premises under the Crossrail line. What Crossrail did, not unreasonably, was to alert the planning authority that if works were being carried out which require planning permission then please send them a copy of the pack. That was what the pack was, was it not?

(Mr Thornely-Taylor) Whether or not you ask for it you will get it if you make a planning application right to the present day because you do not get your planning permission unless you have satisfied the safeguarding procedure.

19769. So far as this document is concerned, does it indicate that the operational level that Crossrail was accepting in a building such as a studio was NC20 minus 3dB(A) third band octave?

(Mr Thornely-Taylor) No, it gave information about the vibration you would get in the wall of a standard Crossrail tunnel without special mitigation for the studio, and Mr Bell would have concluded that there would have been serious intrusion into the noise environment of the studios in these circumstances and it would have given him information to enable him to design the studios against it.

19770. Have Crossrail ever adopted the standard of NC20 minus 3dB third band octave?

(Mr Thornely-Taylor) No, we have treated Grand Central Studios very specially in the light of the Committee's interim report last year and we have gone to very great lengths to try and meet their concerns, and I understand we have met them as far as the operating railway is concerned. They are still debating what I think are quite minor issues about the temporary construction railway.

19771. Yes, we will look at that and that is absolutely fair. Crossrail do regard Grand Central Studios as a special case?

(Mr Thornely-Taylor) Yes, we have gone to additional lengths beyond the measures. The only comparable case is the Barbican which is equally sensitive. The process with the Barbican has been very much easier, it has been very much a partnership, and it has been—nothing is straightforward in this process—much easier to

reach agreement on how to protect that equally important resource. As we heard yesterday, we have achieved agreement.

19772. I am going to come on to the Barbican, perhaps it is convenient to deal with it now. As you fairly say, Grand Central Studios is an equally important resource, but in relation to the Barbican, Mr Cameron yesterday outlined the basis of the agreement. I have not seen the agreement in written form, but my understanding is that if the Barbican notify Crossrail about evening performances during the construction period Crossrail will take certain mitigating steps in relation to the movement of trains under them, is that right or not?

(Mr Thornely-Taylor) Yes.

19773. **Mr Elvin:** Sir, it is actually more complicated than that. The position with Barbican is that we have undertaken, so far as the construction railway is concerned, that there will be no construction railway traffic during performances but during rehearsals and recording sessions during the day the undertaking is simply to consult with the Corporation of London because two to three days of the week the orchestras appearing at the Barbican have rehearsals which they use also as recordings. There is no requirement to cease use of the construction railway during the recording sessions but simply to consult with the Corporation of London and try and reach a sensible arrangement in the circumstance.

19774. **Mr Newberry:** I think my question was directed to performances. We have to do the best we can, Mr Thornely-Taylor, the document has not been drawn up. Confining ourselves to performances in the evening, if we may, what time is Crossrail stopping construction traffic, if I can put it that way, when there is an evening performance?

(Mr Thornely-Taylor) I am not the witness to answer that question.

19775. Who is?

(Mr Thornely-Taylor) I would have to discuss it with our team, but it would be wrong for me to attempt to give information about the timing of the Barbican performance because it would be subject to error.

19776. You were not a party to this agreement?

(Mr Thornely-Taylor) Yes, indeed I was a party to the discussion which took place out in the corridor. I am advised on matters which relate to the physical behaviour of the system. I have a rough idea about the timing of performances but it would be improper for me to give evidence about it.

19777. I do not mind a rough idea because I will not hold you to it. Can you give us a rough idea?

(Mr Thornely-Taylor) No, I do not think it would be appropriate for me to attempt to give evidence about something which is not my field.

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19778. My understanding from correspondence between the solicitors representing Crossrail and my instructing solicitors is that Crossrail is prepared to extend the same level of flexibility to them as has been extended to Crossrail, is that right?

(Mr Thornely-Taylor) So far as it is possible, given that we heard yesterday how the usage of the studios is quite different from the use of the Barbican Hall because the Barbican Hall was booked well in advance and it is known quite clearly when there will be performances which require special measures Ivor Taylor explained how sometimes people do not decide whether to come into a studio until a few minutes before, if I heard him correctly.

19779. That is a correct understanding but that does not necessarily apply to everybody. I want to get the principles clear if I can. If Crossrail is prepared to cease operational traffic to enable a public performance to take place in the evening, that is the broad point, not rehearsals but public performances, which apparently take place and recordings—

19780. **Mr Elvin:** Sir, there is no point in Mr Newberry quizzing this witness. I negotiated the agreement while Mr Newberry was in here yesterday and while Mr Thornely-Taylor was in here yesterday. The position is this. Performances in the evening, that is to say for a limited part of the day, will not be affected by the construction railway. The noise sensitive issues relating to recordings, because recordings also take place during rehearsals from 9.30 in the morning to about five in the afternoon, are not banned by the agreement. The City of London accepts that the passage of a construction train can be accommodated providing we have a discussion with them in advance. It will amount to about two minutes worth of time out of the day because the construction trains are not coming along every minute but on a much more infrequent basis. Therefore, there is no ban on the use the construction traffic at other times of the day which require quiet, such as during recordings. Mr Newberry should understand there is no suggestion that there should be a ban on all construction railways during the times in the Barbican when the hall requires quiet but only part of it.

19781. **Chairman:** Mr Newberry, I can see where you are trying to get to and where your points are coming from, but I think you have made your point, and perhaps in your summing up you can deal with that. I think it is probably inappropriate to ask Mr Thornely-Taylor to deal with it because he was not party to it, he was in this room, and it is not his personal sphere of responsibility.

19782. **Mr Newberry:** I can see the witness's difficulty. I do not want to head it off too directorially. Can I try and establish the principles rather than the details. Mr Thornely-Taylor, concerts in the evening, which is where my entire question is directed to, as I have understood Mr Elvin, will be free from construction traffic?

(Mr Thornely-Taylor) They will be free from the effect of the passage of the construction railway, which is predicted at low levels for the Barbican as it is at Grand Central Studios, but in both cases the users would seek even lower levels.

19783. Is there any reason in principle, therefore, subject to the issue of notification, that the same courtesy could not be extended to Grand Central Studios?

(Mr Thornely-Taylor) Certainly. What I have said outside this room, which I am happy to repeat again, is that the approach which is taken in these enlightened times to the driving of the tunnels under a sensitive area is to set up an extremely elaborate system of consultation between the contractor and those affected. For example, it is hoped that the passage of the tunnel boring machine, which Ivor Taylor yesterday accepted, would cause problems for the few days when it went through, but the passage of the tunnel boring machine, it is hoped, will be capable of being seen on a website. So if in the morning you are concerned that you will hear this go through, I understand you will be able to see where it is at any particular time. Modern contractors are extremely skilled at the process of the consultation of people affected. Not very long ago I was involved in the redevelopment of a building which joins the Wigmore Hall, which is another very valuable acoustic resource in London, and we did manage, by very good relations, to bring the contractor on board to demolish the entire building, sink completely new foundations, construct a new reinforced building with a party wall to the hall and life went on in a very acceptable way for the hall, so it can be done. It is a question of partnership. We are here in an adversarial stance for reasons we all well understand, but when it comes to doing the work, everybody needs to work in the same direction.

19784. I am sorry you object to the adversarial stance.

(Mr Thornely-Taylor) It is inevitable, I am very experienced about it.

19785. Pursuant to the adversarial stance, what is the answer to my question?

(Mr Thornely-Taylor) The answer is the same as I gave earlier. The difficulty with Grand Central Studios is the ad hoc nature of the demands on the studio. If it was similar to the Wigmore Hall or the Barbican it would be much easier to take the same approach if we knew in advance, sufficiently well in advance, that a particular hour of the day had a special requirement. It would be easier to deal with that than ad hoc demands of the kinds we heard yesterday.

19786. Subject to the issue of notice, that is the ability to notify you in advance, is the same flexibility available to Grand Central Studios as has been extended to the Barbican?

(Mr Thornely-Taylor) The same general approach of consultation and doing whatever is practicable to help is of course available. I sit here as somebody

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who does not work for Crossrail. I cannot not give any commitments on their behalf; I am an external expert witness. I am in no position to say to the Committee something can be done from a managerial point of view because I do not have that power.

19787. We will leave it there. Thank you for that. So far as the operational railway is concerned, agreement has been reached, as you have indicated?¹
(Mr Thornely-Taylor) Yes.

19788. That is an NC20 minus 3dB third octave band, is that right?
(Mr Thornely-Taylor) Yes.

19789. Can you explain to the Committee the significance that lies behind the adjustment of the third active band? What is that intended to refine or reveal?

(Mr Thornely-Taylor) From Crossrail's point of view, it effectively makes the criterion a little bit more onerous than if it were expressed in the conventional octave band manner. The practical effect we saw on one of the exhibits yesterday, the Central Line, which can just be heard in the studios, just reaches this criterion and Crossrail, at a different frequency, a lower one, would be a little bit better than that, but it is a way of putting into numbers the general desire that you should not hear Crossrail anymore than you can hear the Central Line.

19790. Why is the third band octave more onerous? I understand that it is but why is it? What characteristics are exhibited in third band octave that are not exhibited in other standards?

(Mr Thornely-Taylor) The reason is that in converting from third octave bands to octave bands you have to combine the three sub-bands and it is possible that you might use all your allowance in all three of those bands and get a higher conventional NC number than if you only use one of them. The way we and the contractor will have to approach it is to say we might use all the allowance in each of the three sub-bands and that effectively lowers the conventional NC stand.

19791. That is, of course, during the operation of the railway. For the construction period, you adopt a different stand; is that NC25?

(Mr Thornely-Taylor) That is correct.

19792. NC25 is clearly different from NC20 minus the 3dB octave?

(Mr Thornely-Taylor) Yes, it is.

19793. Is that a more or less rigorous standard?

(Mr Thornely-Taylor) It is less rigorous.

19794. That less rigorous standard—I think the figure was given in Mr Bell's evidence to the Committee—is about 8dB difference?

(Mr Thornely-Taylor) Yes.

19795. If you have got a difference, as it were, between the construction standard and the operational standard of about 8dB, where is that in the scale of quantification of loudness? Is it almost twice as loud?

(Mr Thornely-Taylor) No, because the measurements we were talking about yesterday were in the control room with everything switched off so you could not function the control room and there was nobody in the room because the sound of breathing would increase the measured noise level so it will never be heard. What takes place in the control room, as we heard yesterday, is recording sometimes when it is inappropriate to do the recording in the more insulated booth. Then the very large control desk is live, it has cooling fans and various air conditionings, and what you actually hear in the running control room is not what we were discussing yesterday, that was the pure train noise with everything else dead. In the actual control room at NC25 there will be negligible effect, otherwise why would Dolby set NC25 as the limit they say you should not exceed.

19796. Perhaps I am reading it incorrectly, but the standard of the NC20 minus 3dB, if you want to understand it, whether or not there is a breach of that standard, you have got to look at the studios in relation to external noise with all the air-conditioning et cetera switched off, do you not?

(Mr Thornely-Taylor) Not only that, you have got to set up equipment that you can control remotely or which you can interrogate afterwards because you must leave the room or your breathing will be part of the noise.

19797. However refined the exercise may be, the standard is NC20 and in order to judge the impact of the construction noise, you judge the external noise against NC20, not with the studio in operation, is that right?

(Mr Thornely-Taylor) The construction noise, if there was a dispute as to whether or not the offer to achieve NC25 was being achieved, then, yes, you could switch everything off and leave the room.

19798. You have got 8dB, a standard outside, being pitched against the standard inside, why will you not hear that 8dB?

(Mr Thornely-Taylor) I am sorry, I have not understood the question.

19799. Your standard is NC20 minus 3, that is the studio not in itself in operation with everything switched off and your external standard, if I can put it that way, is 8dB louder?

¹ Committee Ref: A221, Grand Central Studios—basement studio 9—temporary construction railway, no rail joint (SCN-20070221-001).

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(Mr Thornely-Taylor) It is not an external standard.

19800. You know what I mean.

(Mr Thornely-Taylor) I am sorry, I do not.

19801. The NC25 is 8dB louder than NC20 minus 3.

(Mr Thornely-Taylor) It is not external, I have not understood the question.

19802. Just to confine it to the standards as you do not understand the question. The construction traffic is not inside the studio, is it?

(Mr Thornely-Taylor) In both cases the source is external.

19803. So be it, but we are looking at a standard NC25 and comparing it with a standard NC20 minus 3 and the difference between the two, I think you will agree, is 8dB.

(Mr Thornely-Taylor) In those special circumstances; it will not be in normal use. In normal use the difference will be trivial.

19804. That is not how we are judging the standard, is it?

(Mr Thornely-Taylor) No, as I say, if there was a suggestion that Crossrail has not delivered we would check by turning everything off and measuring it with nobody in the room, but as far as the proof of the pudding is concerned with Elvis eating his hamburger, as we heard yesterday, and dancing about in a control room, there would be no practical difference.

19805. Let us not worry about the late Elvis for a moment. The issue of the standards comparing one with the other has to be done when the studio is not operational and the difference between the two standards is of the order of about 8dB?

(Mr Thornely-Taylor) Yes, but you cannot express it in terms of how it will sound because there must be nobody in the room when you measure it.

19806. You are not putting forward a standard which is not capable of implementation, are you?

(Mr Thornely-Taylor) I did not say that. You were asking me about what it would sound like and it will not sound at all because there cannot, by definition, be anybody there to hear it.

19807. That is not going to assist us because you can have monitoring equipment, that is the way it is done?

(Mr Thornely-Taylor) But monitors do not hear, they do not have a judgment of loudness.

19808. How are we going to see then whether your standard is verifiable?

(Mr Thornely-Taylor) We will turn everything off and put up equipment which is either remotely controlled or does recording and we all leave the room. After the measurements have been made we go back in and find out what the noise level was but nobody will have heard it.

19809. I understand that, but why do you say 8dB from the NC25 would not be perceived in the studios of NC20 minus 3 as Mr Bell firmly believes it would be.

(Mr Thornely-Taylor) Because to be perceived you need a human being and for the human being to be in the room he would be there to carry out the recording and processing work. It will be necessary to switch the equipment on in order to do the work. I was led to believe that the critical times are when it is appropriate to record in the control room and not in the studio and the descriptions we had of what goes on in the control rooms are by no means quiet anyway.

19810. I can see the way you are skilfully answering my questions, Mr Thornely-Taylor. One of the factors that you have had to take into account in the construction of the railway is that if we look at the nature of the operational railway, in terms of how that is constructed, it is different from the construction period, is that right?

(Mr Thornely-Taylor) The way the operational railway is constructed is different, yes.

19811. Could you outline what the differences are between the railways as constructed as opposed to operational? What is the difference between the two?

(Mr Thornely-Taylor) Perhaps if I start by describing the way in which the construction railway is installed and operated. The tunnel boring machine advances in the way described by Professor Mair about a year ago. It is quite an extended piece of equipment. It includes the face of the tunnel boring machine which is removing the soil and putting it on a conveyor and sending it back down the tunnel. Behind it as the tunnelling boring machine advances, short sections of track are laid because the tunnel lining segments, which have to go into place as quickly as possible to minimise settlement, must be brought up by rail to the face as efficiently and quickly as possible. Quite short sections of rail are laid immediately behind the tunnel boring machine. As soon as possible after that a team will go down and weld them up into longer lengths and an underground central studio process will ensure we do not have un-welded rail joints beneath the recording studios. In order to achieve the predicted levels I gave in evidence yesterday a very special kind of construction railway will be installed, what is called an under ballast mat. That will, first of all, be put on the base of the tunnel. This is a rubber sheet, a bit like the sample Dr Hunt had with him yesterday, only softer. This is laid on the bottom of the tunnel and then the current intention is the ballast will be placed on top of it. That is not to say there is not an alternative massive material. Then on the ballast goes more conventional railway sleepers and smaller section rails than the operating railway. It is a recognisable railway, probably a narrower gage, probably 900mm instead of 1435. That will be used for a specially built construction locomotive to haul cars with both segments and people as well to work at the site, backwards and forwards to keep the tunnel boring machine going. By contrast, the

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operational railway will, through this area and other areas where floating track slab is necessary, have first of all first stage concrete installed and then concrete slabs, which are like short ridge decks which will probably be installed on rubber, although they can be springs, resilient bearings, and it will sit, as I think it is called, as a floating track slab because it is sitting on complete resilient support on rubber bearings. On top of that a more conventional railway which, if you were in the tunnel and you looked down at it, would look very similar to a railway everywhere else is then constructed. The effect is that the operating train is running over a system which is fundamentally like the floating slab at Westminster Station under Portcullis House, but I am intending in this case that we will have one more stage of isolation in there than we have at Portcullis House in that there the rails are rigidly fastened to the slab. I wish I had not done that because the lack of maintenance I referred to causes that rumble you can hear in the station. I still do not think you can hear it in Portcullis House, but I would prefer that was not there. In Crossrail's case, we will have the same resilient rail support between the rail and the slab as will be system-wide whether or not there is floating slab and then the floating slab, which will weigh a minimum of 2.4 tonnes per meter, is itself on rubber bearings.

19812. Would it be possible to construct for the temporary railway an executed design which would give the same dB20 minus 3 but it would be for the permanent rail?

(Mr Thornely-Taylor) In engineering terms, the answer is yes, but I do not think it would be practical to get that in behind the advancing tunnel boring machine in the way that has to be done to keep getting the train up to face, to keep getting alignment segments there. It is not impossible between now and the date when the contractor decides exactly how to do it, but some better way than I am currently assuming will be found. I cannot offer predictions but I can advise my client he can rely on their achievement. At this stage the ballast mat and ballast is we know doable because it is a recognised way of putting in a temporary construction railway. More difficult engineering solutions might turn out to be possible but I cannot offer them or recommend them to my client.

19813. You are saying in engineering terms it is possible to have continuous welded rail?

(Mr Thornely-Taylor) No, you cannot have continuous welded rail. Continuous welded rail is a very special term which applies to rail and is rolled in very long lengths and then when it is welded up, it is done so in a way which produces effectively no joint work at all. Those of us who are so old can remember jointed track on the East Coast Mainline, the clickety-clack all the way up to King's Cross and Newcastle. When that suddenly gave way to welded rail, the difference in sound was quite extraordinary because there was no joint noise whatsoever on continuous welded rail. What I am taking about with this railway is going down and welding six

metre lengths together. Although you can do that with quite sophisticated welding equipment, it is not the same process as laying mainline continuous welded rail which behaves as if it was joint-free. There will always be a necessity to do a very careful grinding job to make sure that this in situ rail does not cause joint noise, but it is difficult and I must make it absolutely clear we are not talking about the CWR, continuous welded rail, we are talking about welding up six metre lengths of track.

19814. What I am not clear about is why you cannot do it?

(Mr Thornely-Taylor) Because to begin with, CWR comes in 160 metre lengths and you could not get them in, never mind the welding technology issues I just referred to.

19815. The protective length of the area under the Grand Central Studios is 100 metres, something of that order?

(Mr Thornely-Taylor) It would be a bit longer than that, it would be 100 metres either side of the studio. In fact, it would be much longer than that because there are other studios, as we heard, and we will be putting floating tracks in.

19816. A hundred and sixty metres at the point is not a prohibition, is it?

(Mr Thornely-Taylor) No. Just contemplate handling a piece of rail 160 metres long and the tunnel boring machine advances very slowly and you have to keep laying track. You cannot do it with lengths of rail that size.

19817. Where is the technical justification for that proposition?

(Mr Thornely-Taylor) A hundred and sixty metres is from this committee room to Westminster Station. Carrying that piece of rail that long into a tunnel where you want to extend the rail little by little several times a day, I am baffled as to why I am being asked the question.

19818. Never mind about that. What is the improvement you are contemplating, then? Setting this issue of cost aside, what is the improvement that it is capable of being contemplated?

(Mr Thornely-Taylor) I am thinking that it could be the case, but I am not anything like confident enough to talk about it as being a realistic possibility now, but it could be the case that instead of the ballast you could bring pre-formed short concrete slabs up and put them down instead of the ballast and that would work better. We cannot commit to that now.

19819. I am not asking you to commit to that. What would be the improvement?

(Mr Thornely-Taylor) We might be able to get to NC 20-3. Things might turn out, for a lot of reasons, to be much better than we are currently having to face.

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19820. Why would you like to get to NC 20-3?

(Mr Thornely-Taylor) Because those instructing you are asking for it.

19821. I think the fact we are asking for it is not uppermost in your mind, Mr Thornely-Taylor. Why would you like to achieve that? Is it because it gets to a much better noise environment?

(Mr Thornely-Taylor) I have to say that all our work in recent times is totally driven by what the Petitioners are seeking.

19822. The speed of the trains, Mr Thornely-Taylor, during the construction period, according to the agreement, are limited to a maximum of 5 kph, is that right?

(Mr Thornely-Taylor) Yes.

19823. Is it right that if you reduce the speed of the trains the noise emanating from that particular source is reduced?

(Mr Thornely-Taylor) Yes.

19824. If, for example, you were to reduce the speed—and it is just an example—to 3 kph what is your assessment of the reduction of the noise?

(Mr Thornely-Taylor) It would bring about a reduction of two or three dB and two or three notches on the NC curve system.

19825. I appreciate I sprung the question on you. Is that something you need to get down on paper and work on, or is that your best judgment?

(Mr Thornely-Taylor) It will enable us to address this topic now.

19826. Would the reduction in speed enable NC 20-3 to be achieved?

(Mr Thornely-Taylor) I think we would have to go down to one kilometre an hour.

19827. Is that something that is capable of calculation on a piece of paper for the Committee, not now but subsequently?

(Mr Thornely-Taylor) It is not set down on a piece of paper as being a model one, but you would not bother to do it because one kilometre an hour is moving that far in one second and you just could not do it.

19828. I understand that, but your one kph might not be right. It would be helpful to the Committee to see the degradation of a reduction of speed and the refinement of noise levels emanating as a result of that reduction of speed.

(Mr Thornely-Taylor) No, it would not. It is not remotely doable, I even have worries about five kilometres per hour. I have asked repeated questions of those responsible concerned with construction planning and tunnelling when we say, “Can we even do five?” They say they can, but that is a very low speed considering the length of tunnel.

19829. Forgive me, you just said it was capable of being modelled?

(Mr Thornely-Taylor) It is capable of being modelled, but I do not intend to do it.

19830. You are not prepared to help the Committee?

(Mr Thornely-Taylor) It is pointless because we could not possibly go that slowly.

19831. When you say you could not go, have I got it right that the maximum is 5 kph? That is what it says in the agreement I have got in front of me.

(Mr Thornely-Taylor) Yes.

19832. It does not appear to be worded that is the only speed, of 5 kph. You are saying to the Committee there are no circumstances in the operation of this railway during the temporary period that speeds of less than 5 kph will be utilised by the construction trains, is that right?

(Mr Thornely-Taylor) The construction trains will stop sometimes and will have zero kph, but it is impossible to contemplate putting a lower number in the draft agreement thus far?

19833. Are you saying, Mr Thornely-Taylor, that the only speed the trains will travel through the temporary railway period is 5 kph and you do not contemplate ever a reduction in that speed?

(Mr Thornely-Taylor) I have just said so, it will stop sometimes.

19834. What about a position other than stopping?

(Mr Thornely-Taylor) Between zero and five there are several other speeds.

19835. Yes, you are doing very well, Mr Thornely-Taylor. Now we have established there are a range of speeds between nought and 5 kph, can we get some agreement that it is not beyond reasonable contemplation that the construction trains will be travelling throughout that range and not necessarily at a fixed speed of 5 kph?

(Mr Thornely-Taylor) They will use all 5 kph when they are actually transporting tunnel lining segments to the tunnel boring machine. It will only be because they are required to slow down to stop for operational reasons that they would go slower.

19836. That is very helpful, thank you for that. The rails that are going to be used are, I think you said, six metres?

(Mr Thornely-Taylor) Initially, yes.

19837. When do they change that?

(Mr Thornely-Taylor) As soon as possible. It is likely to be during the weekend that immediately follows the subsection of the track that has been laid in six-metre lengths. A welding team will go down and weld them up during the next following weekend.

19838. Then they change to a different length, is that right?

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(Mr Thornely-Taylor) By virtue of being welded up.

19839. It says in the agreement that, on completion of the tunnel boring machine passage, a six-metre length of mechanically joined rail will be replaced with 15-metres of rail. Is that right?

(Mr Thornely-Taylor) Yes, that is an alternative approach.

19840. When you say it is “alternative”, is it not going to happen?

(Mr Thornely-Taylor) If that is what is in the agreement, it will happen.

19841. Why can you not put 15 metres down straightaway?

(Mr Thornely-Taylor) Because the tunnel boring machine is constantly advancing and you need to be able to get the tunnel lining segments immediately behind the newly excavated bare tunnel—which is in danger of causing more settlement than we want to achieve if you do not get the segments in as quickly as you can—so you need to get the train continually advancing up behind the tunnel boring machine. The way you do that is to put in new track. Six metres is quite long but I am calling it short increments.

19842. Is there a difference in performance between 16 and six?

(Mr Thornely-Taylor) Only that we need to avoid joints underneath the Grand Central Studios and the longer the rail the less of a problem dealing with joints is.

19843. What is the improvement then if you reduce the number of joints?

(Mr Thornely-Taylor) We did see two slides yesterday—perhaps we only actually saw one—but there is another one that shows what happens with a joint and that took us to NC30.

19844. The presence of a joint takes you to NC30?

(Mr Thornely-Taylor) Yes.

19845. How does that match up with NC 25?

(Mr Thornely-Taylor) It does not. We are going to have to undertake to have no joints underneath Grand Central Studios after the tunnel boring machine passes through and that includes the period when there are these temporary six-metre short lengths.

19846. Thank you for that. Can you help me with this, Mr Thornely-Taylor? What do you claim is the uncertainty of your individual third octave band level predictions?

(Mr Thornely-Taylor) We saw on yesterday’s slides little “t” marks which showed what happened with band five to each band. I explained that actually the consequences of the sort of uncertainties we were discussing yesterday are that peaks in the predictions occurred in slightly different frequencies than the ones you think they were and it is not so much that they go up, but they appear in a different part of the

screen where the NC curve might be more demanding. Again, that is covered by the kind of uncertainty that I talked about yesterday.

19847. There is a constant 5dB on each and every individual prediction?

(Mr Thornely-Taylor) That is how it is presented.

19848. That is not quite what I had asked you.

(Mr Thornely-Taylor) Yes, it is the way it is addressed in this process.

19849. Forgive me for just wanting to be clear on this, you are saying that for each individual third band octave level prediction that you have encountered, every single one of them is plus and minus 5dB?

(Mr Thornely-Taylor) My evidence yesterday was that it is plus 5dB—might be more than five because sometimes we do over-predict how railways will turn out.

19850. But on the plus factor it is five?

(Mr Thornely-Taylor) Yes.

19851. On each and every occasion?

(Mr Thornely-Taylor) As we saw in yesterday’s evidence.

19852. Thank you. I think you know Dr Hunt, do you not?

(Mr Thornely-Taylor) I do very well. I regard him as a friend, I hope he will continue to be such and he was kind enough to present my papers for me at a conference in Lisbon because I had to come home to proceedings like these.

19853. Yes, he told me about that. It was the roughest ride he ever had!

(Mr Thornely-Taylor) It was a very interesting piece of new work and we had a long briefing session, and I understand he did extremely well.

19854. You know him well and, indeed, you are friends. I have misunderstood the tenor of your evidence, you are not seeking to rubbish what he saying, are you?

(Mr Thornely-Taylor) I gave a lot of evidence in chief yesterday about the interpretation of his work and his findings in the context of the Crossrail case. He was clear that his model is not suitable for Crossrail. His particular interest is in comparing models and he talked a lot about weather forecasting models. I am very pleased to say we have not got violent, swirling clouds underneath the Grand Central Studios. We have not got the forecast where clouds will be at any particular time, it is actually a bit easier than that. He was quite right in saying that if you do not know important perimeters in modelling, the consequence of that is a difference between what you predict and what happens, but it is very important to interpret that in a way which is directly relevant to the case in point, which is

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advising the Secretary of State whether he can commit to levels which will be delivered in the event with a minimum risk of failure.

19855. Certainly he did talk about weather forecasting, but his evidence was not limited to that. He was talking about mathematical models.

(Mr Thornely-Taylor) Exactly, his particular interest is modelling and particularly comparing different models.

19856. He also applied his evidence to mathematical models dealing with sound and his analysis of many mathematical sounds, if I can put it that way, was they do not purport to be accurate to any greater degree of accuracy than 10dB. That was the tenor of his evidence. That is on a wide basis of academic, rigorous analysis of models.

(Mr Thornely-Taylor) It was but I explained in chief that he is quite right. When you get this phenomenon that I mentioned a moment ago, that a peak comes out in a different place in the spectrum, the consequence of that is that in any one frequency there is a big difference because what was a peak was moved to the left or the right and left in its place a trough but always when it comes to designing a railway, we are addressing commitments given either in terms of the familiar LAmaxS that we have been talking about for the last year, or the special case we now have of NC curves. In both cases once you turn the predictions into assessments against the NC system or the LAmaxS system, those differences caused by peaks drifting to the left or the right virtually disappear. We saw a slide yesterday about validations at Greenwich which Dr Hunt has expressed concerns about. Once those are expressed in terms of NC the difference between measured and predicted drop right down to 1.3dB, much less than the five that we are currently using.

19857. What I understood you to say yesterday, Mr Thornely-Taylor, was that even if you take Dr Hunt's 10dB as opposed to your 5dB, you can cope with that, is that right?

(Mr Thornely-Taylor) The slide we saw yesterday for the noise level in NC terms from the temporary construction railway with no rail joints in the studio was NC20. With the 5dB uncertainty, it was NC25 which was the basis of the draft undertaking but if you were to say there is an uncertainty of 10 it only takes you up to a prediction of NC25.

19858. Would you be prepared to adjust your standards to accommodate Dr Hunt's 10 dB since you appear to be saying it does?

(Mr Thornely-Taylor) No further work is necessary. We could show it again if necessary but our prediction for the temporary construction railway is NC20, *De facto* 20 plus 10 is 30. Sorry, it is NC20 plus the 5dB uncertainty, so you increase the 5dB to 10dB *De facto*, it is NC25.

19859. You are saying, if I understood you correctly, in effect in practical terms, you can accommodate Dr Hunt's observations, can you?

(Mr Thornely-Taylor) The probable outcome is that it will be better than NC25.

19860. Can the Committee note that, in practical terms, there is no difference between you and Dr Hunt because your standards that you have adopted embrace his 10dB?

(Mr Thornely-Taylor) That is true. I do not really know why we are going through all this because there is very little between us.

19861. I want the Committee to note that. Thank you very much for that. Mr Thornely-Taylor, can I ask you something else. I am told that there was a helpful meeting between you and those that I represent on 20 February, is that right?

(Mr Thornely-Taylor) I cannot check the date, but I am sure that is right.

19862. I think the subject matter of the construction of the temporary railway was raised and you had a discussion about that, is that right?

(Mr Thornely-Taylor) Yes.

19863. I think in that meeting you also expressed views similar to those you have expressed now relating to the reduction in speed of the 5kph, what we looked at.

(Mr Thornely-Taylor) Yes.

19864. Is that right?

(Mr Thornely-Taylor) Yes.

19865. My understanding of what was discussed at the meeting and your particular take on this, on the reduction of speed, was that you would prefer to put in a track akin to that for the operational railway rather than change the speed of the train. Do you recall saying that?

(Mr Thornely-Taylor) It is precisely what I have been describing and what in theory could be done, but I do not think it is possible at this stage to say if it can be done.

19866. When you said that it cannot be done, was that on the basis of technical discussions with those helping you with the construction of the railway?

(Mr Thornely-Taylor) Yes, I had repeated discussions with tunnelling engineers of what can and cannot practically be done.

19867. So there is ongoing research, is there, as to the ability to overcome this particular problem?

(Mr Thornely-Taylor) It is not research, it is engineers considering with their experience of previous projects what you can do in a tunnel.

19868. You must have discussed this with them?

(Mr Thornely-Taylor) Yes.

19869. What you are saying to the Committee is that there is ongoing work with the aspirations of improving things?

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(Mr Thornely-Taylor) I do not think anything will now happen until the contractor comes along, that is when you get further ideas of how to meet obligations in contracts. As far as the present situation is concerned, ballast these tracks on an inward ballast map is what we think is achievable and I do not expect that to change, but you always get contractors with interesting new ideas when they come along and may say, "No, we do not ballast in. We can do this selection with pre-cast blocks". It may happen, it may turn out to be possible.

19870. You have been fair enough, Mr Thornely-Taylor, to recognise and, indeed, base your worth in relation to Grand Central Studios on the basis that they are a special and exceptional case. If I understand the broad approach of Crossrail, they are not in the business of seeking the termination of businesses which are clearly highly significant in their area.

(Mr Thornely-Taylor) Most certainly not. Crossrail will be a flagship, a 21st century underground railway and we hope that we run under all these sensible installations with no deleterious effects whatsoever.

19871. **Mr Newberry:** If your degrees of certainty which you have indicated to the Committee were not borne out, why do Crossrail want to compensate my clients?

(Mr Thornely-Taylor) I am not the witness to answer that question.

19872. **Mr Binley:** I have two concerns that I wish to clarify and the first revolves around the information available in 2003 which you gave evidence on this morning, Mr Thornely-Taylor. The content of your information was that information was available enough and that information was available to the Petitioners with regard to the perimetres of noise going through the tunnel. That is so, is it not?

(Mr Thornely-Taylor) Yes.

19873. Yet you have just made two comments. One comment was, until contractors tell us exactly how they are going to do it, we cannot be precise about the perimetres that would apply in the tunnel and, secondly, you say if you do not know important perimetres, the content of a prediction and fact can differ.

(Mr Thornely-Taylor) That is right.

19874. Both of those statements you have said. Knowing the fine detail required for this particular operation, how then could they possibly get the information on which to act to abide by the conditions that will apply beneath them when those two statements make it quite clear that the precise conditions they could not possibly know about, even if they did ask at the time that they set the business up, given the information then available?

(Mr Thornely-Taylor) The starting point is the assumptions we have made and will pass on to the contractor. It is already the case that if you walk into a meeting with some of the contractors—we already

have the design contractors, the systems and rolling stock consultants for example—not more than a few minutes will have passed before they say "Barbican" and "Grand Central Studios". They know that there are special requirements which they have to meet.

19875. Sorry, that was not my question. My question was if the plans were advanced enough for the Petitioners to get the information, how could that be the case in the light of the two statements you made? Are you telling me that what they should have done is gone to the contractors when the contractors' names would not be involved in the planning permission?

(Mr Thornely-Taylor) No, that is a contingency addressed in the safeguarding pack. The report that was handed this morning explicitly says that the basis for the information in the pack is that the rail support will be stiffer than was actually intended by Crossrail on the basis that it might turn out that, for some reason, stiffer base plates were put in. It says the base plates specification used in the above assumption has a higher level in the Petitioner than Crossrail currently proposes to adopt in order to ensure that a conservative prediction of noise level is considered in the developer's design.

19876. In the light of what the good Professor said yesterday, which you agreed there was not much space between you and him, I am still back to this degree of uncertainty which seems to me, as a layman, to suggest that even if they had sought the information that you felt they ought to and, as a small business owner, I understand how difficult that is when your focus is somewhere else quite frankly, that even if they had the information they required to make the sort of decisions we are talking about, a very fine degree of sound operation would not have been available, would it?

(Mr Thornely-Taylor) They are fully taken into account and I have read the passage out that will allow it.

19877. How does that fit in until the contractors tell us exactly how they are going to do it? We are unable to make predictions and, if you do not, the perimetres, the content of the prediction and the fact can differ?

(Mr Thornely-Taylor) Contractors might do it better.

19878. Might?

(Mr Thornely-Taylor) They will certainly do it well because it will be in their contract.

19879. The second point I want to clarify is I am not sure about how much traffic is going to go on in the construction period, recognising that the construction period is going to be about ten months.

(Mr Thornely-Taylor) All I can say is that compared with the operational railway which is of the order of two minute headway, three or four trains per hour, or whatever it is, I am not able to give that kind of evidence in detail. The construction traffic will be very infrequent.

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19880. Infrequent and intermittent, not at the same times, very difficult to plan for, is that fair?

(Mr Thornely-Taylor) One of the consequences of this arrangement that I have said I foresaw being set up in very good consultation between the contractor and those affected is that the contractor will know when the train starts from the portal at Paddington and it will be possible if somebody wants to know when it will arrive at Soho, it will be possible to give a reasonable prediction of when that will be.

19881. Forgive me, Chairman, I recognise I am labouring this point. I am trying to understand that, here we are with an operation that leases out its resource on half an hour units.

(Mr Thornely-Taylor) Yes.

19882. Bearing in mind they have some very expensive people to undertake the tasks of recording, what they have got to do is keep their eye very, very closely on a telephone, phone up or look at a screen.

(Mr Thornely-Taylor) No, they have not got to do that. My evidence was very clear that, in fact, the effect of the operational and the construction railway after the tunnel boring machine—

19883. I am talking specifically about construction.

(Mr Thornely-Taylor) After the tunnel boring machine has gone through the operation of the construction railway behind the tunnel boring machine when the rails have been welded up will not take this, above NC 25 and that is what Dolby say they need.

19884. I am talking about at this moment the frequency of the trains that will carry very heavy loads because they are carrying the concrete assembly units. How will people who book a unit facility by the half hour with very expensive performers to carry out the task, with all that intricacy going on with sound recording, be able to plan their work with the work of the train which may or may not come along at any given time?

(Mr Thornely-Taylor) If they did need, for some extraordinary reason, to turn all the equipment off in the control room, so that this became something measurable then that is such an odd state of affairs they would be able to be plan ahead. Normal use of the control room it does not matter how frequent or infrequent the trains will be because they will not exceed acceptability.

19885. That is your prediction.

(Mr Thornely-Taylor) We are proposing to undertake it.

19886. Forgive me, let me finish my point. That is your prediction and we have already heard from two statements that you made that predictions are very difficult and relatively imprecise at this level until you know the actual facts in a given situation.

(Mr Thornely-Taylor) I did say the contractor might do better.

19887. I notice the “might” bit. I still do not understand how people who are focused on a very technical and fine business in very limited periods of time are expected also to keep their eyes and to understand when trains, which are very intermittent, are carrying very heavy loads and so we do not know what the impact of that will be on that studio even on a minor stop, if the noises were not within the perimetres that you said?

(Mr Thornely-Taylor) If the noise is not within the limits the Secretary of State is proposing, then action will have to be taken to put it right.

19888. **Mr Binley:** I am grateful.

19889. **Chairman:** Mr Taylor?

19890. **Mr Taylor:** Just put up the graph that we were looking at yesterday. This is your forecast, Mr Thornely-Taylor, of the impact on Studio 9, the temporary construction railway with no rail joint beneath for the studio which was being proposed by the Promoter and we can see the point that determines the NC level is there, yes?

(Mr Thornely-Taylor) Yes.

19891. And we can see its bottom line is NC15?

(Mr Thornely-Taylor) Yes.

19892. So your model is forecasting NC15?

(Mr Thornely-Taylor) Yes.

19893. Take into account a plus five uncertainty, we go up to the top of the peak there that you have put on to NC20, so if we take into account a plus ten uncertainty we get to NC25?

(Mr Thornely-Taylor) That is correct.

19894. So by offering NC25, what is your view of the extent to which an NC25 level takes into account uncertainty in the modelling process?

(Mr Thornely-Taylor) There is headroom for much more uncertainty than I have been using. If Dr Hunt wished to add ten to the prediction we would still achieve NC25.

19895. Thank you. In relation to the questions that you were asked about train speed and why up to 5 kph is required, is that a matter that you feel able to deal with or is that a matter better put to Mr Berryman?

(Mr Thornely-Taylor) It would be a very good matter to be put to Mr Berryman.

19896. The rail can be put behind the TBM as it is passing. We need to clarify, for the benefit of my learned friend in particular, precisely what happens behind the TBM. The tunnel boring machine is moving slowly forward as it creates the tunnel and behind it we have to have lining segments placed around the tunnel to provide support. Those lining segments have to be brought to the location behind the TBM.

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(Mr Thornely-Taylor) Yes, they do.

19897. And there has to be a sufficient number of them to be able to keep pace as the tunnel boring machine moves forward.

(Mr Thornely-Taylor) Yes, they do.

19898. Am I right in saying that in order to bring those very heavy segment lines you have to be able to get close to the tunnel boring machine itself?

(Mr Thornely-Taylor) Yes, you do.

19899. So if we were, say, to accept the idea which was put to you that we provide a continuously welded rail, which I think you said is 160 metres long?

(Mr Thornely-Taylor) Yes.

19900. And we stop the construction railway being built at some point prior to getting into the DCSs and we watch the tunnel boring machine disappear off into the gloom in front of us and we wait for the TBM to go 160 metres before placing continuous rail down, how do we get the segments of 160 metres down the tunnel?

(Mr Thornely-Taylor) It is completely impractical. The laying of the rail is a process which cannot be done on a temporary basis advancing small distances like that.

19901. And what views do you express about the practicality as a suggestion that was put to you?

(Mr Thornely-Taylor) Wholly impractical.

19902. You expressed concerns about the difference between theoretically what you could provide in terms of the specification for the construction railway and what can be provided in practice. I have just explained, with your assistance, the way in which the construction railway is built piece by piece behind the TBM's advances. Does the amount of time that is available to lay the construction railway affect in any way the risk associated with meeting particularly stringent noise criteria in relation to the construction level?

(Mr Thornely-Taylor) That is one of the reasons why I do not feel it right to recommend we do better than NC25. It is one of the several differences between the installation of the temporary construction railway and the permanent railway that it is a rapid process, much less opportunity for fine control of what is done when the temporary railway is laid.

19903. Thank you. Now, you were asked some questions about the Barbican and what was proposed in relation to the Barbican. I think it was put to you that Crossrail had offered GCS precisely the same that has been offered to the Barbican and I just wanted to clarify that for a moment. In the Promoter's exhibits, I think at page 184, if we have got that, there is a paragraph in a letter written by the Promoter's solicitors, Parliamentary Agents,

dated 29 January 2007.² Here in the first main paragraph we can see reference to the undertakings set out in the previous letter of 18 December that related to an offer that on the permanent track support system there would not be an excess of NC20. This was earlier parts of the negotiations that have continued. An explanation of that is given and then we see the words: "The Promoter is prepared also to offer your client a commitment to provide the same specification of design for the construction and maintenance of the track and track support system as will be provided so as to protect the noise environment within the Barbican Hall". Do you see that?

(Mr Thornely-Taylor) Yes.

19904. Does that commitment relate to the construction railway or to the permanent railway?

(Mr Thornely-Taylor) That relates to the permanent railway.

19905. Thank you. In relation to the point that was put as to can the construction trains simply be stopped from passing under GCS in the way that has been agreed in relation to the Barbican Hall, is that a matter which you could help the Committee on or is that a matter, again, that is better explained by Mr Berryman?

(Mr Thornely-Taylor) It is better explained by Mr Berryman. I did express that I am not well enough briefed on the Barbican's timings.

19906. Thank you. One last question that perhaps you can help with. A person is looking to acquire premises to build a sound recording studio, they identify premises which are above the safeguarded line for an underground railway, and they are aware of that safeguarding. What is your view of the reasonableness of the position of a purchaser in that situation who does not contact the promoter of that railway to ask them whether information exists regarding the potential groundborne noise impact of the railway should it come forward?

(Mr Thornely-Taylor) I cannot understand an approach which did not involve requesting such numerical information as exists about the effect of the planned railway.

19907. What is your view of the reasonableness of then constructing a studio without taking into account or making passive provision for further mitigation should that railway come forward?

(Mr Thornely-Taylor) It is clearly a calculated risk.

19908. If it were the case that the premises could not be operated satisfactorily without that further mitigation and no passive provision had been provided, what is your view of the reasonableness of acquiring those premises to begin with?

² Committee Ref: A220, Correspondence from Winckworth Sherwood to Grand Central Studios, 29 January 2007 (SCN-20070221-002).

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(Mr Thornely-Taylor) Another calculated risk.

19909. **Mr Taylor:** Thank you. Sir, those are all the questions I have for Mr Thornely-Taylor, I do not know if the Committee has got any further. I propose to call Mr Berryman shortly to deal with the point about the construction trains and why they cannot be stopped under GCS.

The witness withdrew

Mr Keith Berryman, Recalled

Examined by **Mr Taylor**

19910. **Chairman:** Mr Taylor, is this going to be long?

19911. **Mr Taylor:** It is going to be very short indeed, is it not, Mr Berryman?

(Mr Berryman) It is indeed.

19912. Mr Berryman, I am not sure if you were in the room at the time but the point was put to Mr Thornely-Taylor that in relation to the Barbican, Crossrail has reached terms with the City of London to the effect that the timing of movement of the construction train can be altered around performances within the Barbican Hall.

(Mr Berryman) Yes.

19913. The point was put why can we not have the same in relation to the Grand Central Studios?

(Mr Berryman) The two situations are significantly different. The tunnel boring machines which pass underneath the Barbican Hall will have started back by the river in Newham and will be almost at the end of their run when they pass underneath the Barbican Hall to the extent that by the time the tail of the tunnel boring machine—we have heard quite a bit about tunnel boring machines this morning but they are quite long pieces of kit—passes the Barbican Hall the machine will be coming to a halt where it will be broken up and taken out from the tunnel because that will be the end of its run. Once the tunnelling is complete the number of movements on the construction railway become very low because basically you are only using it for cleaning out the bottom of the tunnel and gradually withdrawing from the tunnel as you go, so instead of being perhaps hourly or even slightly more frequently than hourly trains which will be running while the tunnel boring machines are going along, you would be talking about one, two or three trains a day, those kinds of numbers. The difference at Grand Central Studios is that when the tunnel boring machines have passed underneath Grand Central Studios they still have another seven months to go and during those seven months the construction railway will be kept going 24 hours a day with trains running at more or less hourly frequency; maybe slightly more, slightly less. It does not operate as a frequency service, it operates when the demand is there, so if the machine is going quicker the maximum rate you

could achieve could be a train every 25 minutes but that would be unusual if that was achievable for a very long period of time. We are saying on average about an hourly train.

19914. Thank you very much. Another point was put about the speed of the train, whether it can be slower than 5kph. We have put forward a commitment of up to 5kph.

(Mr Berryman) Yes. 5kph is a fairly slow walking speed. The trains will generally run at 20kph or even slightly more quickly than that. It will just be that under this sensitive area, and it is not just Grand Central Studios, there are other studios, we will have a speed restriction so the speed of the trains will be reduced to 5kph. To go below that would make the operation of the construction railway very impractical because it is quite a long length that you are talking about.

19915. **Mr Taylor:** Thank you very much indeed.

19916. **Chairman:** Mr Newberry?

Cross-examined by **Mr Newberry**

19917. **Mr Newberry:** Mr Berryman, for my part I am not sure which role you fulfil within the Crossrail team, could you just tell me?

(Mr Berryman) I am currently the managing director of the promoting company but my responsibilities have lain mainly on the engineering side of the project.

19918. Do you have an input into whether things are technically possible but vetoed because of cost reasons and that type of thing?

(Mr Berryman) Yes, that is probably the main part of my job.

19919. So you are the man, are you?

(Mr Berryman) I would not put it quite as strongly as that but certainly I have an input into those decisions.

19920. The speed of the trains under the sensitive area, I gather that they reduce from 20kph to 5kph, is that right?

(Mr Berryman) That is right. That is the idea, yes.

19921. Reducing them, say, to 3kph, I am just picking that as a figure, on the assumption that it reduces noise impact as a result of doing that, why do you say that is impossible in terms of the construction of the railway?

(Mr Berryman) Just by virtue of the journey time that would be involved. You have got to bear in mind that we are talking about a single track railway here which has to solve the tunnel boring as it is going on, so a train cannot come out until another train has gone in, so the longer you increase the journey time the more difficult it is to keep servicing the machine as needed. Of course, it is not just your client's premises where there are sensitive issues;

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there are a number of other premises in the same area where we will also be meeting these noise criteria.

19922. I understand that obviously but what is the extra time factor of travelling the 110 metres or so at 3kph as opposed to five? What is the time penalty?

(Mr Berryman) I cannot tell you offhand. It will be a few minutes by the time the train has slowed down, gone at this crawling speed and then speeded up again.

19923. That sounds quite a lot, if I may say so, a few minutes to travel 100 metres, the difference between the 5kph and 3kph.

(Mr Berryman) If it was 100 metres it would not be very long but it will be more than 10 metres because the length of the train itself has got to be part of that. The front of the train gets to a certain point, you pass under the length at restricted speed and you cannot speed up until the back of the train has passed it. Moreover, I do not think there is any fundamental difference between your client's property and the other sound sensitive sites in the area.

19924. There may well be but that in itself is not of assistance. What I want to know is, is there a spreadsheet or some calculation that we can look at to justify the assertion that it is several minutes?

(Mr Berryman) No, there is not. You would have to calculate that. Frankly, 5kph is a slow walking speed. We have never given serious consideration to operating trains at a lower speed than that.

19925. Why?

(Mr Berryman) The benefits are just not commensurate with the inconvenience.

19926. What is the financial penalty that is concerning you? It can clearly be done in practical terms.

(Mr Berryman) It is not so much a financial penalty, it is just the operation of the whole system, the railway, the tunnel boring machines, everything working together. I suppose it is possible to go more slowly but are the benefits really worth it?

19927. That is a separate question. You know that our case is if you reduce the speed you do get considerable benefits.

(Mr Berryman) I think if you reduce the speed from 20kph to 5kph you obviously do get significant benefits but you get to the law of diminishing returns and if you go slower and slower, the benefit you get is less and less.

19928. Benefit to whom?

(Mr Berryman) Benefit in terms of noise reduction.

19929. I do not think that is your area, is it?

(Mr Berryman) No, it is not, but I do happen to know that is the case.

19930. What was your research to come to that conclusion?

(Mr Berryman) Experience of how these things work in practice.

19931. What does your experience tell you, please, on the reduction from 5kph to 3kph in terms of noise?

(Mr Berryman) I do not have specific experience of reducing from 5kph to 3kph but I do have general experience of the impact of speed on noise.

19932. I will not press you any more on that. Are you the right person to ask about different types of rail once the initial rail goes in?

(Mr Berryman) Yes.

19933. If the tunnel boring machine has gone under Grand Central Studios behind there is a particular form of track, is there not?

(Mr Berryman) Yes.

19934. Later on I think someone comes along and alters that type of track from six metre to 15 metre lengths.

(Mr Berryman) Yes, by welding the joints, that is correct, either welding the joints or replacing the lengths. There are several ways to do it.

19935. What are the contingencies? If there was a structural failure of the rail that had been laid, either in terms of the rail itself or its support or its foundations, what would you do?

(Mr Berryman) We would either replace the length of rail or weld it depending on the nature of the problem.

19936. What about if the foundations that the rail was standing on, the clips or the concrete bedding, whatever it is it is resting on, what happens if that fails for some reason?

(Mr Berryman) It would be extremely unusual for that to fail. The rail will be laid, as Mr Thornely-Taylor described, on top of ballast which should be laid itself on top of the rubber mat in the invert of the tunnel, so it will be resting directly on the concrete under the lower part of the tunnel.

19937. I understand it might be unlikely but what would happen?

(Mr Berryman) If that happens you would bring some more ballast in and tamp it by hand to make the ballast good. It is a very well established technique in railway construction.

19938. Presumably in the schedules and the way you look at it, you do contemplate things going wrong when you are drawing up these schedules?

(Mr Berryman) Yes, there is always a contingency in the timeframes.

19939. Why would it not be possible after the initial rail has been laid thereafter to have a run of continuous welded rail, not at the same time as the tunnel boring machine is going through but retrospectively after that? Why is that not possible?

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(Mr Berryman) What you will get is a rail welded into longer lengths than six metres, you would get—

19940. What is wrong with that?

(Mr Berryman) Nothing is wrong with that.

19941. Why can you not do it?

(Mr Berryman) That is what we are suggesting we will do.

19942. Why can you not do better than that where you have got a series of very sensitive users? Why can you not have continuous welded rail after the tunnel boring machine?

(Mr Berryman) Continuous welded rail, which is laid in the tunnels when they are complete and the concrete foundation is done, is laid by very specialist plant which needs a clean tunnel to get into. I am not explaining this terribly well. It needs a tunnel with the track bed prepared so that specialist plant can get in with the long lengths of rail.

19943. Why can that not be done?

(Mr Berryman) Because you have got all sorts of other stuff going on in the tunnel that is under construction at the same time.

19944. **Kelvin Hopkins:** I am sorry to interject on this point. I understand that the continuously welded track is welded under tension to accommodate expansion.

(Mr Berryman) Yes, it is.

19945. Then you have long lengths to be able to do that.

(Mr Berryman) That is correct. The laying of a permanent continuous welded rail is an operation which involves having a long length of tunnel available to go at. It involves the use of specialist plant and you need a relatively clean tunnel to do it in.

19946. This is not just where the gap is you weld it and leave it?

(Mr Berryman) It is not that. CWR is a specific product, a specific thing.

19947. **Kelvin Hopkins:** Apologies for interrupting.

19948. **Mr Newberry:** Do you say that it is not possible or that it is possible but there are certain penalties associated with it?

(Mr Berryman) I would say it is not possible to lay rail akin to the permanent continuously welded rail.

19949. What do you say about improving the 15 metre lengths?

(Mr Berryman) You can weld it into longer lengths.

19950. What would be the maximum length you could weld it to?

(Mr Berryman) You could probably go to double that.

19951. So 30 metres?

(Mr Berryman) Probably, I would need to check with a permanent weld specialist. I would have thought you could go to double that. Another fact you have got to bear in mind, of course, is that it has all got to come out again afterwards.

19952. I understand that. What is the constraint?

(Mr Berryman) The constraint would be the expansion and contraction of the rails, as Mr Hopkins mentioned. Continuous welded rail, which is installed on a railway, is stressed appropriately to allow for expansion and contraction to take place without buckling the rails or causing wide gaps or joins. That would be the issue.

19953. Just taking your suggestion of 30 metres as opposed to 15 or thereabouts, you see no practical reason why that cannot be done?

(Mr Berryman) No, other than just the time constraint. It is physically possible, certainly, but I think Mr Thornely-Taylor mentioned the model assumes there would be no joint directly underneath Grand Central Studios in any event.

19954. Do you see any reason why the agreement could not be modified to reflect your evidence?

(Mr Berryman) To weld in longer lengths?

19955. Yes.

(Mr Berryman) No, I suppose it could be. I do not think anyone has put that to us.

19956. **Mr Newberry:** Thank you.

19957. **Mr Taylor:** I do not have any further questions.

The witness withdrew

19958. **Chairman:** Thank you very much, Mr Berryman. Mr Taylor, I am conscious that we are getting very close to the point when we will have to suspend the Committee. How long do you think you will be?

19959. **Mr Taylor:** I am going to be five minutes. Mr Elvin has got about five or ten minutes on the compensation aspect also, so we are looking at 15 from us.

19960. **Chairman:** Mr Newberry?

19961. **Mr Newberry:** Five or six minutes.

19962. **Chairman:** If we can try our best.

19963. **Mr Taylor:** I will try and speed up without losing the shorthand writer!

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19964. **Mr Newberry:** Sir, I am just being asked if we could have a very short adjournment for a couple of minutes in order for me to take instructions on one or two matters that have arisen during the course of evidence.

19965. **Chairman:** It will have to be just a couple of minutes.

After a short break

19966. **Chairman:** Mr Taylor?

19967. **Mr Taylor:** Thank you, Sir. Can I confirm that I have taken instructions and we are happy to amend the undertaking offered so as to deal with the point about adding in the additional weld so as to increase the length of the welded track from 15 metres so it becomes 30 metres. We will deal with that.

19968. In closing, the studios were built in the full knowledge of Crossrail. GCS knew that the route beneath the property was safeguarded yet the designers of the studios did not take any steps to design the studios so as to take account of the potential for Crossrail to come. Indeed, GCS did nothing. They did not ask for any information from the Promoter about groundborne noise. We would suggest that was a highly incautious approach to the acquisition of their interest. It was an approach in which GCS took a very great risk and it now seeks to pass that risk on from itself on to the public purse.

19969. What the designers did do was to design the studios so as to achieve the standard required for Dolby certification NC25 and, indeed, it is that standard that GCS' advisers sought to attain in undertakings from the Committee in March 2006 at their first appearance. NC25 clearly provides sufficient protection to the noise environment within the studios to mean that it will operate satisfactorily. If it did not, why design the studios to that criterion and why would Dolby set it as the appropriate standard?

19970. In the event, the Promoter has bent over backwards to accommodate GCS. It has agreed to an extremely stringent criterion for the operation of the railway. It has carried out ground investigations to examine the details of the soil beneath the studios and it has investigated the nature of the pile into the building. Even in respect of the construction railway the Promoter has agreed to provide the criterion of NC25 which is that originally sought by GCS' advisers and which was used as the design criterion when the studios were built. Whilst the construction railway might change the acoustic environment within the studio, this change is not to a degree that will harm that environment significantly because the design criterion for the studios will still be met. Indeed, the Committee will recall that it is the design criterion applied across the industry generally that will be met during the operation of the construction railway.

19971. So we say, in short, that adopting the NC25 criterion will protect the noise environment of the sound studios during the relatively short period that the construction train will be operating. We say that the criterion suggested by GCS is not one that can be reasonably achieved by the project. You will recall that the only person who gave evidence to the Committee on the extent to which it is feasible to achieve the NC20-3 criterion, who had any experience of designing rail specifications to achieve a noise standard by reference to octave bands, was Mr Thornely-Taylor, and you have his clear view that it is not at this stage a practical proposition to design to that very, very low standard.

19972. So far as uncertainty is concerned, I believe the submission will be made that because there is so much uncertainty in modelling, that is the justification for making a provision for compensation. Sir, I am going to deal with the uncertainty of modelling point and Mr Elvin is going to address you on compensation aspects.

19973. You have the evidence of Mr Thornely-Taylor on the uncertainty issue. He explained that his model, Findwave, necessarily includes some uncertainty but he has examined very carefully the extent of that uncertainty and has concluded that the construction railway and the operational railway can be built so as to meet the criteria proposed by the Promoter in all reasonably foreseeable circumstances. Dr Hunt sought to suggest that the degree of uncertainty was much greater than Mr Thornely-Taylor had identified. I think, in fact, Dr Hunt said that he had just given up on modelling altogether. Happily for us, and happily for the Committee, that is not the approach that Mr Thornely-Taylor has adopted, nor indeed the Promoter. Dr Hunt's conclusions were formed by reference to his general experience but in particular by reference to his pipe-in-pipe model and that is a different model from the model that is being used in relation to the Crossrail project and it has certain aspects which do not reflect the assumptions that have been used in Findwave: that the tunnel is a perfect cylinder when in fact it is not because there is a concrete invert; that the tunnel is not lined with segmented linings when in fact it will be; that the soil in which the tunnel is located is uniform when it is not uniform; that there is no building on the top at ground level when in fact there are such buildings. The uncertainty he identified of plus or minus ten was not identified by reference to Findwave because, as Dr Hunt very candidly accepted, he never used Findwave. So his conclusions about uncertainty in the submission of the Promoter were obviously tainted by the fact that he simply cannot express a view on the uncertainty of Findwave, he has not carried out a validation exercise using Findwave and, indeed, has never used Findwave at all.

19974. Further, the uncertainty that Dr Hunt identified was not presented in terms of dB(A) or, indeed, the NC curves, the point that Mr Thornely-Taylor made this morning. He had not considered

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whether the uncertainty was of any practical consequence when it comes to applying the criterion that is being proposed by the Promoter in this case. Mr Thornely-Taylor explained much more eloquently than I can the smoothing effect of actually turning the data and using it in relation to an NC curve this morning.

19975. In contrast to Dr Hunt, Mr Thornely-Taylor is the author of Findwave and he is uniquely placed to explain to the Committee the degree of uncertainty associated with it. He commented on Dr Hunt's evidence this morning and he has explained his position on that evidence. The only conclusion to draw, and it was a point accepted by Dr Hunt, is that Mr Thornely-Taylor is in a better position to advise the Committee on the degree of uncertainty of modelling work than Dr Hunt is. On that basis, there is no reasonable basis for concluding that the criterion proposed by the Promoter cannot be met to the extent that justifies extending the National Compensation Code as sought by GCS and there is no reason to conclude with the undertakings put forward by the Promoter that the noise environment within the studios will not be appropriately protected during the construction of the railway.

19976. **Chairman:** Mr Elvin?

19977. **Mr Elvin:** Sir, I am carrying on from Mr Taylor dealing with the compensation issues. I do not know whether you have received it but a draft undertaking which is sought by GCS has been put forward. I understand one is to be put forward. What it means in essence is that they want the Compensation Code extended by undertaking so that if, as a result of the temporary period of construction works, we do not achieve what we say we can achieve, we will effectively, reading through the legal language, be required to purchase the whole premises. It uses the concept of material detriment and that is a trigger to a requirement to purchase their premises. It does not apply to them at the moment because we are not actually acquiring any of their property. I will come back to it in a moment.

19978. **Chairman:** Can we list the undertaking as A224.

19979. **Mr Elvin:** Thank you very much. Sir, you have had explained to you by our witnesses and by Mr Reuben Taylor—there are so many Taylors in this case it gets very confusing—that what is proposed by way of mitigation should ensure that GCS will be protected. There is no issue that they will be protected during the permanent operations of Crossrail, the issue arises with regard to uncertainty over a temporary period of construction traffic lasting about ten months. They say the uncertainty is such that you should extend the Compensation Code and give to them, which is not available to any businessman in the high street, additional protection which would not be available to them if someone chose to redevelop the property next door to them. You have got to bear in mind that what GCS say is

their position is so significant that we should protect them over and above the massive series of proposals we have offered them in terms of mitigation even though, frankly, if someone chose to redevelop near them, in Oxford Street or Great Marlborough Street, and took reasonable precautions the normal principle of the law of give and take in construction work in modern society would mean they have no redress. The position of anyone else as against GCS would be far different from that which they say ought to be the position here. What they say is that the taxpayer should write them an insurance policy so that they should have something which is not available to anyone else.

19980. Could I just ask the Committee to consider and contrast the position of the Barbican Hall which was settled yesterday on terms which were explained to you by me and Mr Cameron. The world famous concert venue, which hosts some of the greatest musicians in the world on a weekly basis, does not require the construction traffic to cease when they are carrying out their recording sessions during the day. We have reached a limited agreement during concerts in the evening but for the vast majority of their time when they are rehearsing and recording during the day, a simple compromise has been reached because of the infrequency of construction traffic—you have had the evidence on that—which is good enough for such a venue where noise sensitivity is just as important and involves artists of the greatest stature in the world. They are satisfied that the construction traffic can be satisfactorily accommodated within their schedules without the sort of protection which GCS demands they be provided with over and above the position which anybody else in this country enjoys. They require an insurance policy from the taxpayer, and in my respectful submission that is not justified on the small level of risk which they have identified to you and which has been rejected by Mr Thornely-Taylor in circumstances which Mr Taylor, sitting to the right of me, has identified.

19981. Our position on the Compensation Code we have dealt with on many occasions. I simply refer you, for example, to the transcript for Day 14, paragraphs 4041-4050. That Compensation Code applies to everyone for all building projects and infrastructure projects throughout the country on an even and fair basis. Parliament has chosen for the moment not to change that Code. We have set out our position in summary in Information Paper C2. GCS, in the circumstances I have described, said they should go further. We say the Code is the fair and proper approach, particularly given the number of circumstances. Firstly, this is only an issue about risk on the construction railway lasting for about ten months, it is not an issue about the permanent operation of Crossrail, that is resolved by the mitigation. Secondly, this is a position where, as I have indicated, GCS are asking for something which even the Barbican Hall, with all its sensitivity, does not consider to be necessary. Thirdly, they are asking for something which the ordinary

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businessman in the street would not have to fork out if he were to develop his property providing he used reasonable techniques and adopted a reasonable position. Therefore, we say that the Compensation Code should be maintained in this case given the substantial mitigation.

19982. You might like to add into your consideration the fact that these people went into occupation of this property with the safeguarding in place. I simply say to you, in support of what Mr Taylor has just said, what reasonable businessman being told that a railway is safeguarded under a property, knowing the nature of your business and its sensitivity to noise, would not even take steps to ask his noise expert and his studio designer to investigate the matter further. They did not do so. They sought no assurances other than an alleged telephone call. In my submission, it is not the act of a reasonable, prudent small businessman. Mr Binley knows as well as anyone else that businessmen have to be careful about what they do, they have got to ensure that they do not expose themselves to risks. Here was a plan showing clearly Crossrail going underneath and they took it nowhere at all, they did not even seek advice from their own noise specialist and that, in my submission, should not be supported by the Committee by asking the taxpayer to underwrite the small level of risk which is involved.

19983. To which I add this: there is some entitlement to compensation under the injurious affection provisions which I described to you on Day 14 under the *Wildtree Hotels* case, section 10 of the Compulsory Purchase Act. It is limited, as I accepted on that occasion. Temporary loss can give rise to compensation although it is reflected in issues relating to the value of the land, but there is an important principle in our law, which I referred to on that occasion in a case called *Andreae v Selfridge*, supported by the House of Lords in the *Wildtree* case, which is there has to be give and take in modern society. What the court said in *Andreae v Selfridge* I quoted on that occasion: "When one is dealing with temporary operations, such as demolition and rebuilding, everyone has to put up with a certain amount of discomfort because operations of that kind cannot be carried out at all without a certain amount of noise and a certain amount of dust, therefore the rule with regard to interference must be read subject to this qualification and if they are reasonably carried on and all proper and reasonable steps are taken to ensure no undue inconvenience is caused to the neighbours, whether from noise, dust or other means, the neighbours must put up with it".

19984. Well, GCS are in a better position than that because we have offered them this package of measures, they have been spoken to, what they want is to go the second mile, indeed if not the third mile, and require us for a position only of risk, only for ten months, in circumstances where they took no advice knowing Crossrail was safeguarded beneath their

property, they want us to acquire their property under the material detriment rules, requiring those rules to be extended.

19985. About that I say two things. Firstly, on material detriment this is a situation where, as I have said, it is a ten month construction period. The Committee might like to consider what level of disruption would be caused by them requiring us to purchase the property and then moving out. If you are setting up another recording studio, it would take, I suggest, something of the order to move the property, so one wonders where that goes even if everything else were accepted. Secondly, the references they make in the footnotes to their note in relation to the Liverpool Street Act and the DLR Act, those were cases where issues arose in regard to permanent works, not just temporary ten months' works, and those were situations, as in the examples that they refer to, where the substantial mitigation which is being provided to Grand Central over and above most other occupiers in this city, was not available to the petitioners in those cases, so they are not good examples because they are not being set on a like-for-like basis. Grand Central, in our respectful submission, have been offered a very reasonable package and in our submission the taxpayer should not underwrite the level of risk which did not occur to them to research properly at the time when they purchased the premises. Thank you.

19986. **Chairman:** Mr Newberry, there is a very short period of time left. Do you think you need more than the five or six minutes which are left?

19987. **Mr Newberry:** Probably, Sir, yes.

19988. **Chairman:** Then we will adjourn until 2.30.

After a short adjournment

19989. **Mr Taylor:** Just before Mr Newberry makes his closing remarks, just to inform the Committee that we have been having discussions outside with Westminster City Council, who have an outstanding concern related to Brewers Court, and I am pleased to announce that we have reached an agreement on the basis that I am to provide a second House undertaking to examine the potential for further mitigation to be provided to mitigate noise effects upon Brewers Court arising from the use of the service deck, which the Committee has heard about, and to explore the possibility of developing a code of practice to regulate the use of the deck. So I just announce that effect to the Committee's programme this afternoon.

19990. **Mr Newberry:** Sir, I rely, of course, on the evidence of my witnesses and my remarks are not a restatement of their evidence. Can I, firstly, say one or two things about the company, Grand Central Studios? First of all, as you have heard, it is a world-class facility established by Carol Humphrey and Ivor Taylor. That world-class facility produces what has been described as iconic work, and examples of

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that have been given to you: the recent BBC2 logo, Marks & Spencer and trailers for James Bond. Within the industry in which they practise this is work of the very highest quality and demands the very highest standards. The company which has been founded was as a result of an investment of £4.5 million and the company as such, therefore, represents not only an outstanding company but an important facility within the Soho community of sound studios. Ivor Taylor and Carol Humphrey are people of exceptional talent and ability and, I add, personal integrity. I add that last expression for reasons which I will turn to.

19991. There is one aspect of their evidence which, as far as I recall, has not been challenged during the entire proceedings before you, and that is that if the conditions within their studios in which they practise deviate from that which they currently enjoy their business will close. That single fact has remained unchallenged. During the course of my learned friend Mr Elvin's remarks on compensation one or two expressions were used which have concerned my clients, and I make the following points. First of all, you will recall, when Carol Humphrey gave evidence, she indicated that she telephoned Crossrail when she became aware of the safeguarded line. She gave the name of the person that she telephoned, namely Mr Ian Rathbone of Crossrail, and she was told by him that the facility was not going to be built; she asked if it could be put in writing and that was refused. My learned friend Mr Taylor was dealing with Ms Humphrey at that time, and the making of that call was not challenged. There is no reason to challenge it, but it was not challenged. Mr Elvin in his closing remarks referred to an "alleged" telephone call—i.e. inferring that it had not been made—and we take some exception to that. It probably was not intended but, nevertheless, that is how it was perceived.

19992. Sir, can I also say that the directors of the company do not come before you in order to get compensation; they come before you to avoid being put in that position. They come before you to guarantee the succession of their business, in the advent of Crossrail continuing, which is a facility we do not seek to stop; we recognise the importance of Crossrail in the public interest. Mr Elvin indicated when dealing with the Barbican agreement that that was arrived at because of a partnership, perhaps inferring that there had been a lack of co-operation between Grand Central Studios and the Promoters. We have done our very best over the last eighteen months to two years (we are a small company with limited resources) to try and achieve a set of circumstances whereby we did not have to appear in front of you.

19993. You will bear in mind that when this course first started the Promoters were insisting on 30dB LAmax. That has now been converted through negotiation to NC20-3 dB third band octave. They are very, very different positions and it has taken a

long time to persuade the Promoters to depart from the dB standard and use the NC standard in the way in which you now know.

19994. Sir, the Barbican agreement is important in at least one or two ways: first, we say that Mr Thornely-Taylor is right to equate Grand Central Studios with another world-class facility. So if that proposition required underlining, we have had from Mr Thornely-Taylor himself that he regards the two as world-class facilities. However, there are important differences in the context of the agreement that has been reached. First of all, the Barbican is at the end of the tunnel; it does not face a ten-month period, which no doubt was material in the representative of the Barbican making the agreement they did.

19995. Secondly, the recordings that take place in the Barbican have the luxury of having two aspects: one is that the recordings may take place during the afternoon and the other is the recordings which take place during the public performance in the evening. If during the afternoon the rumble of trains is heard, what happens in the real world is that those two recordings can be cut and pasted so that one can exclude any problems that may arise from trains that get on to the sound. That is very different from the situation of Grand Central Studios where that luxury just cannot take place, and we have heard the reasons why, and that particular aspect of the evidence, again, is unchallenged. The need for the atmosphere at Grand Central Studios does not permit the cut-and-paste mentality. You know, and you have heard, and it is common-ground between the parties, the environment that is required cannot be altered and there is no possibility of cut-and-pasting or blocking out of sound. That is why the Barbican situation is slightly different from our own.

19996. Can I pass to the issue shortly of compensation? As I have already indicated we are appearing before you is not with the objective of achieving compensation as such. What we say, basically, reduces itself to a couple of points. I do not step outside the typewritten undertaking which you have got and that is what we say we need, but putting the point simply, if standards are not met that we need either temporarily or on a permanent basis, we seek redress for the profits we have lost—for example, if the interference is temporary or if it is not a temporary interference and, therefore, permanent—and compensation for the extinguishment of our business.

19997. There are two examples of Committees in the House putting similar provisions as we seek in Bills. One of them is the London Transport (Liverpool Street) Act 1983, section 16, and the second is the London Docklands Railway Act 1984, section 21. I am happy to read those two short sections into the transcript if that would help you. Dealing first with the London Transport (Liverpool Street) Act 1983, section 16(1): "The Executive shall make compensation to K Shoe Shops Limited, Vinross

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Catering Limited ... “ I pause to say apparently we have copies of it. It may take away the need to read it.

19998. **Chairman:** A225, if that can be listed.

19999. **Mr Newberry:** If I can just take you to the script, you will see section 16 of the London Transport (Liverpool Street) Act 1983 deals “with loss or damage (including but without prejudice to the generality of the foregoing, loss of profits and damage due to tenant’s fixtures and fittings and stock in trade).”³ Then if I can take you on, please, to the London Docklands Railway 1984, section 21, that deals with the protection of Peak Litho Limited.⁴ They were a printing company. The background to the clause was that they had very finely balanced equipment where the contention was that the DLR would adversely affect that equipment. You will see there that provision was made for transferring the business and equipment, as set out, and the payment of compensation in sub-paragraph 2 referred to in sub-paragraph 4. So there is ample precedent for the Committee to arrange for compensation in a way similar to that, and although Mr Elvin has recited the general law, which I do not seek to resile from, it is quite plain that where you have very special cases such as a sensitive noise studio or a printing works then the House has recognised regularly those special cases can be entitled to compensation.

20000. Mr Elvin says that both common law and statutory law refer to give and take, and I recognise that. However, where you do have special cases, the situation where a railway which is funded by taxpayers’ money, I might add, has the effect of rendering important businesses inoperable, I say that it is inequitable that such a business should have to close and receive no recompense for going out of business. That seems to me to be wholly unfair.

20001. The standard package was referred to by both Mr Taylors, and it appears that that was made available or drawn to the knowledge of persons in circumstances where they were making a planning application. That is not the case here, as you know. Although we were aware of the safeguarded route, the situation, in my submission, had changed radically from the context of that document by the shifting standards which have come forward over time. The 30dB LAmax was where it was started, and altered over the course of time to NC20-3dB. Whatever that document was promulgating has changed over time to the situation we have now reached. I might add that the railway continued to be redesigned even up to this morning with Mr Berryman, when what was in the agreement of 15-metre lengths was happily doubled to 30-metre lengths without the bat of an eyelid. So the design process continues.

20002. Sir, we rely on the evidence of Dr Hunt, from Trinity College Cambridge, and shorn of all the technical details the principle that he is making is a simple one, and that is that modelling is not an exact science. That principle, I think, is recognised by the Promoters including Mr Thornely-Taylor, who himself recognised variations but limited to +5dB. Dr Hunt is a rigorous academic. He has looked at the published papers in relation to mathematical models, including mathematical models dealing with sound and the prediction of sound. However, he concludes from extensive research that the models are not reliable to a minimum of 10dB. That is not a maximum figure; that is a minimum figure. 10dB in acoustic terms, is a doubling of sound. So if he is right, if you are prepared to accept that that research that he has carried out is well-founded and correct, the variation that he is talking about is a doubling of sound.

20003. If he is right, in my submission, then there is real cause for concern that we need to be protected, and that brings forward the basis for our saying to you that if he is right and the Promoters cannot, for whatever reason, meet their standards then we should be entitled to a measure of protection by way of compensation. I might add that his research, as he indicated to you, is based on published data, all in the public realm, and so far as that point is concerned—that is, his research of published data has thrown up, as it were, the 10dB point—as such that was not challenged. It has not been suggested he was wrong in terms of his research on deriving that figure. All that is being said is that Mr Thornely-Taylor has, as it were, bucked the trend for some reason and can predict to a high level of accuracy in an area which Dr Hunt has said is riddled with uncertainties.

20004. I leave it to you on this basis: that there is a real and informed doubt as to whether or not you should accept the contention put forward by the Promoters that their model is, as it were, twice as accurate as anything else that Dr Hunt, in his extensive researches, has found.

20005. We called David Bell to give evidence before you because we wanted you to know from one of the world’s leading studio constructors about how he approaches his task, and how he works. He builds to exacting industry standards. He himself is an engineer as well as an acoustician; he is not merely a construction man. In my submission, you can rely on his practical skills and judgment. He is an informed man at the sharp end of the industry. He has said to you that the 8dB difference between the NC25 (that is the level of the construction noise of the temporary railway) will be heard as the standard within the studios of NC20-3 third band octave. Putting it another way, where you have got NC25 as the standard for the temporary railway, NC25 there and NC25 within the studio do not equal NC25.

³ Committee Ref: A225, Section 16(1), London Transport (Liverpool Street) Act 1983 (SCN-20070221-003).

⁴ Committee Ref: A225, Section 21, London Docklands Railway 1984 (SCN-20070221-004).

The Petition of Grand Central Studios

20006. Mr Taylor in his evidence to you used the expression that he felt the company was subject to the roll of the dice. I think what he meant by that was that there is a level of material uncertainty which threatens the business. If the Promoters are right, so be it, then there will be no further action taken. If they are not right what the Promoters are, in essence, saying to you is: "If we get it wrong then there is no recompense available to Grand Central Studios". So they allow themselves the luxury of getting it wrong and walking away if they cannot get it right. In my submission, that is not an acceptable situation for a world-class company to face, and if that situation arises I am asking you to put a provision in the Bill

relating to compensation. At the end of the day, this is a situation where we say, based on the evidence of Mr Bell and Dr Hunt, that there are real and genuine doubts about the accuracy of the model and what flows from that is we cannot maintain the existing standards in our studio which, as common ground, have to be maintained for us to continue. That is the critical factor you have got to address when you are making your recommendations.

20007. **Chairman:** Thank you. That concludes that particular hearing. We now move on to the next hearing which is the Association of Professional Recording Services and UK Post Limited.

The Petition of Association of Professional Recording Studios and UK Post

Mr Alastair Lewis appeared on behalf of the Petitioner.

Sharpe Pritchard appeared as Agent

20008. **Mr Lewis:** It is actually the Professional Recording Studios and there is another joint Petitioner, his name is UK Post, so it is a joint Petition. I have a prepared written statement and I have timed myself 15 minutes tops, I hope.

the total are based in Soho. UK Post and Services supports and promotes the industry, acts as a strategic lobbying body, and focuses particularly on fiscal, legislative and workforce issues affecting the industry. Its membership encompasses companies involved in visual effects, visual and audio special effects, physical effects, animation, picture and sound editing, computer generated images and interactive media.

20009. **Chairman:** Very good.

20010. **Mr Lewis:** I will try not to mention decibels!

20011. Sir, in simple terms, everything you hear every day on the radio, television, film and new media in the UK was almost certainly touched, altered and controlled by a member of the UK post-production industry. My clients are the principal trade bodies who represent this industry. My clients ask that Crossrail provide the best possible mitigation for the sound and vibration that the construction and operation of Crossrail will cause. My client's charge is that Crossrail have so far failed in its duty of care to balance damage to local industries and cost to the public purse against the cost of providing the best possible mitigation against sound vibrations.

20014. The UK has a global reputation in the media industry and attracts a great deal of overseas and domestic business. The industry in London is situated namely, as we have heard, in the Soho area and constitutes the centre of excellence for the industry for the whole of the UK for sound and picture services to the advertising and film industry. UK Post commissioned a report in October 2005, undertaken by Oxford economic forecasters. It valued the film, post-production and special effects sector at £370 million. That figure does not take into account all the television post-production activity in Soho. The industry is a significant contributor to UK PLC. Its strategic importance is the envy of many. For illustration, Malaysia, one of the emerging tiger economies, has established a multi-media super corridor or city trying to emulate the concentration of excellence that locations such as Hollywood and UK Soho represent, so we are under competition.

20012. The APRS is a trade organisation whose primary aim is to develop and maintain excellence at all levels within the UK's audio industry. It was established in 1947 and has over 250 members. The APRS aims to promote the highest standards of professionalism and quality within the audio industry and is concerned with, among other matters, standards, training, technical and legal issues. Its members include recording studios, post-production houses, mastering, replication, pressing and duplicating facilities and providers of education and training as well as record producers, audio engineers, manufacturers, suppliers and consultants.

20015. The importance of Soho to the UK post industry is illustrated by the map on which you have seen showing the location of the many studio facilities in the Soho area.⁵ It might be useful if it was put up again. As you have seen, there are a number of studios situated directly above or close to the proposed Crossrail line. Many of these studios are members of or represented by the APRS and UK Post and Services.

20013. UK Post and Service is a trade organisation which represents the post-production and special effects' sector at home and internationally. It was established in 2004 and has 146 members. Seventy per cent of those are in London and 30 per cent of

⁵ Committee Ref: A221, Grand Central Studios—What harm can Crossrail cause sound studios in Soho? (WESTCC-9305A-032).

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20016. My clients' members can broadly be described as "cottage industries". Most of them are small businesses built up from by entrepreneurs like Ivor and Carol, often having worked their way up through the industry learning the ropes.

20017. Although they operate in a competitive environment, they rely on each other to a great extent, not just because each of them plays different but complementary roles in the film and television industry, but also because they encourage and maintain the idea of Soho being a place to go for the services which they offer. This concentration of services in such a small area of Soho is unique in the world and allows for a level of efficiency and creative excellence second to none.

20018. Examples of the type of the work carried out by the Petitioners' members include the creation of the title sequence for the BBC's coverage of the 2006 football World Cup, the special effects in the recent BBC television series, *Ocean Odyssey*, and the recording of the Elvis impersonator in the now famous Radio 2 advertisement. Further examples of special effects include world-leading examples like *Gladiator*, *Harry Potter*, and *Charlie and The Chocolate Factory*, all created in Soho.

20019. Studios usually have only one chance to carry out a project. They have to be booked for a specific time and often there is one opportunity for the work to be done. It would be unacceptable for studios to have to cancel, delay or postpone work due to noise interruptions caused by the construction or operation of Crossrail.

20020. Interruptions due to the rumbling and vibrations of trains emanating through the studio would not, as you have heard from Grand Central, be tolerated by the industry's clientele. The industry has, over the years, built up a specialised and sophisticated infrastructure with skills and state of the art equipment recognised across the world for their quality. As a result, it attracts major contracts as well as the highest industry awards for its work, including Oscars, Emmys and BAFTAs. My clients have provided a list of recent awards won and nominations made and I will hand that around for you to see.⁶

20021. **Chairman:** List that as A226.

20022. **Mr Lewis:** The Petitioners want the industry to continue to flourish in Soho and look forward to an even greater number of studios operating from Soho in the future. If constructed with due consideration for noise and vibration, Crossrail will actively contribute to the reason to do post-production in Soho. However, if not properly constructed in these respects, their members will suffer loss of business due to the impact of Crossrail.

They fear that this will eventually affect the long-term viability of the industry and a significant loss of work to other countries.

20023. As of today, they compete successfully and often lead in what is a global business. There is a public interest in what we are saying here.

20024. Added to the background information about the industry in general, I should mention a further matter of concern. Most of my clients' members are leaseholders of premises and there are consequences which arise from that which I will come on to later and about which you have just heard.

20025. Petitioners' concerns. First, and as previously acknowledged, my clients recognise the benefits that Crossrail will bring to London. A direct link to Heathrow Airport in particular and stations near to the M25 will be a particular benefit to the industry. The reason I am appearing on their behalf before the Select Committee today, however, is that they have major concerns about the impact of the construction and operation of Crossrail. They are particularly concerned about noise, you will not be surprised to hear, especially ground-borne noise and vibration from the temporary railway during the construction of Crossrail and from the main railway when Crossrail becomes operational.

20026. The Petitioners fear that the reputation of the UK industry will be immeasurably harmed if noise during the construction and operational phase causes problems for their members. The sound recording, post-production and special effects industry is required to meet certain highly specialised standards, such as the Dolby standards about which you have heard. If companies within the industry fail to meet such standards or if noise from construction or train operation can be heard in sensitive sound recording studios, there is a real threat that they will quite simply go out of business. When my clients' members take on premises or decide to refurbish or upgrade them they have to make very careful decisions about what sort of noise mitigation measures they will need to install to ensure that they are able to comply with their customers' exacting standards. There are existing specifications which must be met for some of my clients' members to be entitled to a Dolby licence, for example, and you have heard about that. However, technical standards like the Dolby criteria, although critically important, are not the only yardstick by which a client will judge one of my clients' members' premises. I do not wish to go into any level of technical detail myself, you will be glad to hear, but the simple fact of the matter is that a studio can meet the standards specified by Dolby but, at the same time, a passing underground train may well be audible. The Promoters and their noise experts would, I think, accept that as a fact.

⁶ Committee Ref: A226, Awards and Nominations for the UK post-production and effects sector (WESTCC-31504-001).

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20027. What I can say for certainty is that Crossrail's design criteria for recording studios, as set out in the Information Paper D10, 30dB, is completely out of touch with reality. Sorry, I have mentioned decibels.

20028. As with all "cottage industries", each "cottage" services its clients' needs as best it can while minimising costs. The major single cost for sound studios are those associated with ensuring the levels of sound isolation required to keep out the existing external noise pollution levels to achieve inside a studio the pristine noiseless environment required to record sound. The level of this cost and sound insulation is always kept to the minimal level depending on the pre-existing noise conditions. As one would expect, the Soho post-production business is highly competitive and keeping costs down is essential.

20029. Crossrail trains will be a new source of noise pollution. If the trains produce a 30dB level of noise, then in the context of the recording studio which has been constructed with a commercially prudent minimum level of sound isolation, the effect may well be, I am instructed, akin to the disruption that would be caused to this meeting if a workman started to make a noise at the end of the corridor every two to three minutes for ten seconds.

20030. The fact that Crossrail have put forward such a lax and broad brush design requirement in Information Paper D10 without taking any account of the individual circumstances demonstrates a real lack of understanding of the industry.

20031. When my clients met Mr Thornely-Taylor to discuss their Petition, he said that one of the reasons why the design criteria for the recording studios was not so strict as for theatres was that it was assumed that all recording studios would have good sound mitigation measures in place. They do, but only for the existing noise levels, not for such a major new source as Crossrail would be.

20032. As previously mentioned, the cost of installing specialised equipment and constructing soundproof studios is considerable, and although my clients' members have to keep abreast with adaptation to, and developments in, technology, in order to meet the specifications of the wider film and sound industry, they will not do so unless they have to.

20033. Because we are talking about, as I have said, small businesses with limited resources in the main, soundproofing measures will only be built where they are needed and they will usually only be built so as to ensure that the existing background noise climate is effectively eliminated. A studio owner will not go to the expense of installing Rolls Royce measures, which might lead to completely isolating the whole studio in a concrete shell with rubber linings, when he does not need to because of the prevailing noise climate being acceptable.

20034. In turn, that will mean that many of the premises will have very little tolerance for any additional external noise source. So the addition of a sound of a train running past could have drastic consequences. Can I just remind the Committee of the experience of the honourable member for Swansea East which she relayed back on, dare I mention it, day eight of these proceedings. The honourable lady said: "I have recently been to see *Billy Elliot* at the Victoria Palace and every 15 minutes without fail it rumbled through and to say I was uncomfortable was not true but we were constantly aware of the sound".

20035. I invite the Committee to consider Ms James' words and put them in the context of a recording studio. Being aware of the sound of the trains at a performance of what I understand to be a splendid musical will, of course, be annoying, but at the risk of tripping myself up with a question, I wonder whether Ms James would, if asked by Mr Binley whether it was worth seeing, reply that it was not because of the regular rumbling of the Victoria Line, I suspect not, but look at it from the viewpoint of a maker of a television commercial. Let us say, for example, a Marks and Spencer commercial, already mentioned, what are the ad makers going to think, what is the advertising agency going to think, if every five minutes a train runs through? It is simple, the advertising agency will go elsewhere and they will recommend that all the other agencies go elsewhere too.

20036. Before I move on to explaining what it is my clients would like the Committee to do, there is one point I would like to make about compensation which makes the circumstances I have described above with some levity even more horrendous than I have mentioned up until now, and it has been done to death this afternoon. It is quite likely, in fact almost certain, that the majority of my clients' members who have premises in Soho will, because of their financial circumstances, be small businesses and have a leasehold interest in their premises. Because of that, unless their premises are required to be demolished to make way for a new station or a construction site, none of their interests will be subject to a compulsory acquisition, even if they are located directly above a tunnel. In turn, that means they are precluded from claiming compensation for loss of profits, disturbance and extinguishment of business caused as a result of the operation of the works.

20037. Noise from the operation of the Crossrail trains could quite easily result in businesses collapsing through no fault of their own with no compensation available. I make no request to the Committee in that regard today, I just bring it to your attention so that you know what the consequences of Crossrail could be for the industry and the individuals therein.

20038. It might be said that my clients' members are in the same boat as every other leaseholder as far as the national compensation is concerned, Mr Elvin has already said it, but that is simply not a fair statement. The faint rumbling of a train might be slightly annoying for an occupant of an office block, but for a recording studio the effect would be catastrophic. The fact that the majority of my clients' members are self-financed cottage industries means that an uncompensatable loss of business is not just a dent in the accounts of a corporate shareholder, but potentially personal financial ruin.

20039. The specific concerns requests: these Petitioners, you will no doubt be relieved to hear, do not intend to provide an exposition about which noise criteria should be applied and what levels are appropriate. They would rather leave that to the individual members to present in their own cases, maybe in the Lords, because different circumstances will apply to different studios. My first request is to ask the Committee to remember that Grand Central Studios, who are members of UK Post and APRS have the full support of their trade bodies. Next, I would like the Committee to require the Promoter, if requested, to undertake a full and proper background noise survey of each of my clients' members' premises within a given distance on plan which should be conducted using agreed methods which are suitable for measuring the background noise in recording studios and enabling the owner of the premises to engage, at Crossrail's cost, an acoustic expert of their own to carry out measurements at the same time so that there can be a level of agreement. This will ensure that Crossrail have an accurate idea of what the actual prevailing sub-soil noise and vibration conditions are and have an accurate idea of what the existing noise mitigation measures are, if there are any, before delivering the design brief to a nominated undertaker. That would be a better way of approaching the matter than the broad brush methods used so far of assuming that all premises have mitigation measures in place and that, therefore, 30dB will be okay.

20040. In fact, until recently, my clients were under the impression that Crossrail would be willing to carry out such surveys and I hope that is still the case. It is disputed that he said it, but I have a note of a meeting in which Mr Thornely-Taylor said that he would carry out as many surveys as my clients wanted. We are not so unreasonable as to hold him strictly to that, but the validity of the logic of establishing a baseline survey of the existing noise pollution in Soho before the arrival of Crossrail seems unarguable. You may well ask what the point of taking these measurements would be? The obvious answer is that once Crossrail has been constructed and up and running, it will then be easy to determine whether additional noise is attributable to Crossrail and if such is the case to quantify the extent of the increased noise pollution. Without such a baseline noise survey, Crossrail will be unaccountable for any damage they might cause to

the Soho post-production industry, let alone the theatres and numerous other entertaining venues in Soho.

20041. Next if I could come on to floating slab track and/or other mitigation measures. The Promoters have already assumed, I understand, that floating slab track will need to be installed beneath the London Palladium, in recognition of the noise sensitive use to which the theatre is put, and now we have heard that it will be installed under GCS's studios. My clients have no issue over whether the Palladium should be treated as a special case but what they would say is if a theatre, which is more likely to put on musicals and variety performances and high drama deserved it, then the post-production industry deserves it too. I would remind you of my words about Ms James' experience. My clients ask that the nominated undertaker be required to use the very best noise mitigation measures available at the source and if that is floating continuously welded slab track, so be it, for the section of the railway passing beneath Soho between Regent Street and Charing Cross Court Road both east and westbound in both tunnels.

20042. I should remind the Committee of the evidence which was heard from the Promoters about the need for floating slab track and its cost and it was a long time ago, a case brought by Camden on behalf of the local authorities. The evidence came forward during the generic ground-borne noise which the Committee will remember hearing from Camden as long ago as days 10 and 11 on 8 and 9 February last year. You may or may not remember but the whole issue of the cost of floating slab track arose and Mr Thornely-Taylor was required to put some figures to the Committee for the cost per kilometre. I have turned up the note which was handed in which I will circulate. The document is called "Crossrail Tunnels—Predicted Floating Slab Track Costs".

20043. **Chairman:** Call that A226.

20044. **Mr Lewis:** You will see in Mr Thornely-Taylor's paper it says that the additional cost of floating slab track comes out at £1.49 million per km.⁷ It goes on to say in paragraph five that the total cost of FST so far is approximately £7 million, see paragraph five. In paragraphs two to four there is an explanation of where the floating slab track was likely to be needed. The Palladium section is amongst the sections mentioned in paragraph two and I think that is the Argyll Street section. There are a few more areas mentioned in paragraph three referenced by window numbers, none of which is near Soho. Paragraph four mentions that nine other buildings may require floating slab track. I am not sure if they are in Soho, they may be and if they are I may have misunderstood the position.

⁷ Committee Ref: A226, Crossrail Tunnels—Predicted Floating Slab Track Costs (SCN-20070221-005).

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20045. In any event, my clients do not dispute Mr Thornely-Taylor's calculations as to the cost per km because they do not have the technical expertise to do so. Using a ruler against the scale provided on the deposited plans I worked out that between Regent Street and Charing Cross Road, that is the Soho section, the track length east and westbound combined is about 1.8 km. I am sure I will be corrected if that is wrong. That comes to £2.69 million extra cost using Mr Thornely-Taylor's figures for the whole of Soho.

20046. The position of my clients is that this figure of £2.69 million is not an excessive amount of money to spend in the context not just of the overall costs of Crossrail but also set against the value of the post-production industry to the UK. It is less than the cost of fitting out one of the top quality studios in Soho.

20047. I would reiterate that I am not saying continuously welded rail will necessarily provide enough mitigation to meet the criteria of every existing studio, and I would stress again that individual members have their own views of what those criteria should be. You will no doubt ask yourself why put FST in over the whole of the section? The answer to that is that Soho is unquestionably the leading area in Europe, if not the world, for the type of noise sensitive activity which I have described. If floating slab track is used throughout Soho, first, it may well have the effect of ensuring that stringent noise criteria applicable to the studios already there are not breached. You will know from the map of sound studios in Soho that they are concentrated in the centre of Soho, which is currently a tube-free zone. Crossrail will change that fundamentally,

20048. My second point is that the use of FST will also have the real advantage of ensuring, if Crossrail are right about its noise mitigation capabilities, that new studios will continue to be attracted to the area in the future. That is vital to my clients' members' interests because whilst they might be in competition with each other for business, the whole reason they are all so successful is because of the reputation of the Soho industry as a whole and that should not be jeopardised by Crossrail.

The Petition of City of London.

Mr Neil Cameron appeared on behalf of the Petitioner.

Bircham Dyson Bell appeared as an Agent

20057. **Mr Cameron:** I would be very grateful for that because we have been waiting, I would say, patiently and we are anxious to complete our presentation today if we can. The sooner the better, as far as we are concerned.

20058. **Chairman:** We know the feeling. Mr Taylor, if you can come back, thank you very much.

20049. I will finish off by using a well-worn adage—these Petitioners are concerned about noise pollution and in their view the principle that the polluter pays should be adhered to. The Promoters have a duty of care to minimise the damage that Crossrail will cause as it is constructed and operated afterwards. That they appear, from Information Paper D10, to have taken no serious account or consideration of the needs or even the existence of a Soho-based post-production industry seems almost unbelievable. The Promoters should behave in a responsible way towards the UK post industry, not in a cavalier way, but which I am afraid my clients believe is the case based upon the comparatively benign treatment of other noise sensitive industries.

20050. I must make clear that the submissions made today are without prejudice to any that may have been made or may be made in the future by individual members of the two organisations. As already stated, the APRS and UK Post and Services fully support their individual members' cases.

20051. **Mr Taylor:** Sir, I am afraid that in order to respond to that I am going to have to ask for an adjournment for a short period. The reason that I say that is we have been asking for some time from the APRS and UK Post and Services for an indication of the undertakings they are seeking. The first indication we have had was from Mr Lewis just now. So there are matters raised in relation to the uncertainty, particularly with regard to background noise for which I need to take instructions.

20052. **Chairman:** How long do you need?

20053. **Mr Taylor:** I would imagine I would need five or ten minutes.

20054. **Chairman:** Ms Lieven?

20055. **Ms Lieven:** I was only going to suggest that we might proceed to the City's petition which would take Mr Cameron and I between 45 minutes and an hour and then perhaps Mr Taylor can interpose back when that is finished.

20056. **Chairman:** I think that is reasonable.

20059. **Ms Lieven:** We do of course have the Residents Association of Mayfair who we would like to complete this afternoon if possible at all.

20060. **Chairman:** In response to your last suggestion, I think the view is if you want them to be heard today you will have to try and keep to your time.

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20061. **Ms Lieven:** Absolutely, Sir, I am going to do my utmost to do that. If we can move on to the next topic which we have all been waiting for for a day and a half and it is a topic, I am happy to say, which is entirely new to the Committee because we are moving to a station the Committee has not heard anything about whatsoever so far, which is Isle of Dogs. You may remember that the Isle of Dogs Station was deferred from the main hearings because in the light of issues raised by Petitioners and stakeholders in the area, we agreed to go away and have quite a fundamental rethink about both the form of the station at Isle of Dogs and also the construction methodology.

20062. If I can say that the City's concern is entirely around the impact of Billingsgate Market and it is quite a significant point so I am going to say relatively little about the Isle of Dogs Station and in a couple of weeks' time when other Isle of Dogs' Petitioners come back Mr Mould will give you more information about it.

20063. There is a model outside but given the shortage of time, I was not going to ask Mr Berryman to take the Committee through it today; you do not need it for this Petition. Perhaps we can see where we get to as to whether or not the Committee—

20064. **Chairman:** I think in the light of that it might be sensible to leave it until we hear the next Petition.

20065. **Ms Lieven:** If I can very briefly explain what we are doing.

20066. **Chairman:** Mr Cameron, before I proceed with that decision, have you seen the model yet?

20067. **Mr Cameron:** Yes, I have seen the model and so have my clients. We do not ask you to go and look at it, we know that it does not show Billingsgate Market on that.

20068. **Ms Lieven:** I had agreed with Mr Cameron about the line we are taking in advance. Sir, this is an aerial photograph showing the North Dock in the West India Quay complex and just to orientate the Committee, this is the area of the Canary Wharf development and I am showing you now the bottom of the Canary Wharf Tower, the iconic building in Canary Wharf, if you can call it that.⁸ Just to the north we have Aspen Way, the dual carriageway which goes down into the Limehouse Link which the Committee may be familiar with.

20069. The proposal is to construct a new station underground, some 30 metres underground, under the North Dock. The station will involve two station entrances. If we can bring up the next photo montage, please.⁹ The station entrances will be

constructed in the dock. This is architecturally probably the most exciting bit of Crossrail the Committee has seen so far. You can see that the escalators will come up from underneath the dock up into the station entrance and then on this entrance there is a short walk across onto the quayside on the north side of this entrance. The Committee do not need to be too bothered at this stage about the precise position of the different entrances.

20070. If we can move on to the next photo montage.¹⁰ Just to orientate, this is the eastern entrance. One can orientate oneself again by the Canary Wharf Tower and the Billingsgate side is to the right of the photograph. The issue that arises in this Petition is about the construction methodology. If we can have the next image up, please.¹¹ In the Environmental Statement there were two different construction methodologies being assessed. The reason for this is that our original construction methodology caused great concern to the Canary Wharf Group because of the amount of noise they felt it was likely to generate, so we went away and had a re-think about how we would do it. The Canary Wharf Group are keen on one methodology; Crossrail have developed a different one and there is still a good deal of further discussion and detailed design which Mr Berryman can explain to you either today or on another day as to which to go ahead with. This is the plan for Scenario 1, the first methodology. The detail does not matter very much, but one thing does matter which is that the whole of this part of the dock, the North Dock, is surrounded under water by a structure called the Banana Wall. Despite a great deal of speculation over the years of Crossrail, the reason why it is called "the Banana Wall" is that it is banana-shaped, it is on a curve and it is a Grade I listed structure and it goes all the way around the dock. It is quite an important feature in terms of choosing a construction methodology because, as a Grade I listed building it is extremely important that it does not fall down, so considerable efforts by all the engineers of this site have been put into different ways of ensuring it stays up.

20071. The Billingsgate site lies here and is, of course, a fish market, as the Committee will be well aware, and I should say that the City of London Corporation are the owners of the Billingsgate Market and then there are marketeers who have licences within the market. The issue that arises between us and the City on this Petition, the only outstanding issue, is that we are very happy to talk to the City and I will show the Committee in a moment words that we would be happy to use in these circumstances. We are very happy to talk to the Petitioner about which method is chosen, the detailed design, the impacts on Billingsgate and the

⁸ Crossrail Ref: P143, North Dock—Aerial View (TOWHLB-AP3-45—04-007).

⁹ Crossrail Ref: P143, Artist' impression of the Western Station Island (TOWHLB-AP3-45—04-008).

¹⁰ Crossrail Ref: P143, Artist' impression of the Eastern Station Island (TOWHLB-AP3-45—04-009).

¹¹ Crossrail Ref: P143, Crossrail Environmental Statement, Crossrail Isle of Dogs Station Site Plan (Scenario 1), billdocuments.crossrail.co.uk (TOWHLB-AP3-11—04-001).

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mitigation measures which may be needed for the market. I should explain the reason why mitigation measures may be needed: both scenarios involve some drainage of water from the dock. One involves complete drainage from that part of the dock; the other involves partial drainage and that will have an effect, or may have an effect, on the water table underneath the market, so there may need to be mitigation measures around the market. I am not going to describe those in detail, Mr Berryman can do so if you need to hear them. We are very happy to consult with the Corporation in detail about what measures are taken, but the Corporation wants us to go further, they want to have a right of approval over our works, so they are not just consulting on works but they can say “no” if they do not like the methodology we choose and then the matter would have to go to a decision-making structure by the Secretary of State. Effectively there would be an appeal, a bit like a planning appeal. We are extremely concerned about that idea because it is easy to see that if any landowner has that right of approval the potential for delay to the project, therefore the potential for increased cost, is extremely obvious. If we were only talking about one landowner on the whole route then perhaps that is something that could be lived with—and I will come to the example of Smithfield in a moment—but it is easy to see that at a site such as the Isle of Dogs there are at least two other landowners who have a very considerable, and some would say greater, interest in the construction methodology than the City, that is the Canary Wharf Group who, of course, are the pre-eminent landowners around here and own the vast majority of the land around the dock, and the British Waterways Board who own the dock itself and who are statutorily responsible for it. We say, and Mr Berryman will explain this in evidence, that it is simply unacceptable to be in a situation where various third parties have the right of approval over our works and can force us to go to the Secretary of State for an ultimate arbitration process and the delays and costs are quite unacceptable. Very briefly, the City refer to the fact that we did agree such a right of approval at Smithfield. Again, this is asking the Committee to cast its mind back a very long way to February of last year, but you may remember that we are digging a ticket hall next to Smithfield Market, which is the meat market near Farringdon. There are a number of very significant differences, which Mr Berryman will go through in detail, but, principally, you will remember that the part of the Smithfield market we are digging under is a Grade I listed building, we are going directly underneath it with our escalator shafts and there are works that have to be carried out within the market building. We say Smithfield is quite a different situation. I am sorry to have explained the differences between this in a bit more detail, but I think it may be quicker to do it that way than to wait for them to come out later.

20072. Finally, this is the agreement we have entered into with British Land and UBS at Liverpool Street and the Committee will remember that thanks to the

Committee’s very wise decision we are building a further ticket hall at Liverpool Street just outside the British Land and UBS building.¹² UBS have sensitive computer equipment in their basement and they have been very concerned about the impact of works on their building, so we have agreed with them in paragraph 10 of this undertaking, I do not think it is necessary to read through it in detail, but what it is is a detailed agreement as to consultation with them, including timings for consultation, subject of consultation, how we will consider their representations and we are quite prepared to enter into an equivalent agreement with the City of London at Billingsgate, we are just not prepared to give them the right of approval.

20073. **Ms Lieven:** Sir, I think that is probably all you need to know about the Isle of Dogs for this Petition, although there is a great deal more you will need to know for some of the later Petitions.

20074. **Chairman:** One of the things that is being suggested is that we pay a visit to this particular site before the next hearing. Could that be arranged?

20075. **Ms Lieven:** Sir, it certainly could. I do not think you need to for this Petition. This is a matter of engineering and principle. Whether you really need to for the other Petitions I think is primarily a matter for you, but we can certainly arrange it.

20076. **Chairman:** It can be arranged?

20077. **Ms Lieven:** Yes.

20078. **Chairman:** Mr Cameron?

20079. **Mr Cameron:** Sir, this appearance on behalf of the City relates to one issue only. It relates to Billingsgate Market and the issue in dispute has been quite properly described by Ms Lieven.

20080. It is our case that the Billingsgate Market is very unusual and there are five main respects in which it is unusual. It is a large open-plan structure, that is the first point.

20081. The second point is that it is supported in three different ways and if I can explain that by asking that the Promoter’s exhibit 2 be put up.¹³ I have not got the full number but I am told it is exhibit 2 which I need to refer to. Sir, if you look at this cross-section and if you look at the right-hand drawing at the moment, it does not matter at the moment whether you look right or left, but on the right-hand drawing you can see a cross-section through Billingsgate Market, on the left-hand side of the market you can see that it is built on piles which

¹² Crossrail Ref, P143, Promoter’s Agreement with British Land and UBS, Method Statement and Programme (SCN-20070221-006).

¹³ Crossrail Ref: P143, Crossrail Environmental Statement, Crossrail Isle of Dogs Station Cross Section Billingsgate Protective Works (Scenario 1), billdocuments.crossrail.co.uk (TOWHLB-AP3-11—04-002).

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go down into the dock. Then you have got which has the hatching on it, the Banana Wall and the market is built partly on top of that wall and then, as you move to the right of the diagram, is the third area which is shown as made ground. This large, open-plan structure is founded in these three different ways, piles into the dock, the Grade I listed Banana Wall and the made ground. The drawings available to the City indicate that the market hall, when it is over the made ground, is supported by a ground-bearing slab and by shallow foundations. That is my second point as to why it is unusual.

20082. The third point is this: the City Corporation is given power by Parliament to operate and control the market so this is not any normal commercial or industrial user, this is a market operated under parliamentary authority.

20083. The fourth point is that this market, and I say you have heard about this already because others have referred you back to evidence you heard in February 2006 and I am afraid I can refer you back to day 7, January 2006 when you heard some representatives of the Market Traders Association, the London Fish Merchants Association. Just for the record, it is on day 7. It begins at paragraph 1978 and there is the evidence of a Mr Evans and a Mr Lyons and it runs on to 2024 and then you heard evidence from Mr Smith from the City Corporation. Because it is a fish market, it operates to rigorous hygiene standards. Why is that relevant? It is relevant because if there is any settlement at all and there is some damage to the building those hygiene standards cannot be maintained and, therefore, the market cannot operate, so it is very different to an office or other building where you might be able to manage with a crack in the wall, you cannot manage with a crack in the wall in Billingsgate Market. That is the fourth unusual circumstance which is rigorous hygiene standards.

20084. The fifth point, Sir, is this: the market traders, the small businesses which operate as fish merchants, do not have property interests which would give them an entitlement to compensation. They are, in the main, small businesses. They are highly susceptible to disruption of their trade or adverse impact on their stock. So those are the five reasons why we say that Billingsgate Market is different and why it is special.

20085. What the Promoter is proposing to do is to make substantial changes to the conditions by de-watering, or partially de-watering, the dock. The point I wish to make is they do not know what they propose to do at the moment because they have got these two options. Because they do not know what they are going to do, they do not know what mitigation measures that they are to propose, and, as a result, they do not know what the effect will be on the market. If they did know what they were proposing, the Petitioner, the City, would be able to go to them and say, "This is what you are proposing and we would like to make a contribution at this

stage and we would like you to change this or that in the method of working you are proposing", but we cannot do that because they do not know themselves what it is that they are going to do and what the consequences will be. What we are asking you to do, Sir, is to adopt a practical solution which is to say because this Petitioner, that is the City, has a special case because of this building, the nature of the building and its use, because the Promoter cannot say what they are going to do because they do not know, therefore this Petitioner cannot get involved in methodology at this stage, rather than saying, "You should not let them do it and go back to plan A", which was a cofferdam and did not involve so much de-watering which would be one option for us to say go back to where they started, we are not saying that, we are saying the practical solution is to say to them that they must adopt the approach which they did adopt at Smithfield partly for the very same reasons, that is the effect on market traders and partly because it is a listed building, Billingsgate is not. They should adopt that approach and the City should be given a chance to approve their plans once they have worked them up. They will not be held to ransom because the arrangement which we are putting forward is the same as Smithfield and that has a provision, where Ms Lieven has rightly told you, if agreement cannot be reached there is a way of resolving the dispute. That is a provision which is found in a number of heritage deeds. If it is acceptable for heritage issues, what we ask you to determine is why is it not acceptable for Billingsgate Market which, because of its particular circumstances, is special and because this is a case where the Promoter does not know what he wants to do. So what I would like to do, before calling a witness briefly, is to put before you a copy of the deed that relates to Smithfields, so you know exactly what it is that we are asking for.¹⁴

20086. **Chairman:** We will list this as A 229.

20087. **Mr Cameron:** Thank you, Sir. Sir, this is the Smithfield deed and the parts that are relevant are 2.2 and 2.3. I will not read them out because they are in front of you and what you can see in 2.2, Sir, is that: "the nominated undertaker must submit to the Common Council the works details for those works for its approval in writing", and then 2.3 once they have got approval they should carry out the works in accordance with the approved details, but if there is an impasse, you go to clause 4 and clause 4 is an arrangement whereby it can go to the Secretary of State for determination.

20088. **Mr Cameron:** Sir, that is what we are asking for. I am going to call one witness who is going to explain the engineering difficulties but I hope that will not take too long. I hope you are clear, Sir, on what it is we are asking.

¹⁴ Committee Ref: A228, City of London Heritage Deeds—Smithfield Market, June 2006 (SCN-20070221-007).

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20089. **Chairman:** Of course, you are charged by Parliament with responsibility for this area, but you are not the only one, the British Waterways Board is also charged with a similar responsibility. Do you exclude them from any solution that you are proposing or include them?

20090. **Mr Cameron:** No, sir, we do not exclude them. I cannot speak for them but if you considered it appropriate, Sir, because they are responsible for the Banana Wall, which could be affected by these works, if they were given a similar arrangement that would be entirely sensible and they could participate in the approval process.

20091. **Chairman:** It is not just the Banana Wall, it is also what is within it, which is the water which is the most worrying thing of all. They also have responsibility for that, not only the Wall itself but also the management of the water.

20092. **Mr Cameron:** They do, Sir, and the effect of the works will be if it is to de-water the dock, the dock will then be filled up again once the works have been carried out and any adverse effect is unlikely to be an adverse effect on the water, if there is an adverse effect it is likely to be on the Wall and on the stability of Billingsgate Market which lies partly on the Wall and partly on the other side of it.

20093. **Chairman:** The thing about draining anything is that you find all kinds of things there, and of course, because of construction, other things can happen which cause what is within that wall. All I am asking, is given that you are not the only one accredited in the parliamentary area, whether or not you would accept that if we did go the way that you are asking that you would also include British Waterways.

20094. **Mr Cameron:** Yes, we would, Sir. Are you happy for me to call Mr Monaghan?

20095. **Chairman:** Yes.

Mr Paul Monaghan, Sworn

Examined by **Mr Cameron**

20096. **Mr Cameron:** Mr Monaghan, you are Paul Monaghan, is that right?

(Mr Monaghan) That is correct.

20097. You are a principal engineer with the City of London Corporation, is that right?

(Mr Monaghan) That is right.

20098. Your qualifications, please, in brief?

(Mr Monaghan) I have got a civil engineering degree from the South Bank University. I am a member of the Institution of Civil Engineers and also a member of the British Dam Society and a chartered engineer.

20099. Prior to working at the City of London Corporation, you were a senior engineer with the London Borough of Tower Hamlets, were you?

(Mr Monaghan) Yes, there was a gap in between, but I was at Tower Hamlets when all the major reconstruction was being built, such as Limehouse Link, DLR, and Canary Wharf, and we were monitoring structural issues for the authority became responsible for those.

20100. If I could please ask for the Promoter's exhibit 2 to be put back on the screen.¹⁵ Just using that diagram, can you explain to the Committee in brief how the Billingsgate Market is constructed and the ground on which it stands?

(Mr Monaghan) If I work from left to right, in the dock there is an extended quay, built before we took ownership which is founded on piles and columns through water on the dock and the port is supported on that. If you look, there is a step change in the building, a section on the quay over the Banana Wall and behind the Wall again, was an original dock building which was refurbished, that is founded on the quay, also on the dock wall and behind the wall and then to the right-hand side is the main market hall which has a ground bearing slab, the ground slopes set in the ground separate from the structure and the structure from the record drawings we have is shown as supporting shallow foundations in the made ground.

20101. We can see that the diagram on the left shows the tail of the Banana Wall embedded in the Harwich formation and on the right it is embedded in the gravels. Does anybody know whether it is embedded in the Harwich formation or the gravels?

(Mr Monaghan) These are based on the Promoter's drawings, they are the Promoter's estimate of what they think is the case. At the moment there is no certainty on which formation we have got. There is a considerable difference between the gravels and Harwich formation. The Harwich formation provides what is described as an aquiclude which has got a lot of clay material which prevents materials transferring through and the gravel is very porous, which is a fundamental difference. There probably is a change where it occurs and what change that is we do not know.

20102. What are the consequences of not knowing that for the type of mitigation that you require if you de-water the dock?

(Mr Monaghan) It means there will be probably more than one type of mitigation. It would be uncertain where it occurs and where it changes and the interface between the two would be difficult management. At the moment the Promoters have come up with a number of options which are all based on assumptions and require further investigations.

¹⁵ Crossrail Ref: P143, Crossrail Environmental Statement, Crossrail Isle of Dogs Station Cross Section Billingsgate Protective Works (Scenario 1), billdocuments.crossrail.co.uk (TOWHLB-AP3-11-04-002).

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20103. I would like to ask you now about the two scenarios put forward by the Promoter. If we can have the Promoter's exhibit 1, please.¹⁶ This is Scenario 1, I do not need you to describe it all but just the part that is going to be different when we go to Scenario 2. What should we be looking at in Scenario 1?

(Mr Monaghan) The fundamental difference for this one is the water is retained in the dock, shown in a colour blue, and it provides a support to a lesser degree than is current to the Banana Wall and then there is a small island built inside the dock and before the water tabling are taken any further otherwise it could not be carried out.

20104. Billingsgate Market, top right-hand part of the plan, and there is a bit shown in my version of it in a pinky-purple colour, what does that show?

(Mr Monaghan) From my understanding, that is a pontoon working area which is a floating plant on the dock containing access and various plant materials, but it is fundamentally floated within the dock.

20105. Could we then look at exhibit 3, please, which is Scenario 2.¹⁷ It is the same part that I am interested in and that is the Billingsgate Market and the adjacent dock. What is the proposal there?

(Mr Monaghan) The fundamental difference is taking all the water away apart from the very western end of the dock where they would deposit all the contaminated silt, so it is fundamentally for the silt and there is a large berm constructed to any of the exposed Banana Wall. By exposed, any of the quay was accessible from the dock as opposed to the Canary Wharf side where the Banana Wall is encased within the structure.

20106. In general terms, if you de-water, or partially de-water, the dock, is it known what effect that will have on the stability of the Billingsgate Market?

(Mr Monaghan) In precise detail, it is not known what the effect is but the Banana Wall is somewhat unique in that it is not a traditional wall, it is built and constructed so that the wall supports the front face and supports the back face and in removing the water you create a hydraulic pressure from behind the wall and the wall tries to push forward.

20107. Will mitigation works be necessary in order to stabilise the market if the water is let out of the dock?

(Mr Monaghan) My understanding is that mitigation is a central requirement. We have asked a question of the Promoter, "Has the dock ever been emptied before and why is it maintained at such a high level?" It is not really known to do that.

20108. So if you do not know precisely what the Promoter is proposing and you do not know what mitigation works are being proposed, have you been able to get involved in the process of the design of those mitigation works?

(Mr Monaghan) We have been in discussion since the AP3 was announced. In recent times we have looked at systems that would help minimise impact, such as the recharge well system and things like that, but without knowing the detail we cannot form an opinion on what would be required and we have suggested in discussion with them concerning what we think would help resolve some issues but we do not know what all the issues are.

20109. What they are saying is, to use Ms Lieven's words, they will talk to you about it before they do it. In more formal words, they will consult you but with the undertaking you have taken at Smithfield is if you are able to approve the process. Am I right in understanding that what the City of London Corporation are asking for here is the right to approve the works?

(Mr Monaghan) Yes, and that is fundamentally to approve the works in a manner that does not cause damage to the market and the market can continue trading. We are not saying we want to approve everything, we just want to approve those aspects that mitigate that damage to ensure the market can remain in operation. The standard requirements of the Settlement Deed is that it allows, to a certain extent, surface damage, surface finishes and minor decoration. As was explained earlier, under the EU regulations in hygiene that is unacceptable.

20110. **Mr Cameron:** Thank you. I have no further questions for you, but maybe from someone else?

20111. **Ms Lieven:** I do not think I will cross-examine. I will proceed to call Mr Berryman if that is acceptable.

20112. **Mr Cameron:** I do not know if the Committee have any questions for Mr Monaghan? Thank you very much, Mr Monaghan.

The witness withdrew

Mr Keith Berryman, recalled

Examined by **Ms Lieven**

20113. **Ms Lieven:** Mr Berryman, I am not going to introduce you as I think you are well-known to everybody in the room and these Petitioners. Can we go straight to the heart of the matter here? In respect of impact on Billingsgate Market, can you explain to the Committee what the likely impact is and what mitigation measures you would anticipate being needed?

(Mr Berryman) Obviously, we expect the likely impacts to be negligible because we intend to take the appropriate mitigation measures to ensure that that is the case. Perhaps what I should explain is what the risks of impacts on the market would be.

¹⁶ Crossrail Ref: P143, Crossrail Environmental Statement, Crossrail Isle of Dogs Station Site Plan (Scenario 1), billdocuments.crossrail.co.uk (TOWHLB-AP3-11-04-001).

¹⁷ Crossrail Ref: P143, Crossrail Environmental Statement, Crossrail Isle of Dogs Station Site Plan (Scenario 2), billdocuments.crossrail.co.uk (TOWHLB-AP3-11-04-003).

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Could I have Figure 4 up, that is 002 on the chart?¹⁸ This is the slide you saw a few moments ago showing what the likely geology is in the area of the market. As Mr Monaghan says, we are not quite sure whether the toe of the wall (this thing is called the Banana Wall) is in the Harwich formation or whether it is in the gravel, and that will have an impact on how the water behaves in this area. I think the first thing to say is that the settlement impacts on this market are rather different from those which arise when we are driving in tunnel because the main determinant of the way that this building will settle or not settle is to do with the water level in the ground which supports the building. The matter that is concerning the City Corporation (I am sure they will not mind me suggesting this) is if we lower the water level in the dock to this level or an alternative to this level then there will be lowering of the ground water which already exists behind the Banana Wall. What that will lead to is settlement of this building. The building is a large, open-plan building, so settlement normally would not cause too much trouble to the building itself but there would be a concern that it might cause cracking of the floor. I think that was the point they would be worried out. We would propose to ameliorate that by making sure that the water table in this area was not lowered. We have a number of methods of doing that.

20114. Do you want to explain by reference to 007 how you might do that?¹⁹

(Mr Berryman) Yes. As you have seen from the cross-section, this section in front of the market is a false quay which is supported above the dock water on piles. We can get underneath there and put down a whole row of inclined wells (I think Mr Monaghan referred to this in his evidence) which we can use to pump water in and to recharge the ground water behind the wall. We can also have, if necessary, another row of walls around here, again to recharge the water. That would have to be by agreement with the Corporation, of course. The point about this is that the impact on the ground water level is unlikely to go back this far; it is quite likely that the recharged wells along the front will be sufficient to ameliorate the situation.

20115. Would any of those recharged wells involve going into the market?

(Mr Berryman) No, they would not.

20116. In terms of designing the detailed mitigation measures and, indeed, deciding the construction methodology in the dock, is the project prepared to involve the City in the process of working up those methodologies?

(Mr Berryman) Yes, of course, we would expect to do that. We have a pretty good working relationship with them and we would expect that to continue, and that they would be involved in this.

20117. Can you explain to the Committee why we are so concerned about not giving the City what I would describe as rights of approval over the works rather than a right to be consulted?

(Mr Berryman) Yes. There are a number of interested parties in this area, as I think you explained in opening, but the particular ones are the market themselves (the Corporation), the Canary Wharf Group, which are all this estate on the south side, the British Waterways Board, which is responsible for the docks and the maintenance thereof, and the London Borough of Tower Hamlets, which is the local authority in this area, and which will have concerns about the Banana Wall, which is a Grade I listed structure. So there are a number of different parties who will have different interests and different priorities as to what they regard as the most important factor. For instance, the Corporation, I am sure, will be particularly concerned about settlement of the dock; the local authority who is responsible for the Banana Wall, backed up by English Heritage, will have different concerns about, perhaps, whether or not we can drill holes through the Banana Wall. People will have different priorities and we have to get the best fit between them. If we give the right of approval to the City Corporation we would also have to give it to the British Waterways Board, and to the local authority, and it would be impossible to come up with a solution which satisfied all of them, which would mean constant rounds of arbitration, and so on. What we do want to do, and we are very happy to do, is involve them all the way along the process with all the interested parties and make sure we get the best fit for everybody.

20118. **Chairman:** I quite understand where you are coming from—you are building a railway—but I see nothing wrong with those parties you have just referred to being involved. They are statutory bodies.

(Mr Berryman) Absolutely nothing at all wrong with them being involved; we could not do it without them being involved. We are not talking about whether they are involved and consulted and work with us to develop the right solution; what we are talking about is someone having the right of approval or not. That is a different thing; that is going to the next level of entitlement, if you like. We would expect them to be fully involved with us.

20119. **Ms Lieven:** Can you try and explain, Mr Berryman, the potential implications for the project if landowners with this level of concern—not just at Canary Wharf but thinking, perhaps, of UBS at Liverpool Street—did have a right of approval? I think the City is suggesting that we are being a bit precious about this and “Well, you can always

¹⁸ Crossrail Ref: P143, Crossrail Environmental Statement, Crossrail Isle of Dogs Station Cross Section Billingsgate Protective Works (Scenario 1), billdocuments.crossrail.co.uk (TOWHLB-AP3-11—04-002).

¹⁹ Crossrail Ref: P143, Plan showing Billingsgate—Potential further protective measures subject to design development for Scenario 1 and Scenario 2, billdocuments.crossrail.co.uk (TOWHLB-AP3-11—04-007).

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appeal to the Secretary of State and there is a process that can sort this out". In terms of actually building Crossrail, what do you see as the problem there?

(Mr Berryman) I think the problem is if you have got very, very many parties who need to approve the works it becomes almost impossible to get an agreement on how the work should go forward. You have a constant round of negotiations with different parties to try and bring them together. At the end of the day, we are all trying to achieve the same thing. We will be having prevention of settlement of the market building, the Banana Wall, or any of the other buildings around the dock, as our highest priority. We are not trying to suggest that that is not an important priority; what we are saying is the way to deal with it is by negotiation, consultation and bringing everyone all together rather than giving one party or another the right of approval.

20120. In terms of the construction programme and the potential delays from giving one or more parties the right of approval, how critical is the work in the North Dock to the critical part of the construction programme for the Crossrail project?

(Mr Berryman) It is quite critical. The tunnelling will be coming in this way and going out that way. Before the tunnelling can go through we have to get these end walls, at least, of the box (preferably all the walls round the whole box, but definitely the end walls). So it comes fairly early in the programme that it has to be done. So time will be quite an important factor.

20121. The other thing I wanted to ask you about was Smithfield. It has been put by the City that we have given a right of approval to the City over the works at Smithfield and that, therefore, we are perhaps making a bit of a fuss about nothing about not doing so at Billingsgate. Are the two positions comparable?

(Mr Berryman) The two positions are significantly different. The point about Smithfield is that we are actually going to alter the building; we are not just going to go underneath it or go near it; we are actually going to take part of the fabric of the building down and put it back up again, and altering it significantly. The point there is that Smithfield is also a Grade I listed building, which this building is not—it is not listed at all (the Corporation or the local authority is responsible for that)—but the main difference is that we are going in and physically altering the building; moving the plant within the building and all that sort of thing. We do not intend to do anything like that at all with Billingsgate; we just happen to be building near it.

20122. **Ms Lieven:** Those are all my questions for Mr Berryman. Is there anything else you wanted to say? Cross-examined by Mr Cameron

20123. **Mr Cameron:** Mr Berryman, the original proposals for the North Dock were to create a cofferdam and to retain the water on the outside edge of the cofferdam. Is that right?

(Mr Berryman) That is correct.

20124. You changed those proposals in part because of concerns from other Petitioners about the noise impact of driving the piles.

(Mr Berryman) Not just from other Petitioners but also from the market.

20125. It is the noise impacts. You have changed the proposals and as a result of changing the proposals you are now considering dewatering the dock.

(Mr Berryman) Either partially or fully dewatering the dock, that is correct, yes.

20126. You do not know, at the moment, whether it is going to be partial or full de-watering.

(Mr Berryman) No, we have assessed both possibilities in the Environmental Assessment.

20127. You do not have fully worked up proposals at the moment, do you?

(Mr Berryman) I think we have them to the extent of knowing that they are feasible and that either of them would work.

20128. You have not decided on Scenario 1 or Scenario 2.

(Mr Berryman) No, we have not decided yet.

20129. As a result, you have not decided on the necessary mitigation measures, have you?

(Mr Berryman) We have decided on the mitigation measures that will be necessary for Scenario 1 or Scenario 2. What we have not decided, obviously, is which of those mitigation measures we are going to take because we have not made the primary decision as to which method of construction we are planning to use.

20130. At the moment, there are unknowns in relation—and I take as an example—to whether the toe of the Banana Wall is embedded in the gravel or in the Harwich formation.

(Mr Berryman) Yes, indeed that is true. We will be doing further site investigation to determine that. You may not be aware that we have a continuous programme of site investigation which has been going on now for something like four years, which refines and closes down on the areas of concern. We organise a campaign every year of site investigation and we will be bringing this forward fairly soon—I think it is this calendar year. I am not absolutely sure without checking. We will be doing a whole series of bore holes actually in the dock to establish the ground structure.

20131. All that is planned future work, and one of the reasons you need to do that is in order to design the appropriate mitigation measures, and before you have done that you cannot finalise the design of the mitigation measures.

(Mr Berryman) No, no, that is fair comment. It is more than that; it is also to inform the decision about which of the two possible construction methods is used.

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20132. Whether or not you are actually working within the building, the effect of your works, whichever construction method is used, will be to have an effect on the stability of the building necessitating measures of mitigation. Is that right?

(Mr Berryman) If we use Scenario 1, it is very unlikely that we would even need to do the recharge wells that we have shown on this plan which is up now. That would arise only in the case of Scenario 2.

20133. At the moment it is not known, and absent your proposals, whether within a building or outside it, Billingsgate Market and its traders could carry on trading. It is only because of your proposals that there will be or could be an effect on the market. That is a statement of the obvious, to which you no doubt agree?

(Mr Berryman) No, I do not agree, because I do not think our proposals will have any impact on the traders in the market; it is our intention to make sure that they can trade uninterrupted throughout the process of constructing these works.

20134. However, absent the mitigation measures, they could have and probably would have an impact on the market. Is that right? That is why you need mitigation.

(Mr Berryman) Well, that is a statement of the blindingly obvious. If you are doing construction works which result in ground movements then you have to take mitigation measures. Of course you do.

20135. At the moment, you do not know the precise nature of those mitigation measures. That is agreed between us, is it not?

(Mr Berryman) We know what mitigation measures we may need to take with Scenario 1 and we know what mitigation measures we may need to take with Scenario 2. We do not know which of those we are going to do because we have not chosen which of those construction methods we will be using.

20136. We have already established, and I do not want to go back on it, the uncertainty as to the precise nature of the mitigation measures because you do not know the precise ground condition.

(Mr Berryman) That is certainly one of the uncertainties. There are a number of other factors which are involved as well.

20137. As far as the principal issue and dispute between us is concerned, which is whether the Corporation should be able to approve your plans when you work them up or whether you just consult, there can be no objection in principle to a landowner and statutory market operator having the ability to approve the plans because you have agreed it in relation to Smithfield. There is no in principle objection, is there?

(Mr Berryman) I think there is an in principle objection, yes. As I have already explained to the Committee, the reason for agreeing to that at Smithfield was that we are physically altering the building in a very significant way, as you know. You will recall the evidence that we gave on this point

about a year ago where we had taken substantial parts of the roof down, we were underpinning the building in the actual live part of the market. We were going inside it to do works, so it is only right and proper that, as the owner and operator of a building where we are going inside the building to alter it, they should have the right of approval; I think that is fair enough. The situation with Billingsgate is completely different. We have no intention of going inside that building and interrupting their trading in any way whatsoever.

20138. In terms of the principle, there is no in principle objection to the constructors of the railway having to obtain approval. Whether you draw the distinction because you go inside the building or not, there is no impediment to somebody having the right to approve works, is there?

(Mr Berryman) We have not given it to anybody else, and certainly the only reason we would have even considered it at Smithfield was, as I say, that we are physically altering the building, we are changing it inside. The scale of the works here is of a different order of magnitude.

20139. But here, unless you carry out the mitigation measures, and you accept that some mitigation measures will be necessary, at least in one scenario and probably in both, there is going to be an effect on the building which will be adverse, whether caused inside or outside. Is that not right?

(Mr Berryman) No, that is not right. There will certainly be extremely unlikely to be any effect at all on the building with Scenario 1. In Scenario 2, if we can get away with just putting the recharged wells underneath the false quay along here, there would also be no impact on the building. The building would not even be aware that we were there.

20140. You say that, but you are physically altering the support of the building by altering the ground, by altering the water levels, and you are carrying out works which could have an effect on the banana wall on which the building stands. Both those points are correct, are they not?

(Mr Berryman) I do not think the Banana Wall actually provides any support to the building but we are certainly not intending to affect the groundwater. The whole purpose of using recharged wells, if we do do that, is to ensure that the groundwater regime stays exactly as it is now.

20141. I do not want to talk at cross purposes but absent the mitigation measures, which may be groundwater wells pumping more water in or taking other action in relation to the water, there is likely to be an effect on the ground on which the building stands, so absent some action in mitigation there is likely to be an adverse impact on the building. Do you agree?

(Mr Berryman) Potentially, yes. Having said that, our predictions are that the impacts, even without mitigation, will be negligible. We only get into Stage Two of the settlement analysis because the

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settlement is so low. However, we have worked these ideas up just in case our predictions prove to be too optimistic.

20142. You have explained why you think Smithfield is different but, if at Smithfield you can cope with a statutory market operator and building owner approving details there can be no reason in principle why you could not cope in terms of the construction process with a statutory market operator approving the details at Billingsgate.

(Mr Berryman) No, that is not the case, simply because you have really given it away in your question. The statutory market operator, the local authority and the building owner are all the same person. We only have to get one approval because all of those are functions by one body. At Billingsgate all of those functions are actually held by three or four different bodies.

20143. But in many parts of this railway you are going to have to get approval from different people. You do not just say, "Because we have to get approval for one thing from one person it is all too difficult and therefore we should not have to get approval from anybody", which is what you are saying.

(Mr Berryman) No, that is not true. Generally speaking, the only people we get approval from are local authorities where we need to get planning consents, section 61 approvals and all that sort of thing, and that is fine because that is one body which can make a judgment about what is the best thing for the occupants of this borough. What you are talking about here is getting approval from one body. If we gave them the right of approval we would need to give it to all the other people that I have already mentioned and that is an entirely different situation from something where you have just got one organisation which is responsible for approvals.

20144. But it may cause you difficulties if you have to get approval, you say, and in terms of the actual practicalities there is no physical impossibility of obtaining approval from more than one person, is there?

(Mr Berryman) I often say when I am sitting in this chair that nothing is impossible in engineering but obtaining approval from more than one person for the same thing probably verges close to that.

20145. You were just saying how reasonable the City were in dealing with you. You cannot say that it is impossible, can you?

(Mr Berryman) It is not impossible, of course it is not impossible, but it is very difficult and time-consuming. I am sure members of the Committee themselves will have experienced trying to get approval from a number of different approving bodies on matters for which they may need to do so.

20146. You have explained how it is on a critical path. Why can you not start developing these plans and obtaining approvals at an early stage? You do not have to leave it till later, do you? If you know

that you have to obtain approval from the City under the deed then you can start early. You can alter your programme so that you get approval early and then there is no reason why it should hold up the programme at all, is there?

(Mr Berryman) One of the reasons for having two scenarios is to give the contractor, when appointed, some flexibility as to how he actually does the work, and I think that is probably obvious from the Environmental Statement, and of course that does put a time constraint on things because when the contractor is appointed he will want to start work as soon as is reasonably possible. Of course, we can work up the ideas further and we intend to do that and we need to consult with the City Corporation. I think a statement has been read out that we are quite happy to sign up to about consultation.

20147. It is not going to be effective consultation if you are going to leave it to the nominated undertaker to decide which of those scenarios, is it, because you cannot resolve the issues early?

(Mr Berryman) It will not be the nominated undertaker. It will be more likely the specialist contractor who is appointed by the nominated undertaker, but we can work towards getting solutions for the two scenarios, of course we can, and we will do that. I do not think there is very much between us. What we are talking about really is whether we have a right of approval or whether we work together to collaboratively work out a way of doing the job.

20148. **Mr Cameron:** Thank you, Mr Berryman.

Re-examined by Ms Lieven

20149. Just a couple of points, Mr Berryman. First of all, Mr Cameron placed a great deal of emphasis on the fact that there are two alternative construction methodologies here and that what that meant was that we did not know what the detailed mitigation measures for Billingsgate would be, but is there anything unique to the Isle of Dogs about not yet having drawn up detailed measures for a particular building or is that a situation which arises elsewhere?

(Mr Berryman) No, it is a situation which arises all along the route. Generally speaking, we have developed in principle methods of mitigation but the detailed design of mitigation measures, obviously, is not done yet. I believe some of it is just starting, as you would expect at this stage of a design.

20150. The only other thing I wanted to check with you is that he pressed the point that, absent mitigation measures, there may be some impact on the building at Billingsgate. Is it the case elsewhere on the route that, absent mitigation measures, Crossrail might well have settlement impacts?

(Mr Berryman) Indeed it is. This is by no means one of the—I was going to say worst examples; that is perhaps the wrong expression to use—most critical buildings on the route where mitigation measures will be needed. I think some of the buildings around

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Soho Square, for example, St Patrick's Church or the Huguenot church there, are good examples of buildings where mitigation is absolutely essential to prevent damage to the buildings.

20151. **Ms Lieven:** Thank you. That is all.

Examined by The Committee

20152. **Chairman:** Just one question. Is there any history of the dock having been empty before?

(Mr Berryman) It was obviously empty when it was built. Sections of it have been empty but not this particular bit. The Banana Wall is an interesting structure. It is quite an old structure. It was built by a chap called William Jessop in 1802 or thereabouts. It actually extends all around the extensive range of docks which exist at what is now Canary Wharf and Canary Wharf themselves have dewatered several of them from time to time, although not this particular one, but there is no reason to believe that this is any different from any of the others which have been dewatered.

20153. **Kelvin Hopkins:** On this principle of the Banana Wall, is it rather like the retaining walls of railway passages where they slope upwards?

(Mr Berryman) Yes, it is a similar sort of principle. The shape of the Banana Wall was partly dictated by the kinds of vessel which used the docks when they were built. In modern times the wharves have been extended out over the dock, but when they were built ships would moor directly against the dock and so the shape of that was conducive to that.

20154. But if the water level varied a lot they would need to be built in this particular way to restrain the earth behind, presumably? If they were just straight and the dock stood empty there would be the possibility of them collapsing inwards.

(Mr Berryman) That is right. They are gravity walls and that is why they are that shape. As I say, they stood pretty well for a long time. We have had a look at the historical factors of safety when various things have been done to the water levels in the docks.

20155. I am not suggesting that you do these extra works now but, for example, you know where the long walls fan out at St Pancras into the mainline?

(Mr Berryman) I know the lines.

20156. So do I, and before they did the electrification they pinned them in.

(Mr Berryman) Yes, with ground anchors.

20157. That is right. Is that the same kind of principle?

(Mr Berryman) That is an idea that we have looked at for another part of the dock wall, not the bit underneath the market; we do not think it would ever be necessary there. There is another little bit—it is off this plan; it is kind of there on this plan—where we may have to go to ground levels, but, as you are aware, it is a well-established method of stabilising these things. The complicating factor is

that the Banana Wall is Grade I listed even though you cannot see it, touch it or experience it with any human senses.

20158. **Chairman:** In relation to that answer you gave, if the soil structure is part of the foundations what is the difference between that and at Havering where you would not drill through a wall to get access?

(Mr Berryman) At Havering the wall is a buttress wall.

20159. Is that not?

(Mr Berryman) No, it is not. Havering is a series of arches laid out in a horizontal plane. If you can imagine a railway viaduct rotated through 90 degrees and laid on its side, it resists the earth pressure by the arch action of the ends of the buttress and concentrates the forces very specifically down into the nibs which form the front of the buttresses. This is a different kind of wall. It is a gravity wall. It is almost as Mr Hopkins described it, laying back on the ground. You can see its shape on the cross-section and it works in a different way. It is purely a gravity wall.

20160. Thank you very much.

The witness withdrew

20161. **Ms Lieven:** May I proceed to closing, Sir?

20162. **Chairman:** Yes.

20163. **Ms Lieven:** Sir, obviously, there is only one issue here, which is whether or not to give the City a power of approval. As Mr Berryman has just been through, that is an important, indeed a very important, principle for us because if other parties do have powers of approval over our work that does give a very significant potential both for delay, and therefore, by reason of delay, for increased costs. Picking up the point that Mr Berryman made a few minutes ago, the person who will be deciding in all likelihood the detailed methodology here will be the nominated undertaker and the contractor appointed under him. This Committee has not got involved in funding or timing issues in detail but obviously there will come a moment when funding is approved. There will then be a moment when the contractor is approved and from that moment timing is absolutely critical because the longer you hang around your entire programme can get delayed and you can have cost implications which can be truly massive. I do not want to suggest that one approval at the Isle of Dogs would have some terrible consequence but there is a very important point of precedent here as to allowing third parties to approve works with those kinds of potential, and the suggestion that we can just sort it all out now is wholly unrealistic given the scale of the works that we are talking about with Crossrail and the way this project is to be brought forward. The particular problem is grand at the Isle of Dogs for the reasons that Mr Berryman has gone through because it is not

a question of simply seeking approval of the City Corporation. They are the owner and statutory operator of the market. They are not the planning authority, they are not the principal land owner in the area, that is the Canary Wharf Group, and they are not the owner of the dock itself. That is British Waterways, so we have got at least three other parties with really major interests, all of whom would be coming and I suspect saying that their interests were greater than the City's, and one must not forget the Canary Wharf Group's reason for objecting in the first place to the original proposals was because they have thousands of office jobs around the dock which would be impacted by noise, so they are going to be very unhappy about any suggestion of going back to a scenario that is noisier. One can see that there are not just different parties here but different parties with starkly different interests and different interests to be protected, so the potential for problems to arise with the power of approval here is even greater than in other places.

20164. Sir, it is also important to remember that the whole of the case rests on Mr Cameron's proposition that the City's position here is special. In my submission that is just impossible to sustain. He talks about the structure of the building. Almost every landowner, and we have spent a lot of time hearing about landowners in Soho, would say that their buildings are special for different reasons. In Spitalfields they are special because they are Georgian and they have not got much in the way of foundations. At UBS they are special because they have got computers in the basement which they say the whole of the western economy rests upon. Everybody has buildings which to them are special. It is a joke but it is also true on Crossrail, I am afraid. Equally, the form of construction. So many buildings, and Spitalfields is the obvious example, have forms of construction which may have particular sensitivities.

20165. So far as the suggestion that Billingsgate is special because of the hygiene standards, as Mr Berryman has explained to you, Sir, we have no intention of going inside the building. There is no reason to believe in this case that it will be necessary to do anything that will have any impact on the hygiene issue at all and that factor alone makes it totally different from Smithfield where there was no issue that we were doing works inside the building. If you remember we had a lot of evidence about having to separate off different bits of the buildings and dust evidence. It just does not arise here. In my submission it is special because any building is special but it is not special in the Crossrail context at all.

20166. On the point of principle and Smithfield, Mr Cameron makes a great deal about the fact that it cannot be a point of principle because you agreed it at Smithfield. That is the only place, according to Mr Berryman, where we have agreed approval and it is a wholly different example because we are going into the building, we are doing works inside the building

and it is a Grade I listed building where the impact on the marketeers (and the Committee will remember hearing the marketeers) is very obvious, so in my submission Smithfield is no precedent for what is being suggested here at all.

20167. Finally, so far as the point that there are two construction methodologies and we have not made up our mind is concerned, in my submission, without making a joke about Billingsgate, that really is a red herring because all along the route we have not decided detailed mitigation measures yet. They will be discussed and consulted upon as appropriate with the landlords. I do not want it to seem as if we are being difficult about this. We are quite prepared to give the same consultation undertaking that we gave to UBS and British Land who have an equally sensitive and special building, but we are not prepared to go that extra step for which in my submission there is no justification.

20168. **Chairman:** Mr Cameron?

20169. **Mr Cameron:** Sir, I am going to deal with this issue: can this objection and this building be distinguished and will it cause problems if you ask the Promoter to give the City what the City are asking for? Sir, first of all the issue. There is no dispute on the issue. The issue is: should the Promoter be required to consult or should the Promoter be required to obtain approval for works of mitigation? The second point: is there anything special here? Yes, there is a combination of special factors and no doubt every petitioner who comes before you says, "Our case is special".

20170. I outlined in opening that it is a large open-plan structure. It is a combination of these factors—a large, open-plan structure supported in three different ways, that is, on the quay, on the Banana Wall, on the made ground. Thirdly, this is a statutory market. Fourthly, it is a fish market subject to rigorous hygiene standards. Fifthly, unlike in other cases, there are market traders who will not be entitled to compensation if their business is disrupted, and you have heard from them, so there are five reasons why it is different. It is not the same as a business such as UBS for all those reasons.

20171. The other reason that it is different is that if you are a market trader in Billingsgate it does not make a scrap of difference to you whether the structure starts cracking and tiles come off the roof and you have to stop trading because of the hygiene standards because Crossrail are carrying out works in the basement or whether they have dewatered the dock next door. It is not how they cause it; it is the effect, so in fact there is no reason to distinguish this case from Smithfield. It is what the Promoters are proposing to do that would or could have an effect on the building.

20172. The third point, Sir, I wish to address is this. If the City Corporation have power of approval will it cause problems for Crossrail? First of all, it is not

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going to set a precedent because if there is a precedent it has already been set. It is in relation to heritage deeds and in the case of Smithfield it is set in relation to a market. The point about the Smithfield deed is that it allows market factors to be taken into account. Also, will it cause a problem to the programming of the construction? No, it will not. The problem here is, of course, because the Promoter will not and cannot make up its mind what it wants to do in the vicinity of this building now and as a result the petitioner cannot get involved in discussing the mitigation works. We have heard today from Mr Berryman that the decision as to which scenario is to be chosen is to be put off not for the nominated undertaker but beyond that to the contractor. If they made their mind up now the problem would not arise because they would have time for approval so any problem of delay would be entirely of their own making.

20173. Sir, none of the arguments put forward is convincing as to why they have problems. The means of solving the problems are entirely within their own hands. They cannot make a problem and then say, "Sir, none of the arguments put forward is convincing as to why they have problems". The means of solving the problems are entirely within their own hands. They cannot make a problem and then say, "You cannot allow somebody whose building is going to be affected, we know not how, to have some say in the mitigation measures because we will not make up our mind now, and if you give them a power of approval it will delay it till later." Let them make their mind up now, get the approvals, no delay to the project. Sir, those are my submissions.

20174. **Chairman:** That concludes that petition. We now have Mr Taylor.

20175. **Mr Taylor:** Sir, thank you. Back to APRS and UK Post; I am very grateful for the time. The essential question in dealing with this petition is whether the noise environment in various studios in Soho will be sufficiently protected through the construction and operation of Crossrail by the regime that the Promoter proposes in IPD10 that the Committee is familiar with.²⁰ It is not correct to suggest that the Promoter has simply ignored the studios in Soho. Specific provision is made for their protection in IPD10 with a design criterion set out in that document for soundproofing studios of 30dB LAmax, and indeed it is not correct to say that the Promoter has simply ignored the studios in the work that has been done to date because Mr Thornely-Taylor and others at CLRO have undertaken a number of measurements of various locations in studios within Soho.

20176. So far as the appropriate standard is concerned, Mr Thornely-Taylor has explained previously his view that the 30dB LAmax standard is appropriate to protect studio environments generally, and indeed he has explained how that

design criterion can be met in particular in relation to the particular constraint of the various design criteria imposed in Soho that floating slab track will be provided in Soho for the permanent railway. In the case of GCS, as the Committee has heard in the last day or so, a particular exception was made but that is because of its unique situation having studios in the basement directly above one of the running tunnels. Mr Ivor Taylor on behalf of GCS explained in response to questions from Mr Binley yesterday that GCS was unique. There are a number of other studios but he explained why its position was unique. Other studios, for example, operate from upper floors rather than within the basements and not all of them have Dolby certification.

20177. The APRS and UK Post have not presented any expert evidence to demonstrate that any studio would be adversely affected by noise from Crossrail if the IPD10 design criterion was adopted. The example of *Billy Elliott* in the theatre in my submission is a bad one because the noise level in that theatre from groundborne noise I believe is 43 dBLA(max), which is substantially above the criterion which is proposed to apply in this particular case. Further, there has been no evidence presented on behalf of APRS and UK Post that the adoption of the 30dB LAmax criterion is inappropriate.

20178. On the last point, I took instructions in relation to the issue of background noise surveys and I am pleased to say that the Promoter can undertake to provide background noise surveys for noise-sensitive parts of premises if reasonably requested to do so by members of the petitioning organisations. It can also undertake to agree with the petitioning organisations a methodology for the measurement of background noise based upon the methodology that was adopted to measure background noise at GCS, and that is all I have to say. Thank you.

20179. **Mr Lewis:** We are pleased with the response of the Promoters, particularly in relation to the monitoring and, of course, in relation to the promise to install floating track slab through the whole of Soho, which I was not aware they were going to do. So I say thank you to the Promoters for agreeing to carry out the monitoring. I would like to repeat though, in case it is not clear, for the record, that obviously I am representing two organisations, and if any of the organisations' members choose to appear in the other place then, clearly, what has happened to them in individual cases may raise more detail.

20180. **Chairman:** Thank you. We move to the residents of Mayfair—

20181. **Mr Lewis:** Sir, I am sorry to interrupt. I just wanted to mention something which I had asked Mr Newberry to mention but he forgot to do so. I know you are going on a site visit tomorrow—at least you

²⁰ Crossrail Information Paper D10—Groundborne Noise and Vibration, billdocuments.crossrail.co.uk

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were—and the invitation is extended by Grand Central for Members to come and visit the premises during the course of the morning.

20182. **Chairman:** We are very grateful for that. Can I just say I have had a look at the programme and it is very extensive, so I am not sure we are going to have time, but I will have a talk with the Clerk to see if it is possible.

20183. **Mr Lewis:** Thank you, Sir.

The Petition of the Residents' Society of Mayfair and St James and The Grosvenor Mayfair Residents' Association.

Mr Robert McCracken QC appeared on behalf of the Petitioners.

20184. **Ms Lieven:** Sir, given the time I am sure we are not going to be able to hear the substance of this Petition but I do want to make very brief submissions as to why the Committee should not hear the substance in any event. That matter, I suspect, we can deal with in the time we have this afternoon.

20185. Sir, you will recall that these Petitioners have appeared before in their Petition against the main Bill. You will recall that their principal point was to advance the northern alignment route and an alternative alignment to the Bill route. Sir, the Committee, despite my suggestion that it was outside the principle of the Bill, did hear evidence on that matter: evidence on behalf of the Petitioner from Mr Winbourne and Mr Shabus, and evidence on behalf of the Promoter from Mr Berryman, who was cross-examined.

20186. So far as I can see from the evidence that has been produced to us, the documents from those Petitioners last night, they are now seeking to raise the northern alignment again. That is their principal, if not their only, point. I do ask the Committee not to hear those submissions or evidence on that matter for three short reasons: first of all, alternative alignments go to the principle of the Bill and are outside the remit of this Committee. Secondly, the issues about the northern alignment have nothing to do, in truth, with AP3. The only possible relationship to AP3 is that the residents have raised some points about the costs of Bond Street Station and whether there is a cost-benefit analysis for the AP3 scheme as a whole as opposed to for the original scheme. In my submission, that still goes to the principle of the Bill and, perhaps, more importantly, or more substantively, as Mr Berryman explained last time this Petitioner was heard, the reasons for rejecting the northern alignment were not because of a cost-benefit analysis that had been carried out, it was because the northern alignment did not provide the passenger benefits which the Crossrail scheme did.

20187. So, in my submission, this falls outside the terms of AP3 and should not be heard in this part of the hearings. Thirdly, going right to the heart of it, the Committee have already heard this evidence on 18 April 2006, and Mr Berryman explained in some detail our reasons for not pursuing the northern alignment, including what is sometimes called the

Wigmore Street variation of the northern alignment. Obviously, one can have an alignment and have endless variations of it, and at the last hearing in April of last year the Wigmore Street variation was raised and Mr Berryman explained why he did not think there was any merit in that. So it is a matter that has been dealt with in its substance already. So for those three reasons I would invite the Committee not to hear this Petitioner.

20188. **Mr McCracken:** May it please you, Sir, and the Committee. This Petition is brought on behalf of a group of residents. Their homes and the area in which the live is affected. The Committee should be very cautious before refusing to hear what they have to say. Their Petition was submitted to the Clerks and vetted in the usual way. The Clerks did not consider that the Petition was one that failed to raise matters that related to AP3.

20189. The Promoters of the Bill have submitted in writing a response to the Petition. That written response does not raise the points that Ms Lieven has raised this afternoon. In the ordinary course of events, where a Promoter considers that a Petition is inadmissible for the sort of reasons Ms Lieven has given, then that is a point that could, should and would be raised in the written response, whether or not, on a without prejudice basis, the written response went on to deal with matters of substance.

20190. Thirdly, a meeting took place, I think, almost a month ago between the Petitioners and the Promoters. This point was not raised at that meeting. So there have been at least three occasions where if this were a good point rather than a point raised because it is convenient at a quarter to five to, as it were, ease the programme of the Bill, it would have been raised on all, probably, of those three previous occasions. It has not been raised on any of those previous occasions; in my submission, for very good reason, because it is a thoroughly bad point and it hardly does justice to what may be the substantive answer which the Promoters might have to points which the residents' association wish to make to the Committee.

20191. The issue which is currently before the Committee is whether AP3 is, to put it in its broadest terms, a good idea or not, and in deciding whether AP3 is a good idea it is indeed necessary to compare AP3 with the alternative route which the residents'

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association put forward. It was interesting to hear Ms Lieven suggest that the alternative route put forward by my clients was first put forward at the last session at which their substantive objection to the principle of the Bill was considered, because actually the alternative route that they put forward was put forward about a decade ago. Unfortunately, the Promoters of Crossrail appear (for whatever reason it is unnecessary to speculate) always to have looked not at the actual alternative put forward by my clients but an entirely different scheme which has not been promoted by my clients for something like a decade.

20192. I can demonstrate very briefly why Ms Lieven's points are, in my submission, thoroughly bad. I think the Committee will have a bundle of documents that Mr Winbourne would propose to use.

20193. **Chairman:** This is A230.

20194. **Mr McCracken:** If the Committee would be so good as to look in A230, about tab 3.²¹ There is set out a revised planning balance sheet covering broad brush comparisons between Crossrail and the Crossrail northern interchange route, including engineering costs, environment, valuation compensation and disturbance issues following AP3. I am going to take one item from that which demonstrates clearly that my clients should not be refused standing to make the points that they would like to make.

20195. If the Committee turns to that tab, there is discussed the relative merits of Bond Street Crossrail Station, AP3 version, and the Bond Street Crossrail northern interchange route, which is the alternative that my clients seek. I am going to ask that there be screened the second page of this document, which, at the top left-hand column, continues (dealing with Bond Street, the Promoter's version—and the Committee will see in the first five lines): "The station requires now the demolition of six very expensive West End properties, of which the latest, on the north retail side of Oxford Street, is alone valued by me on an obviously 'spot' basis at £50 million". That estimate is one which, at this stage at any rate, the Committee should treat as being a sound estimate, and in deciding whether or not Mr Winbourne's evidence should be heard today then that is the evidence he wishes to give. It must be a basis on which the Committee considers whether or not it is relevant.

20196. "On top of all this folly, no Tube interchange is possible with overcrowded Oxford Circus. Crossrail provides no breakdown of its base costs, but it can be assumed that the station cost was (say) £500 million before the latest three demolitions

required partly to relieve predictable Bond Street Tube Station overcrowding due to JLE eastern section. Now a further £150 million approximately is to be added on to the uncertain base costs but it seems likely to add up to £700 million."

20197. It may be that after the Committee hears our submissions it is either persuaded by them or it may be it is not persuaded by them, but on any view my clients ought to be able to be heard on this point, and Ms Lieven's suggestion that they should not be heard is one which, in my respectful submission, is without any merit.

20198. **Chairman:** Thank you very much indeed, Mr McCracken. Can I just, first of all, say that whether or not something is introduced at a quarter to five is irrelevant to this Committee; we have met for many days, weeks, months and now we are going into years, on this matter and we will continue to do so until we get to a Committee decision. One of the reasons why we heard the Petition last time it came before the Committee was, although I viewed it and other Members of the Committee viewed it as being outside our remit, that we wanted to give the residents an opportunity to state their views and, therefore, we were being very cautious, in your words, in our way forward.

20199. Can I also say to you that one of the arguments you put forward was about the clerks not coming back to the residents and dismissing the grounds on which they could bring their case. It is not for the clerks to do such a thing, it is for the clerks to register that that application is being made and it is then for the Promoters to make the case as to whether or not they should be there, which is quite rightly what Ms Lieven has done.

20200. **Ms Lieven:** Can I say very briefly, Sir, that the Petition does not focus on the northern alignment, that is why neither the clerks nor I raised the point. It was only when we got the Petitioner's evidence that we realised that what they were here to argue about was the northern alignment. That is just to put the clerks entirely at rest.

20201. **Mr McCracken:** That, if I may say so, with great respect to Ms Lieven, indicates clearly and beyond peradventure of doubt that the application to strike us out before we have even given our evidence manifestly and must fail. If she says that even her reading of our Petition is such that it is admissible then manifestly until our evidence is being heard it is entirely inappropriate to say that we should not be able to present our Petition and call our evidence. No doubt, if our witness strays from what Ms Lieven regards as the straight and narrow, no doubt she will object and, indeed, I apprehend that the Committee will intervene should our witness stray from the straight and narrow.

²¹ Committee Ref: A230, Revised 'Planning Balance Sheet' covering broad brush comparisons between Crossrail and CNIR to include engineering costs, environmental, valuation, compensation and disturbance issues following AP3 (WESTCC-AP3-27—05-045 and -046).

The Petition of the Residents' Society of Mayfair and St James and The Grosvenor Mayfair Residents' Association

20202. **Chairman:** Mr McCracken, by giving the Crossrail Bill a second reading the House of Commons has already approved the principle of the Bill, that is the first thing we should remember.

20203. **Mr McCracken:** That is not in doubt. The Residents Association of Mayfair do not come here to say there should not be Crossrail, what they do is they come here to say, Crossrail should not impose that degree of disruption on the life of the people of Mayfair, as is proposed, and it should not be as expensive as is proposed and it should provide more transport benefit. Within the principle of the direction of the House of Commons, there is no suggestion on our part that what the Committee should do at the end of the day is reject a solution that fits in with the direction of the House. It is simply a question of which, as it were, solution within the scope of the direction is the one that is in the public interest to approve.

20204. **Chairman:** I am well aware of that but the Commons also provided a number of instructions to us and defined what we may and may not consider. That included the route of the train line in certain places. You will appreciate that, you have read the documentation.

20205. **Mr McCracken:** Sir, as I understand it, the alternative alignment that my clients promote is entirely consistent with the direction of the House.

20206. **Chairman:** I will give you another few minutes to prove that and listen to your case because I am not convinced as yet.

20207. **Mr McCracken:** In that case, Sir, what would be helpful, if you could indicate the particular parts of the direction that you feel, as it were, *prima facie* we do not comply with, that would be easiest. If your clerk could give us a copy of the direction with underlined parts that you or she think we do not comply with, then I will make that good.

20208. **Chairman:** On the application which you have made, we are not convinced that you are dealing with matters connected with AP3. What I am going to do now is I am going to end the session and give you the right to write to the Committee about this matter and for you to make the case that you should be allowed to come back in front of us to make your argument.

20209. **Mr McCracken:** I am bound to say, Sir, that I cannot accept, on behalf of my clients, that the Committee is unable to tell me which parts of the direction it considers we are not compliant with. I am bound to submit, Sir, that that is a flagrant disregard of Article 6 of the European Convention of Human Rights. That is not a fair trial. If the Committee cannot tell us what part of the direction we are not complying with then we do not have an opportunity to respond to that and that is simply not fair, Sir.

20210. **Chairman:** Mr McCracken, I have offered you some minutes to put your case about how you are in line with AP3. I am going to offer you that again for the remaining few minutes that we have got to see if your case can go forward. It is not up to this Committee to prove your case, rather, Sir, it is for you to put to the Committee whether or not you are within the guidance of AP3 or not and I am giving you the next few minutes to make a decision.

20211. **Mr McCracken:** I am perfectly happy to do that, but what I need to know is which elements of the direction the Committee is provisionally minded to hold we do not comply with, and that is a very simple request. It must be something in the mind of the Committee because otherwise the Committee's provisional decision would be an irrational one.

20212. **Chairman:** Can I just say, this is a very complicated matter in relation to the points which you are raising here. What I intend to do is to allow the Committee to deliberate on the submissions you have made and then we will be in touch with you formally after we have met in private as to whether or not we will invite you back to your hearing. What I am saying to you is that the application you have made and the points you have raised within that application do not seem to conform to part of AP 3. We are going to meet in private with the clerks and with the members of this Committee and view both of those and come back with a statement.

20213. **Mr McCracken:** I appreciate that, Sir. I have not made an application this afternoon, I have merely appeared here to present a Petition that has been accepted and to which no objection has been made before this afternoon. Ms Lieven has made an application we should be struck out. She has been unable to identify any part of the direction with which our Petition does not comply. She has been unable to identify any part of the direction with which our alternative route does not comply and, while I accept the Committee can, as a manifestation of the high court of Parliament, make a decision, of course I shall respect that decision. Nonetheless, absent an indication of the Committee of that part of the direction that it provisionally considers our Petition does not comply with, then of course I must reserve my rights in respect of such redress as is available where there is a failure to comply with the principle of natural justice by Parliament.

20214. **Chairman:** Mr McCracken, your business is the law and you will always reserve your right to whatever. This Committee is bound to hear evidence on the applications made. Your submission was outside AP3. I have offered you time, albeit limited, and if necessary accepted your views and moved on with your views. You chose not to use that time. What I proceed to do now is that we will meet in private as a Committee with the clerk and go through that and write to you accordingly, but my view is your submission is not in line with what is our remit of AP3.

The Petition of the Residents' Society of Mayfair and St James and The Grosvenor Mayfair Residents' Association

20215. **Mr McCracken:** I respect that and the Committee has a note that, in my submission, if the Committee is not able to identify that element of the direction to which our case does not comply then your provisional decision is irrational, but I have to accept that.

20216. **Chairman:** The issue is we will be in contact with the reasons for our decision whichever way that may be. Ms Lieven?

20217. **Ms Lieven:** Only if it helps, I am quite happy to say that we will write to the Committee within 48 hours setting out the aspects of the instruction I can tell you now but at three minutes to five—I slightly resent the suggestion I did not tell you because nobody asked me to—we could but at three minutes to five, it is perhaps not appropriate. We will write to the Committee within 48 hours and set out our reasons why the evidence that this Petitioner wishes to present on northern alignment should not be heard and that gives the Committee the Promoter's

position and it also gives the Petitioner a clear understanding of the Promoter's position if he has not got one already.

20218. **Chairman:** That would be most helpful. We will look at all sets of evidence when we meet as a Committee. Can I repeat, Mr McCracken, when we had the last opportunity to discuss these matters in the Committee, we were very cautious in our approach and very generous in our approach where the case was being made that it was outside our remit and we let the evidence be heard and we will view what you have said today and what Ms Lieven will supply we will do that in private and get back to you.

20219. **Mr McCracken:** I am not going to repeat anything that I have already said because I sense it will probably not tend to persuade the Committee towards what, in my submission, would be a more just approach, but I was not there on the last occasion. My concern is only with their ability to present this Petition now.

20220. **Chairman:** Let me leave you with these words, the Committee accepts you are doing your job.

Tuesday 27 February 2007

Before:

Mr Alan Meale, in the Chair

Mr Brian Binley
Ms Katy Clark
Mr Philip Hollobone

Kelvin Hopkins
Mr Ian Liddell-Grainger
Mrs Siân C James

Ordered: that Counsel and Parties be called in.

The Petition of English Welsh and Scottish Railway Limited.

Mr Charles George QC, appeared on behalf of the Petitioners.

20221. **Chairman:** We resume the hearing today to hear the Petition of English Welsh and Scottish Railway Limited. Today, the Petitioner is represented by Mr Charles George QC, but firstly I bring in Mr Elvin.

20222. **Mr Elvin:** Sir, if it is convenient to the Committee, I will open with the Depot Strategy just to explain what the new Depot Strategy is. In AP3, which I introduced to the Committee on 18 January, which is Day 66, paragraphs 18803 to 18830, we propose to relocate the main Crossrail depot from Romford, which is where it sits within the original Bill provisions, to Old Oak Common in west London.¹ I know the Committee carried out a site visit last week and are familiar with the location and generalities.

20223. The decision was made and, as the Committee are aware, because of the impacts of the proposed depot at Romford on local playing fields, on taking Green Belt land and on local people, which raised a considerable amount of objection, it was decided to look elsewhere, if that could be done with the Committee's support.

20224. The alternative strategy is set out in AP3 Environmental Statement, chapter 16. Essentially, it has been made possible by a change in the tunnelling strategy and also the possibility, and I say only "the possibility" for reasons I will explain in a moment, of using the North Pole Depot since Eurotunnel have plans to vacate this year or in the near future, firmed up relatively recently in terms of the Bill process.

20225. Unlike Romford, the revised Depot Strategy to a very large extent involves impacts only on railway land and does not have the sort of impacts that Romford would have on playing fields and Green Belt.

20226. Moreover, Old Oak Common, which is the site of the proposed depot, is already in railway use, as the Committee will be aware, and it is currently occupied by a number of users, including EWS, First Great Western, Heathrow Express and the like.

20227. There are four main elements to the new Depot Strategy, only two of which need concern the Committee because only the EWS Petition remains. I will deal with the uncontentious ones first, the first of which is Clacton which is dealt with in chapter 26 of the AP3 ES, which is going to be the site for the commissioning of Crossrail trains and the proposal is to temporarily reopen the Clacton depot to commission the rolling stock, and there are no issues with regard to that.²

20228. The second location is Ilford, which is dealt with in chapter 19 of AP3 ES, and that is to provide stabling for Crossrail trains on the eastern side of London. I am pleased to say, as the Committee may be aware already, that agreement has been reached with the current occupier, Bombardier, over their sheds at Ilford in the following terms, and I have been asked to read this out to the Committee for the record:

20229. "The Bill makes provision for powers over a large part of the Bombardier plants at Ilford, and the Promoter recognises the strategic value of the Bombardier works at Ilford both to the local economy and to the national rail industry. To this extent, therefore, the Promoter has entered into an undertaking in a draft form of understanding with Bombardier which is intended to continue to enable the satisfactory carrying out of works for Crossrail at Ilford while also protecting Bombardier's facilities and their ability to continue delivery to their existing activities both during Crossrail construction and thereafter during Crossrail operations". There is documentation behind that, but the short point is that the Ilford stabling site is now no longer contentious.

20230. That leaves the other two elements of the new Depot Strategy. Firstly, there is Old Oak Common Depot itself, and perhaps we can just put the plan up for that, which I think is from AP3.³ That is where the main depot building will be located. You can see from the plan the proposed new stabling sidings and

¹ Committee Ref: P144, Old Oak Common—Oblique view looking east (LINEWD-AP3-43—04A-001).

² Committee Ref: P144, Crossrail Environmental Statement—AP3, Route Window R2: Clacton, www.crossrail.co.uk (LINEWD-AP326-002).

³ Committee Ref: P144, Committee Ref: P144, Old Oak Common and North Pole Depots (Sheet 1 of 2) Amendment of Provisions—Original Scheme and Context Plan (LINEWD-AP3W2W3-005).

 The Petition of English Welsh and Scottish Railway Limited

the new depot. There will be a depot building and ancillary buildings, 26 sidings, current buildings will need to be demolished and track work will need to be revised. Old Oak has long been associated with passenger use and has been safeguarded by Crossrail since 1990, so it has been safeguarded for passenger train purposes for nearly 20 years. When EWS acquired interest in part of Old Oak Common in 1996, they did so knowing that it had been safeguarded for Crossrail. It is dealt with in chapter 17 of the ES and what we say to the Committee is this: that Old Oak Common is an optimal location for the western end of the busiest section of the railway. It is a location conveniently located for many terminating trains. A large proportion of the westbound trains terminate at Paddington and it would be very convenient to extend such a train as an empty movement to the depot.

20231. You heard a great deal last July from the freight industry about the problems of the availability of rail paths on the eastern side of London, and the location of a depot at Romford of course would not improve that situation, whereas a location at the western side would be less likely to cause such capacity issues.

20232. The second element in this location, as you will see from the lower part of the plan, is the North Pole Depot at Canal Way. This is another possible element of the strategy, although, for reasons I am going to explain in a minute, it is not a certain part. It is a potential location identified in the ES and the Bill to which EWS might be relocated from Old Oak Common. It is to be vacated by Eurostar this year. It is fair to say that, at the time the Bill was deposited and the ES was produced, it was thought it was a likely prospect for relocation. However, certain further information has become clear since then which makes it less likely, and I will explain that now.

20233. The issues which remain for the Committee, therefore, on the Depot Strategy are, firstly, whether to endorse the change in the depots and what that entails and, secondly, to consider EWS's Petition as to the disturbance that the proposals will have on EWS's usage of Old Oak Common, which is probably the main issue, and what should be done in that respect. Apart from EWS's Petition, there is no opposition in principle to the change of depots and the changes which accompany that. As I have said, two of the four elements are now uncontentious, Clacton and Ilford.

20234. Turning to EWS's Petition and its displacement from its current location in Old Oak Common, when EWS acquired a lease of part of Old Oak Common in 1996, as I say, it did so knowing that it was safeguarded for passenger use. Perhaps we can just look at the safeguarding plan, which is Exhibit 04-034 please.⁴ There are a series of safeguarding plans and that one covers most of the

area in contention and there is another plan which shows the lower part, but you can see that the area of the proposed depot was within the grey safeguarded area for Crossrail.

20235. **Mr George:** I think that is the new safeguarded area.

20236. **Mr Elvin:** Is it? I do apologise. I will dig out the correct plan and show you it later.⁵ I do apologise if I have caused confusion. Even when a more limited use of Old Oak Common was proposed, because even under the Romford scheme it was proposed for stabling, EWS objected on the basis that it would have a severe impact on its operations, so, from EWS's point of view, it seems that, whether we take Old Oak Common as the depot or Romford, their case is that there will be a significant impact on their operations. The original proposals would have allowed EWS to remain with their locomotive maintenance facilities, but they indicated at the time that the removal of some of their facilities, particularly for charter trains, would render their occupation of this site difficult or unviable. Therefore, as far as EWS are concerned, it seems that, whichever depot option is taken, EWS is contending that there is a significant impact. In that event and given the optimal nature of Old Oak Common and the other objections to Romford, we suggest it is reasonable to concentrate Crossrail activities on this single site.

20237. Key aspects of the current usage of Old Oak Common, we would suggest, would seem relevant considering the extent of the disruption to EWS. We have examined the usage of Old Oak Common over a number of months, looking at the train movements in and out of the depot, including one of the peak periods for charter trains which is during last year's Cheltenham Gold Cup, which was 14 to 17 March last year. The usage appears to be light and plainly EWS do not occupy Old Oak Common intensively.

20238. We have invited EWS to look at the figures and late yesterday we received the suggestion from them, I cannot remember whether it was by letter or email, that we were not necessarily looking at the busiest times of the year, and no doubt EWS will be able to provide the relevant figures. We raised this issue with them last week and no doubt, if the figures are relevant, they will be produced, but, on the figures that we have, the usage is light and I will get Mr Berryman to speak to them in due course.

20239. So far as we are aware, the principal aspects of the business on the site are the charter train business which is of recent origin, having begun largely with the purchase of a charter fleet in about 2003, which had previously been stabled near King's Cross.

⁴ Committee Ref: P144, Crossrail Safeguarding Directions Sheet No. 304 (LINEWD-AP3-43—04-034).

⁵ Committee Ref: P144, Crossrail Safeguarding Directions Sheet No. 3 (LINEWD-AP3-43—04-030).

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20240. EWS, however, have marketed the site as at November of last year on the basis that the whole of its leasehold interest was up for sale and not necessarily for a rail depot. It seemed to be suggested that it should be marketed for industrial sheds of some description served by rail. We can put up the particulars of the sale, 04-019 and 04-020.⁶

20241. You can see these are the particulars from November 2006, with EWS putting the site on to the market and perhaps we can look at the second page. It can be seen from the areas which are described there that there is a series of coloured blocks of land on Exhibit 04-020 and they are all described in the list in the top left-hand corner, and the areas which are coloured and apparently put on the market as available for disposal cover, as far as we are aware, the entirety of EWS's lease.

20242. The only areas of Old Oak Common Depot which are excluded from the sale are those which are not in EWS's possession and are not required for the depot, and we just show the totality at 04-032.⁷ Unfortunately, the plan is almost completely unreadable. You will see that we have superimposed the coloured blocks, that the red line shows the boundary of EWS's ownership and you can see that the areas for sale, therefore, cover the totality of EWS's property.

20243. Perhaps we can just put up a series of aerial photographs which show the Committee how the site is currently divided, and 04A-001 to start with.⁸ You will see there an oblique aerial photograph which shows you the relationship of the EWS areas and the dotted white line demarcating it from the first Great Western depot and the Heathrow Express depot and sidings, and you will see the North Pole to the right. Then in number 002, you will see another angle further into the site and you get a very clear view of the rough triangle on the left-hand side which is the EWS site, and that is the site which is up for sale.⁹ Then number 003 is another angle again, it is an aerial photograph again, and you can see the demarcation line, the white, dotted line showing where the EWS ownership ends.¹⁰

20244. An illustrative drawing appears to have been produced by EWS and was provided at our request last week because it had not been available on the site visit, which is 04A-033, which appeared to accompany the sale proposals.

⁶ Committee Ref: P144, Old Oak Common Traction Maintenance Depot Leasehold Brochure (LINEWD-AP3-43—04-019 and -020).

⁷ Committee Ref: P144, Depot & Stabling Strategy Review—Layout of EWS Facilities within Old Oak Common Depot (LINEWD-AP3-43—04A-032).

⁸ Committee Ref: P144, Old Oak Common—Oblique view looking east (LINEWD-AP3-43—04A-001).

⁹ Committee Ref: P144, Old Oak Common—Oblique view (LINEWD-AP3-43—04A-002).

¹⁰ Committee Ref: P144, Old Oak Common—Aerial view (LINEWD-AP3-43—04A-003).

¹¹It appears to show the whole of the site taken up by sheds served by rail and no retention of any land for EWS's maintenance facilities or indeed for the charter fleet which, they say, is necessary for a viable use of the site.

20245. Therefore, at least on EWS's own showing, it has put the site up for sale, it is a site which we do not appear to have in very intensive use, the illustration which has been produced does not appear to keep it in the current usage to which it is being used by EWS, and the Committee will have seen the "For Sale" sign on its site visit. Sir, the extent to which Old Oak Common is quite as important as EWS states it is is a matter of some question.

20246. Whilst North Pole seemed a possible solution, and was so promoted in the Bill, it has subsequently become clear that that may not be the case because unfortunately the costs as they have been looked at in more detail since the Bill was deposited may well be prohibitive because the operating costs and the rating liability for the site were much higher than anticipated. It is entirely right, and EWS, I am sure, will point it out to the Committee, that the estimate that accompanied the deposit of the AP3 amendments considered that £73 million would be the cost of relocating EWS to North Pole, making North Pole fit for EWS's operations and paying compensation, including a contingency.

20247. However, like it or not, so far as EWS are concerned, it remains a fact that what became clear in December is that the rating liability for North Pole was massively greater than had been anticipated. Old Oak Common is rated along with Network Rail's general rating liability for all of its lands within the country, and North Pole is separately rated on a special arrangement with Eurostar at a much higher level. The effect of having to pay the rating liability not on the Network Rail basis, which is at Old Oak Common, but moving EWS to North Pole would be to add some £20 million to the bill, it appears, and the costs would rise to some £93 million. It is a matter of regret that that issue was not spotted at the time, but nonetheless, the bill estimate of £73 million was carried out without the knowledge of that enhanced rating liability.

20248. Crossrail has, therefore, also considered an alternative relocation strategy, which was shown to EWS last week, as part of the long continuing discussions which there have been over this issue.¹² This involves having regard to their core freight maintenance business on the site, relocating them to three new sidings with sheds on the northern side of Old Oak Common which, on the current figures and

¹¹ Committee Ref: P144, Old Oak Common aerial view—Rail distribution facility for EWS (LINEWD-AP3-43—04A-033).

¹² Committee Ref: P144, Old Oak Common Depot to Westbourne Park Study (LINEWD-AP3-43—035)

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the current light usage by the freight maintenance and related activities, would allow them capacity for growth.

You can see at the top of the depot the Crossrail depot building, the big rectangle, and then just around that is a series of new blue tracks and some sheds associated on both sides of the blue tracks. It is proposed, and the discussions are still continuing, although I cannot say that EWS have manifested any enthusiasm for this, and it is perfectly possible, we say, to retain EWS's core freight maintenance activities on Old Oak Common without having to incur the disproportionate costs to the public purse of paying the enhanced rating liability for North Pole, and certainly the Promoter is willing to consider further adjustments to that. Mr George tells me he will raise the point about the environment assessment and I will hear what he has to say and respond to it in due course.

20249. That option would require the relocation of the charter fleet and would doubtless be subject to proper compensation if that were the case; but that was the situation EWS told us would be the case even with Romford. Sir, we are looking, therefore, at whether there are any options to make North Pole proportionate in terms of the cost to the public expense; we are willing to look at the alternative stabling options with new sidings in the northern part of the existing site at Old Oak Common; and we are happy to continue working with EWS to see if a solution can be found which is proportionate at public cost.

20250. Sir, we have offered them an undertaking. I appreciate it differs significantly from the undertaking EWS requests. This essentially says that we will continue to work with EWS to seek to deal with the relocation at Old Oak Common, to provide a rail maintenance facility of three sidings and a shed together with compensation for displacement of the charter train; or to relocate the whole of the business to North Pole, or any other options to relocate within existing property holdings; but that is subject to those costs being proportionate to the costs of compensation. Although we have requested from EWS a breakdown of their likely displacement costs, either on the basis only that the charter fleet is displaced or that the whole of their operation is displaced, they have declined to date to offer a breakdown; because it may well be the case that it turns out that in terms of expenditure to the public purse it may be proportionate to relocate them to North Pole; we simply do not know at the moment. We say this is a matter which requires further discussion; and we are prepared to give an undertaking in the terms set out in this document exhibit 04A-34.¹³

20251. It may be at the end of the process, if there were no option other than complete displacement of EWS, then the cost of compensating them would have to be paid; but, as I say, whether that is right, whether those costs would exceed the cost of relocation to North Pole are simply not known at the moment.

20252. In summary, therefore, we say the position before the Committee, and I apologise for taking a little bit of time but it is a bit complicated, is this: firstly, Old Oak Common is an appropriate optimal location for the Crossrail depot and has distinct advantages over Romford, including the fact that, as with other alternatives linked with it, it uses principally railway land, does not impinge on Green Belt, playing fields or local amenities.

20253. Secondly, there is no outstanding objection, other than from EWS, to the principle of this proposal, and none now at all relating to Ilford and Clacton.

20254. Thirdly, many objectives remain as to retaining the original proposals for Romford; and EWS says that even Romford, with its stabling at Old Oak, would have an adverse effect on their charter fleet, so the same problem arises.

20255. Fourthly, consistent with safeguarding this proposal is for the passenger use of Cross Rail, and that safeguarding has been in place since 1990, and certainly well before EWS taking its lease.

20256. Fifthly, the level of usage overall by EWS is light, even including the charter trains which account for about 60% of their traffic; and by freight it is very light indeed. EWS's planning for the future of the site, as you have seen from the sales particulars, do not appear to include their own freight maintenance operation for their charter service, but at best a rail served business or industrial site. We have done, and there is in the bundle, a small pie chart, and I accept Mr George may wish to criticise it on this basis, which involves an analysis of the train movements for about a quarter of the year rather than the full year. If we go to 04A-027, this compares the elements of usage which would be at Old Oak Common/ North Pole if EWS carried on at its current level of activity and Crossrail came in.¹⁴ You will see EWS are so small that they appear in a single line, in comparison therefore to usage by BAA Heathrow Express and Heathrow Connect, by First Great Western, or the Crossrail movement itself. EWS's usage of Old Oak Common appears to be very small indeed. We say that is an irrelevant factor to bear in mind when balancing the competing rail uses which exist for Old Oak Common in light of the concerns about the other depot site.

¹³ Committee Ref: P144, Undertaking to EWS on Old Oak Common (LINEWD-AP3-43—04A-034).

¹⁴ Committee Ref: P144, Comparative usage of Old Oak Common/North Pole between EWS and Crossrail activity (LINEWD-AP3-43—04A-027).

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20257. Finally, there exists, as I have mentioned, several options for relocation within Old Oak Common or North Pole which the Promoter will continue to appraise in discussion with EWS with the objective of finding a suitable means of accommodating at least its core maintenance and related activities, failing which it will in any event be compensated for the cost of displacement from Old Oak Common, and compensated according to the national compensation code on the basis of fair compensation. Thank you, sir.

20258. **Mr George:** Sir, I represent, as the Committee knows, the principal freight operator in the United Kingdom, and a principal user of the lines on which Crossrail will run. The Committee will recall back on Day 51, when it was agreed that our concerns about Old Oak Common would be held over, which is why we did not go into those matters on that occasion.

20259. I shall shortly be recalling Mr Graham Smith the Planning Director of EWS, and I want to take as little time as I can with my opening. I hope the Committee have a little bundle of exhibits which has been distributed, and I will be referring just to a few of the particular exhibits.

20260. There are five matters to which I want to refer, falling into two categories: the first two matters are unfinished business, and simply a line or two; the three other matters will take a little more time.

20261. **Chairman:** We will call this A231.

20262. **Mr George:** Thank you, sir. Sir, the Committee will recall at Day 51, paragraph 15089, that Mr Berryman, appearing for Cross Rail, admitted that there had, to date, been no modelling of individual movements into and out of the various freight sites with Crossrail in the 2015 with-freight growth position. So far as EWS is aware, that remains the position today and it is exacerbated by the proposal in AP3 that EWS's site at Old Oak Common should become the principal Crossrail depot, therefore with additional movements in and out in that position. I mention that matter not to retrace the old ground but so that the Committee is aware of that bit of unfinished business, and I come back to the topic in a moment.

20263. Second, the Committee will recall how concerned EWS and others were that the details of the proposed access option were so uncertain, and therefore the relationship to the railway clauses in the Bill; and that remains the position.

20264. Sir, on those two matters I merely now take the opportunity to request the Committee to require the Promoters to make the latest position absolutely clear to you and to the Petitioners whilst this Committee still has control over this Bill, rather than leaving the matter over as unfinished business to

another place. I say no more about that matter; that is our request, that you be given a very clear update while you still have command of the Bill.

20265. Sir, I then turn to the substantive part of my opening, and these relate directly and exclusively to AP3 and the provision for Old Oak Common and North Pole. As the Committee is aware, and you have just heard Mr Elvin on the matter, if there is to be a Crossrail depot at Old Oak Common then some or all of EWS's activities will have to be displaced. I know that two members of the Committee inspected the Old Oak Common site last week. AP3 expressly provides for the relocation of EWS's activities to North Pole on the south side of the main line and for new connections from North Pole to the main line. Could I ask that our Tab 4, EWS 44 be displayed, and the Committee there can readily see identified with a white line the two sites with which we are concerned and their immediate proximity to one another either side of the railway line.¹⁵

20266. EWS would rather maintain all its activities at Old Oak Common but it seems that is simply not feasible. If they are to be displaced then they now, following detailed discussions with Cross Rail, welcome the balanced package in AP3 which would allow EWS to continue to benefit from a depot with the very special location advantages which these sites in their particular situation west of Paddington have. Our position here today is simply that the Promoters honour the AP3 package.

20267. The reason we are here is that very recently we have discovered, and the position is now laid wholly plain by Mr Elvin in his opening this morning, that the Promoters are now contemplating only partial implementation of AP3—compulsorily acquiring the Old Oak Common site, and thereby displacing all or some of EWS's business but not providing the replacement at North Pole. This is obviously a matter of the gravest concern to EWS for reasons which Mr Smith will explain. At this point, can I emphasise the need for some certainty for EWS. No-one can say for certain that Crossrail will be built, but EWS need to know that they can either continue at Old Oak Common with all their activities or that if Crossrail happens they will be going to North Pole. In that way the country's largest freight operator can plan. What it cannot plan is if it does not know what is going to be the outcome.

20268. There are three separate points which I wish to address the Committee on. The first deals with the Promoter's estimate of costs. As the Committee knows, Standing Order 45 requires the Promoter to deposit an estimate of costs in a particular form. That Standing Order was followed in this case, and I would ask that Tab6, EWS46, be displayed.¹⁶ At the

¹⁵ Committee Ref: A231, Relative locations and sizes of Old Oak Common and North Pole Depot (LINEWD-AP3-43—05-004).

¹⁶ Committee Ref: A231, Extract from AP3 Estimate of Expense (LINEWD-AP3-43—05-014).

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bottom of that table under item 3 the Committee will see listed the cost of the works at North Pole, which were for the benefit of EWS's occupation, and the figure there of £73 million. Those figures form part of an overall budget for the revised Depot Strategy which led to a saving compared with the original Depot Strategy of £105 million. Can I ask the Committee to bear in mind that the revised Depot Strategy, even with those costs at North Pole, leads to a saving to the public purse of over £100 million.

20269. Implicit in that deposited estimate was an assurance to this House that were AP3 to be approved the Promoters had carried out a proper costing exercise and that the Promoters had not only budgeted £73 million for the construction costs at North Pole, but that they were promoting AP3 in the full knowledge that construction costs of that order would be required.

20270. Inevitably there is also an element of compensation to EWS for the additional costs that it would incur in operating from North Pole compared with Old Oak Common. I do not think that is a matter that has ever been in dispute, although strictly some allowance ought to have been made in the Parliamentary estimate for those on-costs. The key thing is that the Promoters must have been anticipating that there was what I will term £X to be added on to the £73 million, which is simply construction and relocation costs.

20271. Now mindful of the pressing need to reduce costs, EWS have cooperated with Crossrail in re-examining the figure there of £73 million and we have found that at some loss to operational efficiency it is possible to reduce that figure of £73 million down to £59 million, still including the appropriate contingencies. That is for the cost of the construction works at North Pole and the relocation costs. The principal reduction is that, instead of there being two new connections to the main lines to North Pole, there is notably one connection. We could live with that.

20272. We have also looked very carefully at the ongoing costs, that is the £X which as I say is implicit and had to be added on because we were aware that the first calculations of those ongoing costs rather took Crossrail aback. We have managed to reduce them enormously. At the end of the day we now have a package which comes out at a total figure of just under £83 million, so that £X is the equivalent of £10 million. Actually the £X is more than that, but by reducing the construction element to £59 million one comes up with a total package of £83 million.

20273. My first point to the Committee is to say one is therefore plainly within the ballpark of the original Parliamentary estimate, which was always budgeting for £73 million plus X. All we ask of the Promoters is that they now undertake that, if we are displaced, the North Pole works are carried out to provide a workable depot for EWS, and to include a figure for ongoing costs.

20274. The second matter to address you on briefly is a matter of environmental law. As the Committee is well aware Standing Orders require the environmental appraisal of major infrastructure projects, such as Cross Rail; and it has been held by the European Court of Justice in the case of *Luxembourg v Linster*—a copy of which was submitted to the Committee last week by the Mayfair Residents' Association, although I think the Committee could be excused if they did not read that because I know that petition went short, but I have a copy for the Clerk if she was wishing it—it was their rule, paragraph 54, simply one sentence, that “It is only where the legislature has available to it information equivalent to that which would be submitted to the competent authority in an ordinary procedure for authorising a project that the objectives of the Directive may be regarded as having been achieved through the legislative process”.

20275. That is why AP3 has been accompanied by its own environmental appraisal, and we do not criticise that appraisal at all. The purpose is so that not merely Members of Parliament but also the public at large can assess the overall project in the light of the amendment proposed by AP3. Rightly, such an environmental appraisal has to include the entire project which was AP3, including North Pole and including all mitigation measures. In a way, the North Pole works are mitigation measures because they overcome very substantially the disadvantages to EWS and to Rail Freight and to EWS's passenger services of being displaced from Old Oak Common.

20276. So far as the addendum ES, it perfectly properly assesses the combined package of Old Oak Common and North Pole, both in terms of employment and the carriage of freight by rail and road. Of course, there will not be a detrimental impact on freight whether on the railway or on the road if the package is implemented. The terms of the Environmental Statement on AP3 could not be clearer in stating that EWS, not merely may be relocated to North Pole, but that they will be relocated there, subject, of course, to the Bill receiving the Royal Assent in a form which still includes AP3.

20277. Could I ask that tab 5 of our bundle, please, be put on the board, starting with page 171 of the Environmental Statement.¹⁷ It is a few pages into that and it has got a green line beside it. You see there with Eurostar vacating the North Pole Depot it is proposed that EWS relocate to this facility. Members of the Committee will note it does not say there is a possibility that they will relocate or there is an option that they may relocate. If we could then go on to the next page, which is page 181 at paragraph 17.5.42, one is looking at the resultant employment effect and one sees the displaced EWS employment

¹⁷ Committee Ref: A231, Amendment of Provisions 3 Environmental Statement, (Para 17.1.5 (LINEWD-AP3-43—05-009)).

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will be relocated to the North Pole Depot.¹⁸ So the Environmental Statement is in the terms exactly as we understood that it would be, of a genuine and firm proposal for a package as part of this depot strategy. It is flatly inconsistent with this Environmental Statement, and therefore with the relevant EC Directive, for the Promoters now to cherry-pick, saying they propose to take Old Oak Common, or to take Old Oak Common all but for a very small part of it, but that they may choose not to carry out the works at North Pole and they may choose not to relocate EWS to that site. That is not the project which was appraised in the Environmental Statement. Of course, I accept that the Promoters could crave the Committee's indulgence for an adjournment and produce and publish and allow representations in respect of a revised environmental statement that either omitted the North Pole proposals or said that they were an option which was still under consideration, but that is not what they have done and I do not understand that they are making any such application. That is a matter which the Committee will need to consider very seriously, whether it has got a proper environmental statement of what Mr Elvin seems now to be saying is the most likely outcome, that we will not be going to North Pole.

20278. Committee, the third and final point, which I wish to address you on, relates to the whole question of the proportion between relocation costs to North Pole and the cost of extinguishment. It is perfectly plain that Crossrail are now going for the option which is cheapest for them as if that is the course which is the most satisfactory. We do not say that costs are irrelevant, plainly they are not irrelevant, but the Committee is charged with making sure that that there is the best possible solution in the round. Our submission is that AP3 and the Environmental Statement produced precisely that rounded package and it can be delivered very close to the figures previously envisaged, indeed possibly for a figure lower than that originally envisaged, that is the £73 million plus X. What we simply ask you to find is that there is a ready way forward in the public interest, which is the provision in AP3; secondly, that is entirely consistent with the importance not only of respecting EWS's private property rights but, perhaps more importantly, respecting the importance of freight interests and the interests of other passenger train operators, because EWS runs a chartered passenger train service from Old Oak Common; and, thirdly, respecting what the Secretary of State did assure the House on second reading, that Crossrail would not go ahead at the expense of other users of the rail system. There is a simple solution and all we are asking is that the package in AP3 be implemented in full.

20279. **Mr George:** As a tail note, can I just mention three very short points? First of all, so far as safeguarding, when EWS acquired its very long lease

there, only a small part of the site was safeguarded at the northern end. You were not shown that plan today, you were shown the present safeguarding and therefore, in my submission, a great deal of the force of what Mr Elvin said about EWS having acquired the site in the knowledge that it was safeguarded disappears. Secondly, so far as the marketing exercise—and you will recall Mr Elvin put it on the board—that was designed to establish what is called the “rule two market value of the site”, that is in a circumstance that EWS were being displaced by Crossrail and the most that could be kept was a very small area of three sidings, what was the commercial interest in the site? It was not an intention by EWS to operate the site in that way. It appears that has been misunderstood and before the Committee today there has been an attempt to say, “Oh well, that document shows that EWS could operate from only part of the site”. It does not show that at all. Thirdly, I come back to the matter of the need for certainty for EWS. Having said that, I will call Mr Smith.

Mr Graham Smith, Recalled

Examined by **Mr George**

20280. **Mr George:** If I could re-introduce you to the Committee, you are Graham Smith and Planning Director of English, Welsh and Scottish Railways Limited, is that right?

(Mr Smith) That is correct.

20281. You previously gave evidence on 11 July 2006, is that right?

(Mr Smith) I did.

20282. Today you are here to deal with AP3?

(Mr Smith) Yes.

20283. Can you summarise what it is that you are seeking from the Committee.

(Mr Smith) It really is to ask the Committee, should you require that of the Promoters, if EWS is to be permanently displaced from its depot at Old Oak Common to provide EWS with the nearby alternative site the Promoter itself has included in AP3, namely North Pole Depot, to be suitably modified to meet EWS's reasonable requirements.

20284. At the start of my opening, I flagged up a concern on network capacity for the 2015 position, including the situation with freight growth, and if the Crossrail trains were to go into and out of Old Oak Common. Have you seen any modelling showing the consequences of that?

(Mr Smith) We have not seen any modelling of the consequences of that.

20285. Have you been further consulted about the Access Option since you were last here?

(Mr Smith) There has been limited correspondence on the Access Option, but we still await the details of the Option and the quite considerable industry debate that will ensue.

¹⁸ Committee Ref: A231, Amendment of Provisions 3 Environmental Statement, Mitigation and Residual Impacts, Para 17.5.42 (LINEWD-AP3-43—05-010).

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20286. You heard how I put that matter in opening, that we simply wanted the Committee to be updated on the matter. Did I correctly state the position there?

(Mr Smith) You did.

20287. Turning then to Old Oak Common and North Pole, could we, please, display tab 1, exhibit EWS 41.¹⁹ Could you explain the colouring to the Committee there, please?

(Mr Smith) Certainly. This tab demonstrates the effect on our depot at Old Oak Common before and after AP3. The orange area represents the land that Crossrail was originally going to occupy permanently; the green and the blue area represent the land that Crossrail is now also proposing to take permanently. You see that the new proposal for the depot at Old Oak Common would displace EWS entirely. The Promoter will, as you see, be using significantly more land than was required before. This does bring a small advantage to EWS because we understand that were the proposal to go ahead, the Promoter would no longer be requiring the site at West Drayton. We will see how that works out depending on how AP3 is determined.

20288. But you were never very happy to be losing what is called “the orange land”, and if you were to lose the green and blue land that makes the position considerably more dire, is that right?

(Mr Smith) Yes, it will make the site unworkable for our various activities at Old Oak Common.

20289. Now in opening today, Mr Elvin put up a plan which showed the possibility of still accommodating a little bit of the EWS activity on site. When did you first see that plan?

(Mr Smith) At 11 o’ clock on 21 February.

20290. We will come back to that matter in a moment. Could we please put up on the screen our tab 2, EWS 42.²⁰ First of all, there is a description of the site and I am not going to ask you to go through that, but so far as the importance of the site, that is dealt with in that table, and could you summarise why you regard this site as important?

(Mr Smith) I suppose I should start by saying that this relates to the current and future use of Old Oak Common but, given our work with the Promoters, in some respects you could say this also applies to what we would be doing at North Pole Depot. We have invested in the site recently, in particular because of its access to a multiple number of main lines in and around London, I will come on to that shortly. It is used for stabling our charter rolling stock and it is all used for the maintenance of locomotives. We store on the site, or keep on the site, Network Rail’s breakdown crane for use in the event of incidents, and I would like to put on record here the sympathies of EWS for the victims of the accident at Grayrigg; our thoughts are with the families at this

time. The crane, the rail grinding train and other track maintenance vehicles are located on the site we operate on behalf of Network Rail because they need access to the lines in and around the London area to do their work. We maintain, stable and marshal 150 passenger coaches owned by EWS and our clients use the chartered train services. When I say “marshalling”, this is not like a marshalling yard where you expect freight trains to be moving in and out every moment of the day, or like a passenger station, these are places where trains are kept and maintained and will move from the yard when they are needed for a particular service. We also maintain fuel overhead and overhaul and stable locomotives owned by EWS, and on the visit of the Committee to the site last week they have seen one of our new class 66 locomotives having its bogeys overhauled, which takes about three days. We also stable, marshal and maintain wagons on the site, particularly those used for maintaining the track on behalf of Network Rail and we store the surplus rolling stock and materials used, so there is a wide range of activities there much associated with our passenger charter operation, but also very importantly to do with the upkeep and maintenance of rescue services for the network as a whole and also involving maintaining our own locomotives in the London area. This is particularly important because as part of the opening of the Channel Tunnel Rail Link and the provision of Eurostar’s new depot at Temple Mills we are about to lose the facility we have at Temple Mills, that will reduce the locations in London where we can maintain locomotives. Given the increasing importance of the London area for the movement of rail freight, particularly with the opening of the Channel Tunnel Rail Link and the Mayor’s strategy for increasing freight by rail into London, having a location where we can maintain our locomotives for freight services in the London area is very important.

20291. **Chairman:** Can I put on record our gratitude for arrangements which were made last week for the visit to site. Turning to the second paragraph on the importance of the site, it is described as being of paramount importance and one of the things I noticed during the visit was a “For Sale” sign on or around the entrance to the site. If it is of paramount importance why have a “For Sale” sign?

(Mr Smith) This is the brochure to which Mr Elvin and Mr George referred earlier. We have been trying to establish what is the commercial value of the site. We can only do that by inviting expressions of interest from people who have worked with us to develop the site, not just for industrial sheds but for rail-connected activities. To do that, we spoke to our agents who said you really have got to go through a formal marketing exercise, there is no point ringing up a few of our friends, that would not be much help in this process; you have to put up a board and issue a brochure.

¹⁹ Committee Ref: A231, Effect on EWS’ landholding before and after AP3 (LINEWD-AP3-43—05-001).

²⁰ Committee Ref: A231, Current and Future Use of Old Oak Common (LINEWD-AP3-43—05-002).

20292. It is as simple as that, you have to put up a board. I would have thought for somebody buying this type of facility, putting up a board would much

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more attract people who want to invest for development purposes rather than purchasing for railway purposes?

(Mr Smith) The answer to your question is one which was shown by Mr Elvin earlier, of a rail freight connected site. We are well aware that clearly we are not free to dispose of the site. If we were free to dispose of the site we would not be here today. We are not free to dispose of it, but we do need a mechanism to try to understand what the value of the site is. I suppose if Crossrail were not to go ahead then, given the importance of that area for movement of rail freight, to consider putting in some rail-connected rail freight facilities to go alongside our existing activities might be a thing that is worth thinking about, but this does rather seem to have been misunderstood, probably our fault—we should have explained it to you on the day or to Crossrail beforehand. It was essentially an exercise to understand what the underlying value of the site is.

20293. **Mr George:** In simple terms, Mr Smith, under Rule 2 of the Compensation Code one way valuation is what is the present market value of the site if there was not Crossrail, that is if the site were to be disposed of on the open market absent Crossrail. That is a basis for valuation and you were trying to discover what that value was.

(Mr Smith) That is my understanding, although I must reinforce the point that we would not anticipate disposing of the site even if Crossrail were not to go ahead. We would see the future of the site as similar to where we have used some of our other facilities elsewhere in the country where we have worked with developers to build rail-connected warehousing for the movement of goods through inter-modal means. With the increasing amount of imports coming into the UK through the Channel Tunnel and through deep sea ports this is the way that freight is brought into major conurbations. Old Oak Common may represent one way of being able to access that market.

20294. **Chairman:** Therefore, you have gone through the process of putting up boards. Do you have a marketing strategy? Do you have a portfolio which expresses the use of the site and the valuation of the site? Do you have one of those ready for anybody that may approach and see the signs?

(Mr Smith) We do not—

20295. If you do, would you supply it?

(Mr Smith) I am afraid we do not have that. We do have 17 expressions of interest, which you will see in the future use of the site. For developing the site with us for rail freight purposes. They do not at this stage have valuations. We placed, during the site visit, for those who had the time, on the wall of the briefing room the letters from the people who were expressing interest, many of whom we have worked with before in developing rail freight facilities, but that is as far as we have got, in that people have said: “Yes, it is mainly a site where we are likely to develop rail freight”.

20296. Could we have a list?

(Mr Smith) Absolutely.

20297. **Mr George:** Because the site is safeguarded at present, no one is very likely to be going to make a major investment in the site at the present moment. Is that right, Mr Smith?

(Mr Smith) That is correct.

20298. An elementary matter, but going back to Temple Mills, you were saying you had lost that site for freight for Eurotunnel. Do you recall that?

(Mr Smith) Yes, the site at Temple Mills—

20299. Not Eurotunnel, Eurorail.

(Mr Smith)—which was previously a freight marshalling yard with a maintenance depot, as part of the building of the Channel Tunnel Rail Link and the opening of the High Speed One line, is now going to be the site where Eurostar trains are maintained. We have recently been asked to move out of our traction maintenance depot there to enable full use of the Temple Mills site for Eurostar. So that was a maintenance depot that had been built to offset the loss of the maintenance depot a little further south on the Stratford Lands. So we are now without a maintenance depot in East London, which means having a maintenance depot in West London, and Old Oak Common becomes that much more important.

20300. Two short questions: first of all, how important is it for your business and the freight business that there be a major rail freight site in London?

(Mr Smith) London represents the major point of freight consumption in the entirety of the United Kingdom. It is one of the reasons that port facilities are being developed at Thames Haven. The Mayor recognises in his Transport Strategy that freight needs to move into London and be consumed and would, where possible, prefer that that is moved by rail. So work previously done by the now defunct Strategic Rail Authority but subsequently work by the Department for Transport has identified the need to make sure that London can receive freight by rail. So, yes, having facilities within the London area is crucial.

20301. Secondly, how easy is it to find replacement sites or new freight sites?

(Mr Smith) It is very difficult. By definition, if you are moving traffic by rail the land needs to be adjacent to the railway line. Much land is either in someone else’s ownership or has been developed. Therefore, rail-connected land of a sufficient size and quality to actually use as a rail freight or rail facility is very hard to come by.

20302. Thirdly, in location terms, how good for your business is this particular location at Old Oak Common or the North Pole?

(Mr Smith) There is a myriad of connecting railway lines around London that connect all the radial main lines together and Old Oak Common or North Pole,

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if one is connected to the Great Western Main Line, has the connectivity and access to those lines. So although, from first look, you might think this is merely a site that serves the Great Western Main Line, in fact, by virtue of the use of other lines one can access all the radial routes 360 degrees around London.

20303. We can see that if we put up on the screen, please, tab 3, EWS 43.²¹ Whether one is at Old Oak Common or at North Pole but connected, as the blue hatching shows, as is proposed by AP3, to the Great Western Line, you there show how, from both those two sites, you can serve, really, all directions. Is that right?

(Mr Smith) That is correct. It is particularly important for our charter business to have access to the mainline stations in London where much of the activity is generated. But for other uses of the depot, such as locomotive maintenance, for example, with the loss of the Temple Mills traction maintenance depot locomotives in East Anglia would be able to access North Pole by coming in on the North London Line, at the top right of the picture, down towards Acton and then reversing into the North Pole depot or reversing into Old Oak. I cannot underestimate the strength and the need for having a facility within the Central London area that has good access and connectivity to the other parts of the railway.

20304. Could we then go back again to tab 2, that is EWS42, and to the section at the bottom of the page where it deals with future plans.²² Can we just blow up the bit on future plans, please? Can you just quickly take the Committee through this, bearing in mind that Crossrail is unlikely to go ahead for a few years in any event?

(Mr Smith) Yes, certainly. The first paragraph mentions our business Axiom Rail, which works on the charter business but also is available to undertake work for the passenger franchises. We have been asked by bidders for passenger franchises to bid for work that would use Old Oak Common or a replacement facility. Unfortunately, these requests were confidential so I am not in a position to identify the people who asked us. However, the franchises, which were the Cross Country franchise and the London Rail franchise, featured prominently in the bidders request for us to use the depot for maintaining rolling stock there. The final point really comes back to where I was before, which is to say, given that we have had a 70 % growth in rail freight since 1994 and given the Stern Report and Eddington, the International Panel for Climate Change identifying a need for a more sustainable way of moving freight then we, as the principal freight operator in the United Kingdom, want to be in a position to match and accommodate that growth. One of the reasons that we have set up an open access operation in France is to enhance the

quality of service through the Channel Tunnel and bring in some of the 60 million tonnes of cross-Channel traffic that currently uses road, much of which is consumed in the London area, and clearly if we can identify places where we can have rail-connected freight rail facilities that is going to help us move that traffic from road to rail.

20305. **Chairman:** Do you believe that the perceived 40 % shortfall in freight access to the London area cannot be met without this particular development? *(Mr Smith)* It would be extremely difficult because there are very few rail freight connected sites in the London area. Temple Mills is probably the last major one, and that was used for other rail activities. Yes, it is our strong belief because—I go back to the map—of the way in which you can connect to Old Oak; this represents a prime opportunity for developing for rail freight whilst accommodating our other activities.

20306. **Mr George:** Just under “Future Plans” on EWS 42, the last sentence of the last paragraph says: “It is highly likely that the workload currently undertaken at Old Oak Common would expand in the future.” Do you definitely believe that to be the case or are you chancing your arm in saying that? *(Mr Smith)* I definitely believe it, for the variety of reasons I have said. One is freight, two is the charter business and three is the maintenance activity which will inexorably rise as the amount of rail freight activity increases.

20307. Can we turn now to the North Pole depot? We know that AP3 caters for the displacement of EWS from Old Oak Common to the North Pole depot, and I think you have some observations on that matter to the Committee

(Mr Smith) I think the key point is we were taken a little by surprise the day that the Secretary of State announced publicly that there was a revised Depot Strategy, part of which would involve EWS moving to North Pole. We had not had any kind of detailed discussions with the Promoter at that stage and our initial reaction, I think, probably through being taken by surprise, was slightly adverse very superficially. The two sites, as we have seen earlier on, are of a different shape and size.

20308. Can we put up EWS44, which is tab 4, which we looked at in opening?²³ You make the point on different size. Can you just elaborate on that?

(Mr Smith) As we have seen earlier, Old Oak Common to the left is a short, fat site, which is more easy to manage than the long, thin site, which is the North Pole depot to the right. So the immediate reaction, before getting into the detail, is these things are not really going to work together. However, working closely with the Promoter and his team and using our own staff and staff that we jointly engaged from consulting companies we then looked at North Pole and said: “Yes, you can make that work.” The

²¹ Committee Ref: A231, Plan of main railway lines accessible from Old Oak Common (LINEWD-AP3-43—05-003).

²² Committee Ref: A231, Current and Future Use of Old Oak Common (LINEWD-AP3-43—05-002).

²³ Committee Ref: A231, Relative locations and sizes of Old Oak Common and North Pole Depot (LINEWD-AP3-43—05-004).

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one thing that it really needs is a connection to the Great Western Main Line, otherwise one does not have connectivity that we described earlier, but providing we have that then actually the kind of work that we do at Old Oak Common and anticipate doing at Old Oak Common between now and when Crossrail would require us to leave can be fitted into the North Pole Depot and can be accommodated at the North Pole Depot, albeit that we do need to make some changes to the depot that, at the moment, is configured to maintain 16-carriage-long Eurostar sets, which are slightly different beasts to the kind of activity that we undertake.

20309. What is the sort of work that has to be carried out at North Pole and which leads to this bill estimate of £73 million?

(Mr Smith) The Promoter actually sets out in AP3 the kind of works that would need to be done in terms of infrastructure works, but, essentially, we have to make sure that there is a facility where we can maintain locomotives, that there are facilities where we can stable and maintain the charter fleet, and places where we can locate the Network Rail crane, the rail-grinding train and any trains for engineering and infrastructure works. So the North Pole Depot, electrified to over 25 kilovolts overhead and the third rail, this is probably something that we do not need but it is there. We need to have cleaning facilities that are appropriate for what we want to maintain rather than the Eurostar sets.

20310. If we put up on the screen tab 5, exhibit EWS45.²⁴ We have there got a list of the works under the heading “North Pole Depot” which are contained in AP3, which are designed to make the North Pole site suitable for your occupation. Is that right?

(Mr Smith) Most of these are a range of infrastructure works on the ground in terms of reconfiguring the track and the layout, which at the moment is focused on taking Eurostar trains on to the West London Line and thence to Waterloo Station. These works here, including works we no longer think are necessary, primarily focus on connecting to the Great Western Main Line and undertaking some internal alterations as well. In addition, we would need to do work on the sheds and the facilities to make them suitable for accommodating the EWS kind of work, but it is that area (which I know we are going to come on to) where we have looked, looked again and looked again, after our conversations with the Promoters, to see how we can bring the construction costs down from the original estimates.

20311. We will come back to that matter in a moment. Can we just deal with the question of ongoing costs. Why will North Pole be more expensive year-by-year for you to run than Old Oak Common?

²⁴ Committee Ref: A231, Bill and Environmental Statement extracts detailing work at North Pole Depot (LINEWD-AP3-43—05-005).

(Mr Smith) If you think that the costs for North Pole, really, divide into the construction costs and the additional running costs, a long, thin depot is not ideal operationally and will need more staff to operate it than a short, fat site. We have talked briefly earlier about the fact we would need to pay rates to the local rating authority at North Pole, whereas at Old Oak Common they are paid by our landlord Network Rail (which dates back to the 1994 privatisation) and also the additional utility costs. There, there is a bit of a trade-off. Yes, we could strip the site completely of the kind of facilities that were there to support Eurostar, which would reduce the running costs, but that would be a fairly expensive, up-front piece of capital expenditure, and, again, I think we are conscious (the Promoters remind us when we are doing this work) of the budgetary constraints. So, on balance, we said: “Okay, we will keep the, perhaps, over-specified, in some places, facilities and take on board the additional running costs instead”.

20312. Staying in EWS45, tab 5, we can move on to the Environmental Statement. If we start by looking at page 164, there is a comparison of the previous and the alternative Depot Strategy, and then in 16.3.3 we can see expressly referred to as the second bullet point: “Provision for EWS facilities at North Pole”.²⁵ That is the matter the Secretary of State announced and what was included in AP3.

(Mr Smith) That is correct.

20313. Over the page to page 171, again, that proposal is referred to. Over, again, to page 181, and the passage I referred to in opening, one sees the combined effect on employment, and they are anticipating that you will be displacing, EWS, 40 jobs (that would go to the North Pole Depot, therefore that is not a loss to the scheme) and there will be the new jobs. Do you find anywhere in these published documents any suggestion that the North Pole Depot is, so to speak, an add-on function which may or may not be implemented?

(Mr Smith) No, it appears to us to be a fairly fundamental part of AP3 described in 18.2.2 on page 185. Clearly, the Promoters have thought about this in some detail and after the initial shock of just being told: “You are going there” and extensive conversations and discussions with Promoters, yes, we are prepared to move and we understand that we can make the site work for us.

20314. If we move on to page 185 of the exhibit, in paragraph 18.2.2 we see a list of the alterations required to accommodate EWS, and those were matters which were then costed by Crossrail.²⁶

²⁵ Committee Ref: A231, Amendment of Provisions 3 Environmental Statement AP3, The Alternative Depot Strategy, Para 16.3.3 (LINEWD-AP3-43—05-008).

²⁶ Committee Ref: A231, Amendment of Provisions 3 Environmental Statement AP3, Permanent Works, The Revised Scheme, Para 18.2.2 (LINEWD-AP3-43—05-011).

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(Mr Smith) That is correct.

20315. If we could then move please to tab 6 and the estimate of costs, which is the £73 million there, am I right in saying that Crossrail have told us that that does not include any element of ongoing costs?²⁷

(Mr Smith) That is correct.

20316. That is what I referred to as the “add-on £X” which has to be added to the £73 million. We are looking at item 3 at the bottom of the page, giving the total of £73 million. Correct? The £73 million is just for permanent way, earthworks, building, signalling and associated utility works. Is that right?

(Mr Smith) That is correct.

20317. Then, if we turn the page, item 4 deals with land at the Clacton-on-Sea depot, in Tendring, and then we have the note, “If the revised Depot Strategy is accepted, this would result in a saving of £105m”.²⁸ Is it your understanding that that £105 million allows for the spending of the £73 million on the North Pole?

(Mr Smith) That is my understanding.

20318. Could you now tell the Committee about the work which you have done to try to bring down the costs of relocation to North Pole, and I think for this purpose we need tab 7, EWS/47.²⁹ First of all, column 1, estimate of expense, that shows the £73 million which was in the deposited Bill, and we know that they put in nothing for ongoing costs, which is my ‘X’ which has to be added on, and that is why they gave £73 million which should really be £73 million plus X. Then can you just explain column 2?

(Mr Smith) Yes, three groups of consultants were involved in getting into a detailed estimate of the costs of amending the North Pole Depot. Crossrail retained EC Harris to look at the depot, mainline and internal track works, and that consulting firm came up with the figures for the depot, for the permanent way and additional costs for project management contingency. Crossrail also retained Mott MacDonald Systems who looked at the costs for signalling and telecommunications, and they are in boxes entitled “Network Rail Works”, and then they added project management costs and again another element of the contingency, 50% contingency applied by both Messrs Harris and Messrs Mott MacDonald. We retained Atkins to just review much smaller-scope works that we felt were needed to be done within the North Pole site and also what it would actually cost to move the equipment that we have at Old Oak across the line. It seemed pointless to buy new equipment if what we already had was fit for purpose, and they are the figures that we have included in the third block.

20319. That then leads one to the £72.3 million which is virtually the same as the £73 million in the deposited parliamentary estimate, and indeed that may have been how Crossrail got to their figure, but, at any rate, so far as the £73 million is concerned, that is not in issue, is it? That has now been worked out and one can see how one reaches £73 million?

(Mr Smith) That is correct, all at 2002 prices, as the note at the bottom says.

20320. Then there is the question of the £X and that, when costed out initially, came to £45 million, which we can see at the bottom of column 2, and therefore gives rise to a total figure of £117.4 million.

(Mr Smith) That is correct.

20321. It was because you were aware that that was rather a large sum and because you knew of constraints on Crossrail that there was a further scoping exercise done, which is column 3, to see if the costs at North Pole could be reduced while still rendering it suitable for your occupation?

(Mr Smith) Yes, we met the Promoters and discussed these costs with them and the Promoters said, “This is expensive. We still believe we ought to move you to North Pole, but to do that we need to see whether the costs can be reduced”, so, as we did before, we jointly retained consultants to review the costs and the scope of the work. Our consultants did take a view that perhaps some of the estimates prepared by EC Harris and Mott MacDonald were a little full-side, but we concentrated our efforts on descoping what we had previously assumed, and the Promoters had assumed, would be the necessary works on the site. What we did was we went through each of the items, looking in particular at the connections of the Great Western mainline facing London. The original work had two connections, one facing London and one facing away from London. We consulted our depot manager and our local operations people and they advised us that they felt that North Pole could operate functionally for EWS with the connection facing the country end away from London. That is because the layout of the railway at that part of the world means you can leave there, run past Acton, go round the loop and come back into London, so you do not really need a connection. Therefore, we descoped all the works associated with the connection and, because the connection broke into some of the buildings on the North Pole site, by not having the connection we also did not have to knock down those buildings. Our advisers came up with a revised scope and with a revised pricing, but based on the principles that were in the original pricing work by Messrs Harris and Messrs Mott MacDonald, and they came up with the revised sums which you see in column 3. Because those sums were reduced, for example, the depot costs estimated by Messrs Harris went down from £6.3 million to £2.9 million, their project management costs, which are a standard percentage uplift, and the contingency, which is also a standard percentage uplift, came down as well. Then we applied the same philosophy to the signalling work which had been estimated by Messrs Mott

²⁷ Committee Ref: A231, Extract from AP3 Estimate of Expense (LINEWD-AP3-43—05-014).

²⁸ Committee Ref: A231, Extract from AP3 Estimate of Expense (LINEWD-AP3-43—05-015).

²⁹ Committee Ref: A231, Comparison of Costs for Old Oak Common Relocation to North Pole Depot (LINEWD-AP3-43—05-016).

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MacDonald and came up with the lower numbers there. As far as the small numbers that we had worked on were concerned, we kept those the same because they were not affected by the fact that we were taking out the connection to the Great Western mainline and they were not affected by the fact that we were no longer having to do things with the fuel point and crane siding.

20322. That is how we come down to the £58.7 million which plays against the previous figure of £72.3 million or the £73 million?

(Mr Smith) Yes, I suppose I am not surprised because we are the one who have got to actually operate and use the site, so yes, I suppose Crossrail's estimate of £73 million was being done, as it were, on a slightly theoretical basis, and we went in and said, "No, you work the site this way", and that enabled us to bring the construction costs down from roundly £73 million to roundly £59 million.

20323. These are still using this 50% contingency, and the Department want a high contingency built in, so it is built in, but would you hope to be able to deliver at a lower figure than the £58.7 million?

(Mr Smith) I believe that is possible, looking at the way in which Network Rail have costed it, and a lot of these costs would be incurred by Network Rail in building the connection and mending the signalling. The unit costs of Network Rail's schemes are reducing and the regulator's review of Network Rail's costs and charges for the next control period from 2009 to 2014, I think, anticipate a significant improvement in Network Rail's efficiency, including its major project work, so I would suggest that these figures are rather full compared with what would actually happen in practice.

20324. Then could we just look at the ongoing costs. You have managed to reduce the previous estimate of £45 million down to £24 million and again can you comment on how that has been done?

(Mr Smith) Yes, there are two mechanisms that are available to us, and let me deal with the issue of rates first. I referred earlier to the fact that at Old Oak Common the rates are paid by Network Rail as part of something called the 'cumulo' rate where the entirety of Network Rail's landholding is assessed for rates and is paid centrally. On the other hand, North Pole sits outside of that arrangement. In discussions with Network Rail, we believe that the site at North Pole could be brought into those arrangements, and clearly there is more discussion to go, and Network Rail would require a rent from us to offset their increased exposure to rates, but the net effect would be to reduce the rates liability that would be incurred by EWS by around about 50%. In addition, we had another look at the operating costs, given the descoping and given the Promoters' views to us that this was a high number and that, if we were to go to North Pole, it would be extremely helpful if we could see ways of reducing those costs. This we did and, through our advisers working through the operating costs that we had previously assumed, we were able to make reductions to their estimates of

the consumption of water, the amount of electricity we would use and the amount of gas, the maintenance of the site and the track within the site, the maintenance of plant and signalling, the net effect being that, whereas we had previously assumed around about £1.5 million a year for these operating costs, we now came to the view that it would amount to about £829,000. Therefore, we were able to make a significant reduction in the utility costs that we believe would be necessary for North Pole to be an operational depot.

20325. As far as these ongoing costs are concerned, you are looking at a 30-year period and then they have been discounted back to 2002, so they are on a common base with the other figures?

(Mr Smith) They are absolutely on the same base.

20326. **Mr George:** And capitalised. Sir, would that be a convenient point?

20327. **Chairman:** We will break now until 11.45.

After a short break

20328. **Mr George:** Could we have back up on the screen please the tab we were on which was tab 7 of EWS/47.³⁰ You have been dealing with the reduction of the ongoing costs, Mr Smith, so finally we have got the cumulative figure, the £83.2 million which, as it were, 'plays' the original deposited Bill estimate of £73 million, but which does now allow for the £X for ongoing costs?

(Mr Smith) That is correct.

20329. What is your comment then about the position, that is, if you are able to justify to the Crossrail team the figures in column 3?

(Mr Smith) Well, it seems to me that there is an awful lot of contingency still in these numbers and, therefore, if one compares the £83.2 million with the original £73 million, that is an increase of around about 14%. If we think that within that £83.2 million we have still got a contingency of the 50% which contains contingencies, such as 53.7% for the service works, 47.7% for systems, as well as this uplift of 27% for project management costs, it seems to me that it is actually only the £X that Mr George referred to which is the difference between us. We are well within the contingency and, if one were to take a different view of the contingency when the work was actually carried out, then I think we are pretty near to Crossrail's original estimate that was contained in the £105 million benefit of the revised Depot Strategy.

20330. Leaving that matter altogether, can we turn to the subject of safeguarding and could we please have on the overhead AP3-43 04-034, the one which Mr Elvin put up.³¹ In the bundle it is page 34 of 64.

³⁰ Committee Ref: A231, Comparison of Costs for Old Oak Common Relocation to North Pole Depot (LINEWD-AP3-43—05-016).

³¹ Committee Ref: P144, Crossrail Safeguarding Directions Sheet No. 304 (LINEWD-AP3-43—04-034).

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That, as we can see from the bottom right-hand corner, has a date of February 2005 and that, therefore, is related to the time of the deposit of the Bill, or around about then, and that shows that now a very large part of the site is safeguarded. If we can just identify the turntable, is that the sort of St Catherine's wheel which we can see in the middle of the plan?

(Mr Smith) That is correct.

20331. We need to keep our attention on that because, if we could now please look at 04-029 of the Promoters' exhibits, which is about six pages before it, I cannot scrub my eyes and see the date, but I believe it is 1990, is it not, in the bottom right—I do not know whether that is confirmed by everyone—and we can there see what was the original safeguarding.³² If we look at the St Catherine's wheel, the turntable, can we see there that the only bit that was then safeguarded was the area north of the turntable?

(Mr Smith) That is correct, a very thin site, the safeguarded area, which was that shape and size really to accommodate railway lines because my understanding is that the safeguarding in 1990 which took a very small sliver of the northern part of the Old Oak Common site was to allow for the possibility of the Crossrail project having lines connected with the Chiltern lines which are sort of top left, way beyond the screen here, and that back in the 1990s the idea was that the connection to the Chiltern lines would run through this part of the very top sliver of the Old Oak site, perhaps with the lines actually coming out of the tunnel somewhere on the site we are looking at at the moment, so it was just for railway lines rather than anything else. Yes, we were aware upon privatisation that this part of the site was safeguarded, but it was a sliver which did not affect the integrity of the operation of the site.

20332. And it was put in the Promoters' response to our Petition and by Mr Elvin this morning in opening that, because of the safeguarding, you knew in effect that you were going to be displaced from the site, but, given the smaller safeguarding, the 1990 safeguarding, is there any validity in that statement?

(Mr Smith) Not really because the only part of the site that this would have eliminated was the factory where we do the heavy lifting which, with the rest of the site remaining in our ownership, could have been relocated, but really a very small effect on the overall operation of the Old Oak Common site, from our perspective.

20333. Could we turn to the pie chart which Mr Elvin referred to, and that is 04A-027.³³ What he said there is that, so far as EWS are concerned, it does not really show up at all because it is simply a single line, and I think that you have an observation about that pie chart.

(Mr Smith) I think this relates to the anticipated movements on and off the Old Oak site at some point in the future of Crossrail's operation, and I think the implication is that the busyness of a site is measured by the number of trains which move on and off that site. Now, that might be relevant if it was a railway station or if it was a freight marshalling yard, but, as I said earlier on, our primary use of Old Oak Common is stabling, marshalling, maintenance, and the locomotive that the Committee saw last week will be on Old Oak Common for three days, which is the length of time it takes to inspect and change the bogeys underneath a Class 66 locomotive, and clearly that would register as one movement on a Monday and then a movement off on the Thursday. Now, if we had more rail freight activity on the Old Oak Common site, then I think this pie chart would be different, but I can understand that the Promoters have so far dismissed this on the basis of the data they have gathered from Network Rail. I am really not convinced that this is completely relevant for measuring the busyness of a site which is primarily used for maintenance and servicing.

20334. Can we now turn to the question of alternative sites because, in some correspondence, the Promoters suggested that EWS should look at the possibility of relocating some, or all, of their activities to other alternative sites. Have you looked at some alternative sites?

(Mr Smith) We did look at alternative sites, ones that the Promoters had suggested, and they were found not to be suitable. They did not have the connectivity or we would not be able to fit our activities on to those sites, and one of the sites we looked at was subsequently found to have been earmarked for another use and, therefore, we have not progressed any further other sites. As I said earlier on, the number of sites in and around London that give the functionality that Old Oak Common or North Pole could provide are very thin on the ground indeed.

20335. Are you aware of any other site to which you could relocate in the first place all of your activities?

(Mr Smith) There is no other site to which we could relocate all of our activities.

20336. Or which is available if you were to relocate all the passenger train activities?

(Mr Smith) There is no other site.

20337. Can we then turn to the question of extinguishment and we can recall the undertaking which in effect says they will only relocate you if that is a cheaper cost than extinguishing you. I think you have some observations on that matter?

(Mr Smith) I suppose, as the Committee will have heard, if there is a small business that cannot be relocated then it will be extinguished but, as I tried to draw out, there are really two issues for EWS: one is that to continue with the activities we do and anticipate doing at Old Oak Common we need to be close to the railway line, next to the railway line; and we need to be in a part of London where you have

³² Committee Ref: P144, Crossrail Safeguarding Directions Sheet 2 (LINEWD-AP3-43—04-029).

³³ Committee Ref: P144, Comparative usage of Old Oak Common/North Pole between EWS and Crossrail activity (LINEWD-AP3-43—04A-027).

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the connectivity that we demonstrated earlier on. Both Old Oak Common and North Pole Depot fit the bill, so to speak; other sites do not exist. Really a rail freight facility, whether at Old Oak or North Pole, is of great importance to us. The Committee heard evidence in July 2006 from ourselves and other rail freight operators and representatives of our customers about the importance of rail freight facilities, rail facilities and network capacity towards achieving the Government's rail freight growth policies and since that time, as I mentioned earlier on, the arrival of Eddington and the Stern Report reinforce that. Extinguishment really fails to deliver public policy and would prevent us from playing our part in meeting the Government's objectives and our own objectives on rail. We believe the Promoter did recognise this, both the wider public benefit and the strategic importance, by providing for Old Oak Common's replacement by North Pole in AP3, but we recognise there are budgetary constraints, and we have responded, we think, actively and with a lot of commitment of resource and our time to the Promoter's concerns about the original cost estimates, including £X, the original operating costs. What we have produced is a lower cost within the contingency margin. By moving to North Pole we can continue all the activities we have talked about today. So we really do not want the Promoter going back on his word to relocate us to North Pole; that is not ideal but it is at least in the right part of the railway network; it does have the connectivity; we have worked with the Promoters to identify how we can make it work for us at a cost within the estimates that were previously assumed. The loss of Old Oak Common really within a guarantee for replacement should not be contemplated. It would not be in our interests but I think, even more importantly, it would not be in the public interest either.

20338. Can we then turn to the final tab, tab 8, which is the undertaking which you seek, and which you asked the Committee to obtain from the Promoters that, "Before permanently displacing EWS from the land it owns at Old Oak Common Depot, the Promoter shall, unless otherwise agreed with EWS: 1. transfer to EWS the Promoter's freehold interest in the North Pole Depot".³⁴ That is at present owned by the Department for Transport, is it not?

(Mr Smith) That is correct.

20339. Is there any significant difference between the value of a freehold and a long leasehold?

(Mr Smith) By the all standard valuation methods the value is very similar.

20340. Do you see any reason why you should not have a freehold there? Is there any point in the Department retaining a freehold interest?

(Mr Smith) I do not think the Department plan to operate passenger charter services or maintain locomotives, so I am not sure that they would have a continuing interest in the site and this would

replicate the position of all freight operators with a vast majority of their maintenance depots, which are on a freehold basis.

20341. Then "2. to carry out accommodation and other works at the North Pole Depot such that it is rendered reasonably fit for purpose as a replacement for the Old Oak Common Depot; and 3. pay disturbance compensation to EWS in relation to its move from the Old Oak Common Depot to the North Pole Depot, and compensation for additional running costs of the North Pole Depot, as agreed by the Promoter and EWS or, failing agreement, as determined by the Lands Tribunal on a reference by consent". That gives you a mechanism if there was a dispute about disturbance compensation?

(Mr Smith) That is right. May I emphasise the fact that this is something which is reasonably fit for purpose. To replicate Old Oak Common completely would, for example, include a connection facing towards London. We have worked out a method of operation which means we do not need that, which has enabled to us to save the costs. We are reasonable people. We have had a number of discussions with the Promoters. We have jointly retained consultants to do the work. We will continue to be reasonable. It is in the public interest and our interests to make this work.

20342. Would this give you the certainty that I referred to in opening?

(Mr Smith) Freight customers and our customers for the Old Oak site want to know that we can provide them with a service for the long-term, because they will invest significant sums of money themselves. If you are a passenger on a train, you buy a ticket, you travel on the train, end of the relationship. Both for our charter business and for our rail freight business we have long-term contracts with our customers. They want to know that we are going to be able to deliver for them not just tomorrow but in many years' time. That is why the regulator is very aware of this in giving us a 15-year access contract to use the network which expires in 2015. We have a long-term relationship with Network Rail. The freight businesses in the UK are here on a long-term basis. We are not a passenger franchise. We do not get re-let every seven years. Creation of stability and certainty in all of our relationships with the rest of the railway industry are critical to give customers confidence to stick with and grow with rail rather than other modes. Yes, it is stability and certainty we need, and this undertaking provides that.

20343. Can I take an example you mentioned earlier. You said there were to be enhanced passenger services on the North London line provided by the Mayor and TfL?

(Mr Smith) That is correct.

20344. The Committee heard about this in the summer and know about this. Has a final decision yet been taken as to where those trains are to be serviced and maintained?

³⁴ Committee Ref: P144, Proposed Undertaking by the Promoter to the Committee or to EWS (LINEWD-AP3-43—05-017).

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(Mr Smith) No final decision, because no final decision has been made on the successful bidder for that franchise; in the same way there is no final decision on the successful bidder for the cross-country franchise again where certain bidders would anticipate having their rolling stock maintained and serviced at Old Oak Common or at a replacement site close by.

20345. Those activities could be accommodated at Old Oak or at North Pole?

(Mr Smith) They could.

20346. If you are going to be going out trying to seek the custom of, let us say, the Mayor and TfL or, let us say, the Virgin cross-country service and so forth, how important is it for you to be able to say, “and we can do it even if Crossrail happens”?

(Mr Smith) Utterly critical—because if we could not make that commitment then the bidders would not seek to use our services.

20347. Have you seen the undertaking which Mr Elvin is prepared to offer and prepared to work through; but does that give you this certainty?

(Mr Smith) I am afraid it does not. However well intentioned it might be it strikes me that this is an undertaking from the DfT which is cost-driven; it is the cheapest solution for Cross Rail, so it is produced in Crossrail’s interests. It ignores the effect on EWS and essentially it leaves everything for a future date, which could be a long time in the future. It leaves us in a very uncertain position in the meantime. We would obviously have to disclose that in any bidding that we made for passenger services; and I think that would be an unacceptable risk for existing and potential customers.

20348. **Mr George:** Thank you very much.

Cross-examined by **Mr Elvin**

20349. **Mr Elvin:** Mr Smith, good afternoon. We did not meet last time. I was sojourning in Liverpool the week you were here. Can I just understand this: this question of potential, you talk about a number of expressions of interest in terms of the use of the depot (and I am not talking about the rail freight terminal concept—I will come back to that in a moment) in using Old Oak as a possible site for freight maintenance and the like. You mentioned some but you said they were confidential.

(Mr Smith) Yes.

20350. You also mentioned the possibility of a North London line. There will be, as is always the case, a number of bidders for each of the various services that is on offer?

(Mr Smith) Everything you say is absolutely correct—so far!

20351. I was going to sit down for a moment! Each of those bidders though presumably has his own idea as to what facilities it would require, and not all of them would be tying their bids to the possibility of using Old Oak Common?

(Mr Smith) We were approached by a number of bidders to use Old Oak Common, but it is a difficult position because there is a fair degree of commercial confidentiality around this.

20352. Mr Smith, I am not asking you to breach confidentiality, that would be entirely wrong. I am not suggesting you have not had any bids, what I am saying is that there will be other facilities competing with Old Oak Common owned by other companies which will also be bidding to provide maintenance facilities?

(Mr Smith) There are very limited facilities in the London area that can provide the kind of services that we have been asked to tender for, for both the London and the cross-country franchise—very few.

20353. Does that mean the answer to my question is, yes, there are other bidders?

(Mr Smith) The answer to your question is, there are very few other facilities in the London area.

20354. Does that mean, therefore, there are other companies, other than EWS, bidding for this work?

(Mr Smith) I do not know what other companies are doing.

20355. You must know that you have competitors in the market; you do not have the monopoly in freight maintenance, do you?

(Mr Smith) There are very few other facilities in the London area.

20356. That I understand. That is not answering my question. My question is: are there likely to be others who are going to be competing with you for the successful bidder to whatever franchise or service is in issue for the maintenance of their rolling stock?

(Mr Smith) I cannot answer that. I do not know.

20357. So far as the North London line is concerned, is that electrified?

(Mr Smith) The North London line franchise involves both electrically-powered and diesel-powered services.

20358. There is no electrification which would allow access to Old Oak?

(Mr Smith) No, there is electrification into North Pole but not into Old Oak.

20359. So Old Oak Common would not allow you to bid for the North London franchise?

(Mr Smith) It would not allow us to bid for the entirety of the maintenance of the fleet for the North London franchise.

20360. Presumably there are other options that are looked at because, at the moment, all that is available to you is Old Oak Common which is not

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electrified. TfL and whoever the successful bidder is for the franchise must be looking at other options because you do not have an electrified facility?

(Mr Smith) There are both electric and diesel trains as part of the North London franchise; and Old Oak Common is not electrified and can therefore maintain the diesel trains that are used on the North London franchise.

20361. Mr Smith, you are very good at avoiding my questions. The point is, and I am sure the Committee has it, that whoever is going to be bidding for the maintenance is going to have to be able to offer maintenance for electrification as well as diesel?

(Mr Smith) No, not necessarily. There could be multiple suppliers. I do not know who those other suppliers would be, but there could be multiple suppliers.

20362. I think that will do for my purposes. In terms of future usage, you have told the Committee that publishing the sales particulars, which we have seen, is nothing other than an elaborate attempt to gain a valuation for the Lands Tribunal; in fact, in a sense, it is a sham. You have gone out to the market, you have told the market you are selling the site but you have no intention of selling the site. Is that right?

(Mr Smith) We have no means of selling the site at the moment because it has been safeguarded by the Promoters.

20363. I am asking about your intentions?

(Mr Smith) Our intentions are to establish interests in developing the Old Oak Common site for the purposes of valuing that site. If Crossrail fails to proceed and there are developers who see the opportunity for a rail freight facility at Old Oak to add to our existing facilities that may be something worth pursuing.

20364. You said to the Committee earlier, if you were free to dispose of the site you would not be here today. What did you mean by that?

(Mr Smith) Presumably that would mean the site was not safeguarded; that there was no proposal to build Cross Rail.

20365. You would dispose of it?

(Mr Smith) No.

20366. What do you mean by, "If I were free to dispose of the site, I wouldn't be here today"?

(Mr Smith) It means the site is safeguarded and, therefore, I am not free to dispose of the site, which is why I am here trying to defend the fact that the site is in active rail use at the moment and will be in more active rail use in the future.

20367. I am going to press you one more time. Here we are, the Committee has seen the sale signs; you tell us that Lambert Smith Hampton have been going out into the market effectively on a sham. We have got at least one of a number of commercially produced drawings of a rail freight terminal with no maintenance or charter train facilities. That is all a

sham as well. Yet you told the Committee an hour ago that if you were free to dispose of the site you would not be here today. In other words, if there were no safeguards which prevented your disposing of the site, you would have disposed of it. That is the clear implication, Mr Smith, is it not?

(Mr Smith) That is not a clear implication. I did not say I would dispose of the site.

20368. Is it not true, Mr Smith, that EWS sees the value of Old Oak Common in reality as a development opportunity, not as something which is in the public interest for the expansion of the freight business in terms of the rail business? It is seen as a development opportunity.

(Mr Smith) I shall restrict myself to parliamentary language: that is absolutely untrue.

20369. Did you sign off on the sales particulars? Did you give authorisation for the site to be marketed?

(Mr Smith) I did.

20370. It would not produce any market value, would it, for the purposes of compensation; because to get a market value for the purposes of compensation you would actually have to have a transaction; and there is never going to be a transaction on your approach, is there?

(Mr Smith) I am not an expert in how one obtains valuations for compensation. I believe that testing the market to understand the degree of interest in developing rail freight facilities is the beginning of establishing the kind of figures that are needed for a discussion.

20371. Why did you not just carry out an expression of interest campaign as opposed to putting it on the market for sale? You can do that, you know. You can say, "We're looking for expressions of interest. We've had it in mind to do X, Y and Z". You do not actually have to put it up for sale.

(Mr Smith) It was our view that we had to make sure that all the potential developers of the site with us had awareness of what was going on. They, as well as we, are well aware that the site is safeguarded indeed blighted by Cross Rail, but Crossrail is not guaranteed to go ahead and, therefore, essentially all we had from our 17 interests was an expression of interest, a demonstration of the credibility of the individuals or companies concerned, and a willingness to discuss it further when the time was right.

20372. Mr Smith, I find it difficult to believe you have to put the site on the market for sale to understand that it has potential for a rail freight depot or industrial use. It is already allocated in the UDP of Hammersmith for industrial purposes, is it not?

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(Mr Smith) I believe so.

20373. You could get planners and valuers to look at the site based on illustrative plans to come up with a view as to whether it could be developed as such, could you not, without selling or putting the site up for sale?

(Mr Smith) We believe that by pursuing the line that we did we would be able to get a far better test of the market interest in developing the site for further rail use.

20374. Mr Smith, I am not questioning you on your belief. I am questioning you on the alternative hypothesis I have just put to you, that you could get a decent view as to the marketability and developability of the site by putting together some proposals and getting valuers to examine them and see whether they would produce a reasonable scheme?

(Mr Smith) It sounds a very interesting way of progressing and we may well explore that as well.

20375. You have not done it?

(Mr Smith) We have consulted with our agents. We do not need to do things twice. We have done what we have done and, as a result, we had 17 expressions of interest; and as a result of those 17 expressions of interest we are able to fulfil the need to provide the information necessary for discussion with your clients.

20376. Going down the hypothesis that you follow, have you actually identified, if it is right you were not proposing to sell the site when you actually put the whole site up for sale, how much of it you were not going to sell, and how much you were going to retain for your own purposes?

(Mr Smith) No, we have not.

20377. So this critical site which we see as being crucial to your operations, you have not even gone that far to identify what element was crucial to you?

(Mr Smith) We have done exactly what we have said. We have had expressions of interest. We have asked for an artist's impression of what could be done there to demonstrate how we could develop the site for rail connected, possibly rail freight, use. That is as far as we have got at the moment.

20378. Was a model of the site produced with a proposed development on it?

(Mr Smith) There was no model produced of the site.

20379. We thought we saw photographs of it on an earlier site visit. Are you sure there was not a model?

(Mr Smith) I do not understand you.

20380. There was a site visit by Crossrail a few weeks before the members' site visit when some of the drawings, including this drawing, were still up on the walls. Had they been removed by the time of the site visit? Are you sure there was not a photograph of the model included in those?

(Mr Smith) I have absolutely no idea what you are talking about, Mr Elvin.

20381. Very well. Let us go to the usage of the site. Can we put up 04-017, please.³⁵ I appreciate that some of the rolling stock is not taken straight in and straight out and it is not a station, but you will appreciate that usage by the others at Old Oak Common is not simply on that basis as well. We estimate on the basis of the period which includes Cheltenham Week in March last year, the sort of average amount of traffic in and out of the site is about three movements a day, is that right?

(Mr Smith) If those are the figures which you have been supplied by someone who says that is what the truth is, then I have to agree with you. These are not figures that I have had an opportunity to study myself, but I presume they are accurate.

20382. You know that an initial set of figures was put to your company last week in one of the meetings and they were asked to comment on them.

(Mr Smith) Yes, that was a set of movements for the month of January.

20383. Which show a similar pattern, do they not?

(Mr Smith) January is not one of our busiest periods.

20384. But Cheltenham is, is it not?

(Mr Smith) Cheltenham is one of a number of the busiest periods and, as the Promoters are aware, is during the summer.

20385. If the average during Cheltenham Week is in the order of three movements a day as opposed to the 90-odd proposed for Crossrail, can you give us a handle on how much that grows to in the busiest period in the summer?

(Mr Smith) I cannot give you that information.

20386. Would it be double that? Might it be six movements a day?

(Mr Smith) It could well be that. I do not know.

20387. You knew we were going to raise the point about the number of movements because we put some of the figures to you last week.

(Mr Smith) Yes, and it is interesting to see that, of course, Crossrail trains will be coming off the depot in the morning to form the peak service, coming back on to the depot off-peak because the off-peak frequency is not the same as the peak, coming off the depot again for the evening peak service and then going back again after the evening peak, so each unit there will be able to secure four movements a day on and off the depot as part of operating a standard hour advertised passenger service. I am not at all surprised that the number of movements you show for Crossrail is the one you put in that pie chart.

³⁵ Crossrail Ref: P144, Analysis of EWS moves in and out of Old Oak Common depot 5 February 2006 to 30 April 2006 (LINEWD-AP3-43—04A-017).

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20388. Mr Smith, all we are trying to get is a handle through a proxy of numbers of vehicle movements as to the relative busyness of this depot. The members will have seen how busy or not the depot is, we have got photographs and a number of the items in the depot comprise of old locomotives that have been kept for scrap for example. If we can look at the pie chart again which is 04-027, you will bear in mind, of course, that Crossrail, Heathrow and First Great Western are not simply using this as a depot for taking the trains in and out but there will also be maintenance and other similar activities going on this site, will there not?³⁶ It is not just take the trains out in the morning and take them back in the evening, the depot will also be used for maintaining and servicing them?

(Mr Smith) If you say so.

20389. In reality, what this shows is EWS's usage and we have got the logs, we know how long the trains were on site and how long it was before they left. The reality is this is a very lightly-used site, which is the reason why you were considering it as a development opportunity, is it not? This was not a site that, in fact, bears the sort of importance which you seek it to attach to it.

(Mr Smith) The number of movements on and off the site is not a proxy for the use. I am afraid, that is an incorrect assumption. The number of movements merely relate to the timetable to which the majority of those movements are connected.

20390. Can I just put it this way, and we will move on to another topic. The Committee have had a site visit, have seen some photographs of the site and may have an idea of the level of the usage; we say this helps, you say it does not. There is a difference between us. Would you agree with my description, that EWS's usage of Old Oak Common is light?

(Mr Smith) I would not agree with that.

20391. The Committee can judge for themselves from the evidence they have received as to whether that should be accepted or not.

20392. Can I move, please, to the question of costs. Can we look, please, at your new table, it is EWS 47, page 05-016.³⁷ There have been continuing discussions between Crossrail and EWS. You will bear in mind the question, as you say, cost is a difficult issue. Mr George and yourself have been very careful to say, of course, there are other interests than simply producing the cheapest option, but it is also necessary to bear in mind before significant sums of public money are committed to something such as North Pole the level of usage it is supposed to be supporting to see whether it is proportionate. That would be fair, would it not?

³⁶ Committee Ref: P144, Comparative usage of Old Oak Common/North Pole between EWS and Crossrail activity (LINEWD-AP3-43—04A-027).

³⁷ Committee Ref: A231, Comparison of Costs for Old Oak Common Relocation to North Pole Depot (LINEWD-AP3-43—05-016).

(Mr Smith) I do not know, if you say so.

20393. Would you not expect the expenditure of public money to be proportionate to the importance and the level of usage which it is replacing?

(Mr Smith) If all of the costs involved were absolutely variable with use, that would be an idea worth exploring but, of course, as you will be aware, Mr Elvin, most depot costs are fixed. Infrastructure is a fixed cost, you cannot have half the infrastructure, you cannot build one line, you have to have two lines for a train to run on.

20394. If there are a number of options and we are looking at the public interest in what option do we take, the level of usage of what it is we are supposed to be replacing, that is to say your level of usage at Old Oak Common, is a relevant factor in weighing the balance of whether the extra costs are incurred, say, over the costs of displacing you altogether. That is a relevant factor.

(Mr Smith) I cannot accept the concept of displacing us altogether, extinguishing EWS and removing from a good railway-connected site in West London the ability of one of the principal freight operators and given these sites would be open access other people would want to use it as well. To extinguish us and say there is no role for this kind of rail or rail freight potential in the future, I cannot accept that as a statement.

20395. You appreciate it is not the Department's wish to displace you. "Extinguishment" is a bit of an emotive term, I know it is a technical term for compensation. It does not extinguish your business. What it does is displaces you altogether from this site, but you will appreciate it is not the Department's intention to do that, it is the Department's intention to be prudent in terms of public resources. Can I get your confirmation that although the way the matter has been presented, it might appear to some that this has all come to you as a great surprise; the fact is the Department raised its concerns about the costs and its implications in December, did it not? It is in the correspondence, which we can produce if necessary.

(Mr Smith) No need to produce the correspondence. We know the Department was concerned about the costs being higher than the ones previously estimated we found out subsequently. That is why we worked closely with the Department and the Promoters to identify ways of reducing the cost.

20396. We wrote to you on 21 December and we told you that. The concerns over North Pole and the uncertainty which that gave rise to, you have known of for many months. It has not just appeared in the last week.

(Mr Smith) Many months might be a slight exaggeration.

20397. 21 December, that is three months. No, two months, I do apologise. Arithmetic was never my strong suit, Mr Smith. Two months. It has been

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known to you since then. Can I ask you this, the table that you produced today, 016 of the exhibit, EWS 47, we were given a rather simplified version of this at the end of last week at the meeting, were we not?³⁸

(Mr Smith) Yes.

20398. I think at page 04-012 which does not have any explanation in it, is a list of two column costs.³⁹

(Mr Smith) At the meeting you mentioned, I described to the representatives of the Promoter and the Department for Transport the reasons why each of the cost lines have come down and agreed to meet the representatives of the Promoter, a meeting which I believe has been arranged.

20399. For 8 March.

(Mr Smith) I believe so, to go through this in more detail.

20400. The point I want to get from you, Mr Smith—and I confirmed with Mr George my understanding was right as the tea break was ending—we have yet to see the detail that backs up your new cost estimates. That is going to be provided to us at the meeting of the 8th?

(Mr Smith) Yes, we have been focusing up to now on a report which we produced that demonstrated that the contingency assumptions which you have got in your original costs might be regarded as rather full. We have been advised that information has been found very useful by the Promoters who believe there may be some scope for variation even though they are obliged to have very high contingencies in their costs as they have with the rest of the project, so, yes, we have done a number of reports.

20401. I understand there have been a lot of discussions. Clearly, there has been an attempt to reach some form of compromise and that is continuing, but the point is we have not yet seen the backup to this table. Even the explanation that you have put in comes out as of yesterday. The critical point in this is the ongoing costs, is it not? It is the penultimate line, “EWS’s ongoing cost”. You say they can be reduced to £24 million, that is entirely dependent on how the rating issue is handled. If it remains at £45 million, or the original £48.5 million, we are still looking at costs in the order of £105 or £107 million total.

(Mr Smith) That is not correct. Only part of that reduction is due to the reduction in rates, part is also due to the introduction in operating expenses I described while George was on the stand.

20402. But the rating liability, your reduction in expenses was from about 1.5 to about half of that per year, was it not?

(Mr Smith) That is correct.

20403. The rating, however, is in the order of over £3 million per year, is it not?

(Mr Smith) The rating is £3 million a year which we would anticipate would reduce to the equivalent of 1.5.

20404. That is on the basis that you would have a freehold and Network Rail would then charge you a rent and you would pay as part of the *pro rata* of the national network, is it?

(Mr Smith) Yes, that is correct.

20405. Network Rail have told us that they would expect you to defray either through rates or rent any increased liability on them to pay for North Pole. They would not bear the costs on your behalf. They might be the mechanism, but if you were charged, say, £3 million rates a year, Network Rail would seek to recover that either through rent or rates, so all it is doing is passing it through a different funnel.

(Mr Smith) That is not correct.

20406. That is what they have told us.

(Mr Smith) I would like to see that correspondence because I think you will find your clients are well aware that is not the way in which this would work.

20407. Network Rail are not expecting their total hereditaments for the country to be revalued as a result of adding North Pole, if that were the course of action. The rating value that exists at the moment is not going to change as a result of your occupation of North Pole, is it? The valuation officers are not likely to say the swapping of Eurostar to another rail operator is going to reduce the rates?

(Mr Smith) There are a number of mechanisms available to us which we had understood the Promoters were very keen to explore with us as a mechanism for reducing the ongoing cost. We remain more than happy to have a detailed discussion with them and with Network Rail. This is a mechanism with which we are familiar, with which the Promoters are familiar and we would not have put it in if we did not think it was possible to achieve.

20408. We think you are far too cavalier, if you do not mind me saying so, in your approach to that. Can I have this document already in.⁴⁰ This is an email from Bob Yorke from Network Rail which suggests that—it is at the bottom of the email—if you did try the freehold and then lease back that might be seen as a device to remove a rateable value of £3 million from the list. Clearly, Network Rail do not share your confidence.

(Mr Smith) There is, however, a small risk that this might trigger a revaluation.

20409. You are reading the middle of the paragraph: “. . . if the freehold was transferred to Network Rail and leased to EWS then Network Rail could include

³⁸ Committee Ref: A231, Comparison of Costs for Old Oak Common Relocation to North Pole Depot(LINEWD-AP3-43—05-016).

³⁹ Committee Ref: P144, Comparison of Costs for Old Oak Common Relocation—Original cost and reduced scope (LINEWD-AP3-43—04A-012).

⁴⁰ Committee Ref: P144, Correspondence from Network Rail and Crossrail, Crossrail: EWS Rates, 22 February 2007 (LINEWD-AP3-43—04A-013).

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it in the cumulo list and have it removed from the ordinary rating list. This will be the case whether or not the sale site is transferred for £1 or full value. There is, however, a small risk that this might trigger a revaluation of the Network Rail cumulo portfolio. If the freehold was transferred to a third party and them (*sic*) leased to NR and EWS there is a far greater risk that this would trigger an investigation of the cumulo portfolio and a possible revaluation as this may be seen as nothing more than a device to remove a rateable value of £3 million from the list".
(Mr Smith) Where are you looking at?

20410. **Mr Elvin:** The last part of the email.

20411. **Mr George:** I hesitate to interrupt my friend, but it seems to me there are two different concepts in that last paragraph. The first and second sentence are dealing with the situation if you transfer the freehold to Network Rail if they are there, and the last sentence is concerned if there are third parties involved. I am not aware there is any suggestion of a third party being involved.

20412. **Mr Elvin:** In any event, are you suggesting that somehow the £3 million rating bill would just vanish because that seems to me to be unreal, Mr Smith?

(Mr Smith) The rating responsibility would pass to Network Rail and Network Rail would charge us a rental.

20413. Can you show me a letter from Network Rail that says they would take £3 million on the chin?

(Mr Smith) I cannot show you the letter because the Promoters have asked that we do not discuss this with Network Rail.

20414. Do you think it is realistic to expect Network Rail to pay all or a significant proportion of a £3 million rate bill? It seems to me to be highly unlikely.

(Mr Smith) We believe what we proposed here can be given effect and I believe various correspondence that you have put into your evidence and the conversations we have had with the Promoters in our meetings, including the last one on 21 February, the Promoter said they continue to explore the way of doing this. We have not been told, "This is impossible, it cannot be done".

20415. We have looked very carefully at the rating situation. We think there remains a significant risk that the £3 million rating would simply not evaporate. The valuation officers would be unlikely to allow that, and one way or another, whether it was through rent or some other means, Network Rail would still charge you for the cost to them of taking the freehold of North Pole.

(Mr Smith) We believe the solution is as we described.

20416. As I have said, you are aware that our base position is we will continue to work with you. We are not trying to remove you from the location, but we see difficulties in retaining you at the moment, you

understand that. It is not our desire that you be removed from this location. If North Pole could be made to work and made to work at a reasonable cost proportionate to what was going to be achieved that would be satisfactory to the Department, but at the moment we have not seen the background to your latest figures and there is a very real risk that this turns on your optimistic assumptions that someone would be willing to write off a £3 million a year rating bill. It is true, is it not?

(Mr Smith) We disagree with your assumptions, but I am pleased that the Promoters are willing to continue talking to us.

20417. There are a couple of other points I need to touch on and I can leave the rest to Mr Berryman. In terms of alternative facilities, if you were looking to expand some sort of rail freight terminal rather than the freight maintenance or the charter business, such as the illustration shows, or provide some other facilities, are there not options at West Drayton and Acton Yard?

(Mr Smith) Acton Yard is fully occupied with rail freight services. We looked at West Drayton, as requested by the Promoters, and we found this site was not suitable for the kind of activity that we do at Old Oak Common.

20418. Why is it not suitable?

(Mr Smith) The layout of the site and the inability to provide the appropriate rail lines and connections.

20419. In terms of a freight terminal though, we have not talked about North Pole in this respect. North Pole would not be particularly attractive as a freight interchange, an inter-modal depot, would it?

(Mr Smith) It is not ideal because the road access is quite constrained. I do not know if you have visited the site?

20420. Very constrained.

(Mr Smith) There are three roads going into the North Pole, west end, east end and one in the middle. None of them is perfect, although the middle access is used currently by Eurostar and they do bring in lorries because they have to bring in components. We have not really looked at North Pole in terms of the kind of development you are describing.

20421. So they would be precluded in any event by what you are seeking.

(Mr Smith) It is not ideal.

20422. Charter trains. That is a relatively new operation, is it not? I think you said you bought a charter fleet in 2003.

(Mr Smith) We have been operating charter services since privatisation. What we did in 2003 was to buy some rolling stock for ourselves. We had previously operated other operators' rolling stock, so some of the ownership of the rolling stock may have changed, but we have been involved in the charter business since EWS was formed in 1996.

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20423. We can get some impression of the degree to which the site is used from the site visit and the photographs. Can I ask you this: that charter fleet was originally stationed on, I think, Bounds Green, before you purchased it?

(Mr Smith) There were two sets, I believe, but I would have to check the facts. Bounds Green is out in the open, prone to vandalism.

20424. Your concern at the time of the Romford Depot being promoted and the use of Old Oak for stabling was that it would lose you a location for the charter fleet. That was the orange area on your plan, was it not?

(Mr Smith) We said, when I appeared before the Committee on 11 July, that your proposed landtake at Old Oak Common, at that time, would significantly undermine our ability to operate that site and, therefore, we could not see it as a continuing facility, but we did not get into detailed conversation on 11 July because AP3 was anticipated at that point, and the discussion was terminated.

20425. You were certainly regarding even the Romford proposals as having an adverse impact on your operation at Old Oak because they carried with them the need for stabling provisions in the West.

(Mr Smith) I had not really thought about it in terms of Romford. We merely looked at it in terms of our existing site at Old Oak, which was going to have some landtake.

20426. “The original Depot Strategy” is probably a better way of putting it. Even that would have had an adverse effect on your operations at Old Oak.

(Mr Smith) If the original Depot Strategy involved the landtake at Old Oak, I think coloured orange in the tab you put up earlier, then that is absolutely correct.

20427. **Mr Elvin:** I will check there is nothing else. I will deal with the other matters through Mr Berryman as we do during this process. Mr Smith, I will deal with the matters with Mr Berryman. Thank you very much.

Re-examined by **Mr George**

20428. **Mr George:** Three or four matters. Mr Smith, you were asked about the inability of Old Oak Common to deal with electrified trains on the North London Line. Do you recall that?

(Mr Smith) I do.

20429. If you were to have North Pole would you be able to service that sort of train?

(Mr Smith) Yes. Because North Pole is equipped both with overhead line and third rail electrification it would be eminently suitable.

20430. You had a discussion with Mr Elvin about Crossrail trains going in and out of the site—do you recall—which was the various movements out to run on peak and then back in during the day and out in the evening.

(Mr Smith) Yes.

20431. So far as those sorts of movements are concerned, is that the sort of matter you have seen no timetabling in respect of for Old Oak Common, particularly looking ahead to 2015?

(Mr Smith) We have seen no timetabling for that.

20432. Lastly, Mr Elvin put it to you: it is not the Department’s wish to displace you, nor their intention. So long as it is not their intention to displace and it is their intention you should go to North Pole, you, I think, would be content. Is that right?

(Mr Smith) I would be content.

20433. You would want a little bit of assurance on that.

(Mr Smith) I think a little assurance. I described earlier on the need for stability and certainty as far as is possible, so an assurance on that basis would be very helpful.

20434. **Mr George:** Thank you.

The witness withdrew

20435. **Mr George:** That, sir, is the only evidence I propose to call.

20436. **Mr Elvin:** I was going to call Mr Berryman, my sole witness.

20437. **Chairman:** How long do you think you will need?

20438. **Mr Elvin:** I wonder whether you would like to break for lunch now and come back at 2.30.

20439. **Chairman:** We will meet again at 2.30.

After a short adjournment

20440. **Mr George:** Sir, I mentioned in my opening the case of *Luxembourg v Linster* Your Clerk now has a copy and I understand, formally, it needs a number.

20441. **Chairman:** A232.

20442. **Mr George:** Secondly, sir, we can distribute a revised undertaking which we would seek, which we have given to the Promoters. The Committee will see that it is in exactly the same form as the last document in our bundle, except that there is a cap added, so that at the end of the proposed undertaking the words are added: “save that the Promoter shall not be required to pay more than £83

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million at 2002 prices in complying with paragraphs 2 and 3”, which means we are, in other words, prepared, effectively, to commit to our figures.

20443. **Chairman:** That is A233.

20444. **Mr Elvin:** I will call Mr Berryman, if that is convenient.

Mr Keith Berryman, recalled

Examined by **Mr Elvin**

20445. **Mr Elvin:** Mr Berryman, you are well-known to the Committee and to this process. Can I just go through some of the issues with you relating to Old Oak Common, North Pole, and the revised Depot Strategy. The first issue is the general concern that has been expressed about the impact of trains from Crossrail running into Old Oak Common and accessibility for the depot. What is the current situation, please?

(Mr Berryman) The current situation as it sits now is that trains going into Old Oak Common from the Paddington direction have to run over the relief lines, that is the second pair of tracks in the set-up. We are proposing to provide two additional tracks which will make an independent route into the depot, all the way from Westbourne Park, where many of our trains turn round, to, actually, right into the depot. So any concerns about disruption to train services because of our trains going in and out of the depot will be ameliorated by that, if not eliminated altogether.

20446. Can I then turn to the main issues. Can I first ask for you to give your views as to the current level of usage by EWS of its Old Oak Common facilities?

(Mr Berryman) Yes. I have to say I have been rather surprised to find out the low level of use that exists at this depot. As we saw when we went on the tour last week, it is used for a number of different things, some of which need to be there in the London area, some of which do not. Perhaps the most noticeable thing is that there are a large number of locomotives there waiting to be scrapped or to be allocated to new projects in Europe. There is obviously no reason why they need to be in London, it is just a convenient place to put them. The second use which had already been mentioned by Mr Smith is the heavy maintenance and lifting equipment, and you recall we went into the shed where that was done, and one locomotive was on the jacks having things checked at the time we were there. However, in the same shed there were two other locomotives, both of which do not belong to EWS, they belong to heritage societies. Clearly, the premises is also used for maintenance of the charter fleet which is also stabled there, and I understand is, to some extent, pitted there, if that is necessary. It is obviously used for refuelling of freight locomotives but in very small numbers, and I think that coincides more with the operation of charter trains than anything else. It is also used for some storage of the yellow plant, which is the equipment which works on the track and does the

maintenance of it. I think the most prominent thing we can see there are the several rakes of heritage rolling stock which are used for the charter operations.

20447. The Committee has already seen, because I put the summary table to Mr Smith earlier, that the average number of train movements associated with all of EWS’s activities at Old Oak Common is of the order of two or three movements a day.

(Mr Berryman) Indeed, yes. It is of that order, on average, a day. I think some of those are freight locomotives coming in for maintenance, but out of that total it could not be more than one or two, and some of those trains are going out for charter operations.

20448. Mr Smith said he did not regard the train movements as a proxy for the busyness or otherwise of the site. What view do you have, Mr Berryman, please?

(Mr Berryman) It is difficult to see how else you could decide how busy a site is. Of course, the fact is when a train comes in for significant maintenance, which may take two or three days, it is sitting there for two or three days before it goes out again, but the numbers of movements that are occurring are so very low that the site cannot be particularly busy. Do not misunderstand me; I am not saying that the activities that are done there are not important or significant, but I would say that the site is not very busy.

20449. We have already seen the pie chart at exhibit 04A-027, which compares the likely movements from Crossrail trains to being 92 a day rather than EWS’s 3.⁴¹ We can see First Great Western at 52 (they are already on site) and the Heathrow-associated traffic at 10 and 20 for Heathrow Express and Heathrow Connect.

(Mr Berryman) Yes, that is correct. The same area that is being occupied by EWS at present would have roughly 92 movements in or out every day. As Mr Smith said, many of those would be associated with stabling but quite a lot of them would also be associated with maintenance and rolling stock. Those 92 movements would indicate a fairly busy site—busy all day.

20450. In terms of the stabling function, how does that compare with the use of the site at the moment for the storage of charter rolling stock?

(Mr Berryman) I suppose, on one level, you could say it is the same, it is parking of the trains, but the difference would be that our trains would go out every day. They would be there overnight, of course, and some might be there inter-peak during the day, whereas the charter stock stays there for significantly long periods of time—I think, quite often, some of the stock does not go out for several weeks.

⁴¹ Committee Ref: P144, Comparative of usage at Old Oak Common/North Pole with Crossrail (LINEWD-AP3-43—04A-027).

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20451. Can I come on to the proposals that were put to EWS for the first time last week as a possible way of seeking to preserve the freight maintenance aspect on site without necessarily having to relocate them to North Pole, and that is exhibit 03-035, please.⁴²

(Mr Berryman) One of the parts of that sale offer document, which you also exhibited this morning, concerned the retention of a modest maintenance facility on the site, consisting of three sidings and a shed. We have come to this fairly late because it was not until we saw those sale particulars that we started to develop this idea. What we have been able to ascertain is that we can actually fit in those facilities on our proposed site alongside the maintenance shed. This is entirely within our limits of deviation and early indications are that it is also within our powers, as contained in the supplementary environmental specification, so we are confident that we could provide a shed and three sidings there which could be used for the maintenance of the freight locos and it could be used for the storage perhaps of some other appliance. It obviously could not be used for the charter trains, but the other activities which are carried on on that site could actually be done in that relatively small area because I think you realise, after having seen the site, that quite a lot of it is not used very much.

20452. We know in any event that the original Romford depot proposals involved taking away the charter sidings from Old Oak Common because stabling would still be required under the original Depot Strategy at Old Oak Common?

(Mr Berryman) Yes, that is correct. The area down here, which I think is called the ‘Coronation Sidings’ but I may be wrong there, was the area where the stabling would have been done.

20453. So that would have gone under the original depot proposals in any event. Just returning to the blue lines, which are the proposed new sidings which could accommodate the freight maintenance operations of EWS, would that, as compared with their current operations, and we know that they are looking to capture some additional business from what Mr Smith was saying, would that not give them additional capacity to grow their business, the maintenance side of their business?

(Mr Berryman) It would. We have had a look at some figures as to how it would work, how it could work, and we think there is a very significant opportunity to grow the business even with that relatively modest facility compared to the level it is now.

20454. Just while we are dealing with that, someone did some digging around in EWS’s evidence from the last committee appearance and I am just going to put it up, so can we just remind ourselves what their evidence was to the Committee last time, and this is exhibit 19605-035, and it has been ringed.⁴³ We can

see in the last sentence the point being made that I have just been discussing with you. Firstly, it deals with what happens if Old Oak is taken for the depot, that the entirety of the site would be required. Then, “Crossrail wish to replicate EWS’s facilities at Old Oak Common with a facility at North Pole”, and that has moved on, as we know, and then, “Even if the depot is not moved to Old Oak Common”, that is to say, if it remains at Romford, “and the site is still required for stabling of Crossrail trains, then the amount of land required would render it unviable for EWS’s current operation”. So that supports what I was saying this morning, Mr Berryman, that EWS’s position is that, even under the original Depot Strategy, there would be a significant adverse effect on their operations.

(Mr Berryman) Yes, that is certainly the case. I can understand the point that the charter train operation would have had to move in any event.

20455. In terms of the issue that has arisen with regard to North Pole with regard to operating costs and rating, and I do not want to spend a great deal of time on it because we spent some time with Mr Smith on that, but can I just ask this: the estimate of cost which was lodged in accordance with Standing Orders, that did not include operating costs, rating and the like?

(Mr Berryman) No, it did not. The Standing Orders require that we submit an estimate of expense of the cost of the works, but it does not include any of those peripheral things, such as operational costs or things of that nature.

20456. When did it become clear that there was a particular problem with those costs?

(Mr Berryman) It was while I was in hospital, so it was in November, and I can tell you that, when I came back to work and got the news, I almost had a relapse; they were unexpected costs.

20457. What was the expectation at the time the Bill was deposited about the costs?

(Mr Berryman) We were under the impression that the operating costs would be about the same just based on the general operation which we carried out at the depot. The issue of the rating costs, frankly, had not been raised at all and we had been unaware that it was rated on a different basis from the rest of the railway network. It was almost by accident that we later found out that this was the case.

20458. In terms of the latest estimate that was produced by Mr Smith this morning and which we saw yesterday for the first time, that is to say, a possible reduction of the costs and their bringing down the costs generally, I put it to Mr Smith, and he agreed, that those have yet to be demonstrated by any supporting information, and I understand that that is going to be provided for a meeting on 8 March. Is that correct?

(Mr Berryman) That is my understanding, yes.

20459. So neither Crossrail nor the Department has seen the basis for the calculations at this stage?

⁴² Committee Ref: P144, Old Oak Common Depot to Westbourne Park Study (LINEWD-AP3-43—04-035).

⁴³ Committee Ref: P144, Crossrail’s requirement (LINEWD-19605-035).

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(Mr Berryman) Certainly not the detail, no.

20460. In terms of seeking to understand what costs would be incurred by EWS if they were displaced from the site, that is to say, what their compensation would likely be if the charter fleet was displaced or if all of their activities were displaced, has that information been requested from EWS?

(Mr Berryman) Yes, we have requested that. We have not had a proper answer to it yet.

20461. So, if EWS look for certainty and part of that exercise is dependent upon the provision of information, does it lie within EWS's own control to provide the information and take that exercise forward quickly?

(Mr Berryman) Partly, yes. It is obviously a two-way street, but yes, it is certainly partly within their gift.

20462. I am not going to ask you any about other details with regard to the rating issues and the costs because, as I say, those details have yet to be supplied. In terms of the alternative suggestion of the three new sidings, you said it was considered likely that that would fall within the powers. Has a view yet been taken as to whether they would need to environmentally assess those additional sidings and whether they would be likely to have a significant effect themselves?

(Mr Berryman) Yes, we have taken a view on that. Our current thinking is that there would be no need for further appraisal and it can all be done within the envelope of what we have assessed as part of the supplementary Environmental Statement.

20463. In other terms, if Mr George's argument about compliance with the environmental assessment process were accepted, and I am not suggesting it is, I am just putting it on a hypothesis, would it be possible to produce an addendum to AP3 Environmental Statement to deal with the fact that the position with North Pole may no longer be as clear as it was at the time of Bill deposit?

(Mr Berryman) Yes, it would and it would not be a very big job to do that.

20464. Would it raise any issues that could not have been raised in committee today?

(Mr Berryman) I am just trying to think. I really do not think so, no. No, I really do not think so.

20465. So far as EWS are concerned, this issue has been known to them since December when the concern about the cost of relocation to North Pole and the compensation was first made clear by the Department?

(Mr Berryman) Yes, that is true.

20466. **Mr Elvin:** Mr Berryman, would you wait there please.

Cross-examined by **Mr George**

20467. **Mr George:** Mr Berryman, taking the matters briefly in turn, so far as Crossrail trains into and out of the depot are concerned, I have recorded you as saying that you think that any impact on the services will be rather small, but will not be eliminated altogether by the track proposals you spoke of.

(Mr Berryman) No, I think they should be eliminated altogether as far as interference by our trains going into and out of the depot with other trains is concerned, simply because we would be providing two new tracks to the north of part of the layout between Paddington and Old Oak and reinstating some tracks which are currently out of use.

20468. Why then, when you were giving your evidence ten minutes ago, did you end your answer with the words, "if not eliminated altogether"?

(Mr Berryman) Because it is possible that there may be some movements at some times which are not made using those two tracks, but have to be made using the relief lines. I would anticipate that that would be unlikely during normal operation.

20469. The fact is that there is no documentation by which anyone can check the modelling and the timetabling for these ins and outs at all, much less in 2015 with freight growth. Is that not the position?

(Mr Berryman) The fact is that there is no need to do that because AP3 contains provision for those two additional lines and those lines would be for the exclusive use of Crossrail trains and, as I said, during normal operation there would not be any interference with any other paths. The only freight paths which exist from Old Oak Common going towards Paddington are actually to serve the Westbourne Park batching plant which we will be hearing more about next week, I think.

20470. Mr Berryman, you may be right, but what we keep on saying is that the work simply has not been done with the 2015 freight flows, and it applies to the entirety of the line, to see the effect of the ins and outs caused by Crossrail into the various yards, including Old Oak Common, and that remains the position, as it was when I cross-examined you about this in July.

(Mr Berryman) It certainly remains the position as regards the majority of the freight depots. As I said in response to your cross-examination in July, it is very difficult to forecast at this stage of the game how many movements and when we would be in and out of those depots. What we can do, and have done, and I think you are aware of it, is we have made general allowances for that in the timetable preparation.

20471. Let us move on to the current level of activity at Old Oak Common. I noticed you were saying that it was not a busy site, but you accepted, and you said, "I am not saying the activities there are not important and significant", so I think you are accepting that they are important and significant activities, albeit it does not make the site a busy one?

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(Mr Berryman) Indeed. I was referring there in particular to the maintenance of freight traction which is carried out there and clearly that has to be done somewhere, and we would not dispute that for a second.

20472. You know that EWS are not now opposing being displaced from Old Oak Common, provided they are moved simply across the track to North Pole so that the discussion of how busy the site is at present and the comparison with the site if Crossrail were there is really nothing in point, is it?

(Mr Berryman) Well, I think it is important because the amount of money which will need to be spent to allow that relocation is very significant. If the same facilities can be provided in some other way, I think it is important for us, as custodians of the public purse, to try and make sure that that is done in the most economical possible manner. What our suggestion is is that moving to North Pole may not be necessarily the most cost-effective solution to this issue.

20473. The Committee is not merely to be concerned with what the level of use is today, but what the level of use is likely to be there in the future, both at the time of any displacement and how busy the site would be if Crossrail was not there at all. Is that not right?

(Mr Berryman) Well, to some extent, I suppose you are right, but the fact of the matter is that the historical use of this site has not been very great. It has been in the private sector now for ten years and there is no real noticeable change in activity other than the stabling of the charter fleet there.

20474. EWS has only just lost the Temple Mills site, have they not?

(Mr Berryman) I understand they have withdrawn from that site, yes.

20475. Therefore, for the reasons explained, the situation is going to be different in any event because their main site has now gone for Eurostar using that particular site and that, therefore, means, all things being equal, that you would expect, would you not, an expansion of activities at Old Oak Common?

(Mr Berryman) Well, not necessarily. There are other sites around London which can be used for maintenance and freight locomotives; this is not the only one.

20476. Can we turn to 04-035 which was on the board.⁴⁴ This is the proposal which you put, I think, to EWS for the first time last week to maintain a shed and three sidings on site alongside the Crossrail occupation. Is that right?

(Mr Berryman) Yes, that is correct.

20477. If I can take it by stages, first of all, so far as the three lines and a shed are concerned, that you have simply drawn from that marketing booklet,

have you not? You have not had any discussions with EWS as to how their activities would fit into three lines and a shed?

(Mr Berryman) No, we have not done that. We took it straight from the marketing document which was produced which we felt was probably a realistic appraisal prepared by EWS of what they might use and need.

20478. I am told that it is not and that there is no way that we could accommodate our activities there, even leaving aside the charter trains. Let us take the turntable which is used, for example, when the crane goes out and comes back in. There is no possibility, is there, of accommodating a turntable in that area which you would provide for EWS?

(Mr Berryman) No, there is not and we have not proposed to do that. You are aware, I am sure, that there are other ways of turning vehicles other than using a turntable, and one of the ways that it is done is to send them up to Greenford which is done all the time.

20479. Well, you can make us go for longer distances, but at present Network Rail and EWS have found it a very useful facility to have a turntable there, and it is right that the Committee knows that your new proposal involves finding a new way of turning round those important items, like the crane?

(Mr Berryman) Yes.

20480. Insofar as the passenger service is concerned, you have not, I think, identified a location to which the passenger trains can go, the charter service. Is that not right?

(Mr Berryman) We have not identified a specific place. We have quite a long list of possible places, many of which incidentally would help better accessibility than this, but we have got a list of places in the London area which we are certainly prepared to discuss with EWS to select the best one.

20481. You say that you are prepared to discuss them, but the fact of the matter is that you are here now looking at AP3, and I think you would agree that, if we get North Pole, we can accommodate all our current activities on the Old Oak Common site and have scope for expansion? That is common ground between us, is it not?

(Mr Berryman) I do not think there is any dispute between us on that point. I think the issue is the use of public funds. The kind of numbers we are throwing around here, £85 million, £117 million and so on, are very significant sums and we need to be sure, we need to be satisfied, and I do not think we are at the moment, that that would be a good use of public funds to reprovide that facility for your client, particularly if equivalent or better facilities could be provided somewhere else at low cost.

⁴⁴ Committee Ref: P144, Old Oak Common Depot to Westbourne Park Study (LINEWD-AP3-43—04-035).

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20482. Can I come now to the deposited estimate, the £70 million. It was tab 6 in our booklet.⁴⁵ That £70 million was the Department's best estimate of the construction costs, was it not, for moving EWS to North Pole?

(Mr Berryman) Yes, it is governed by two things. It is governed by Standing Orders which set out the form in which it is written there, and it is also governed by the Treasury who make us add a very significant percentage of what they call the 'optimism bias' to our figures.

20483. That deposited estimate, including all those contingencies, was formally signed by you as Managing Director of the Bill when it was deposited on 27 October, was it not?

(Mr Berryman) That is correct, yes.

20484. At that stage, it was your belief and everyone's belief that the project would be bearing those costs, but, even so, would be making a saving of over £100 million on the revised Depot Strategy. Is that not right?

(Mr Berryman) That is correct, yes. I have to say that the estimate of expense is not quite the same thing as a budget. It is intended to give us complete coverage, so what we are actually saying is that the cost will not exceed £73 million. We are not necessarily saying that this is the budget to spend, and I can absolutely assure you that it is not; the budget is set in another way altogether.

20485. We know that the £70m has been looked at again and so far as the build-up of that is concerned, that can now be precisely done, can it not? We see that in column 2 in the document which was our Tab7?

(Mr Berryman) Yes, that gives a breakdown of how the figure was arrived at.

20486. When you put into the estimate the £73 million you knew, did you not, that there would be some additional costs incurred in respect of EWS's occupation of North Pole, albeit you had not actually made a list of them?

(Mr Berryman) I do not think we did actually. Our first view was that the operational costs certainly should not be any different, because the number of people employed to do the same work should have been about the same. As far as the rates are concerned, perhaps it was remiss of us but we just made the assumption (which turned out to be incorrect of course) that this was part of the railway state and was rated in the same way as Old Oak Common. We did not actually anticipate any increased operating costs at that stage.

20487. I think it is common ground that there will be some increased operating costs, not least because some of the buildings are bigger than the existing buildings on the Old Oak Common site and, therefore, the utilities' bills are going to be a bit higher?

(Mr Berryman) Of course there will be pluses and minuses. They are bigger buildings but they are more modern buildings. The buildings on the Old Oak Common site are not in the first flush of youth and must be quite expensive to heat and so on, as I think some of the members of the Committee saw on their visit there.

20488. So far as rating is concerned, you really should have known, should you not, that the North Pole site was rated in a different way because it was a Department for Transport site, and did not form part of a Network Rail cumulo rating? That is a matter the Department simply overlooked, did they?

(Mr Berryman) I am afraid so. With the benefit of hindsight, yes, we should have known that and we did not. I am extremely sorry that arose.

20489. It was always I think readily apparent to EWS that there was bound to be some costs there. It never frankly crossed our minds that you had not appreciated that.

(Mr Berryman) In the rating matter?

20490. Yes. The fact of the matter is that, at present, you have instructed EWS, have you not, not to take this matter up with Network Rail to explore whether it could be included in Network Rail cumulo? That was the direct instruction you gave to EWS at a recent meeting, is that not right? You would deal with Network Rail. You did not want us to deal with them.

(Mr Berryman) I certainly do not think we want too many people to be dealing with this matter. We are not in a position to instruct your client. We can only request them, and that is what we did.

20491. That was the request, was it not, you made to EWS—not to take the matter up with Network Rail?

(Mr Berryman) Not at this stage certainly.

20492. So far as reducing the £73 million is concerned, it was you, was it not, and Crossrail who asked EWS to work on de-scoping and see if one could bring down the costs at North Pole?

(Mr Berryman) Yes— that is right.

20493. That suggestion was made at a meeting as recently as 17 January, is that right, and led to the flurry of activity which has led to column 3 in EWS 47 where the £73 million is reduced to the £58.7 million?⁴⁶

(Mr Berryman) Yes, that is right.

20494. So far as that is concerned, EWS has done all you asked of them, save that when you saw these figures last week you have expressed the view that you want to look at those figures in more detail, and

⁴⁵ Committee Ref: A231, Extract from AP3 Estimate of Expense (LINEWD-AP3-43—05-014).

⁴⁶ Committee Ref: A231, Comparison of Costs for Old Oak Common Relocation to North Pole Depot (LINEWD-AP3-43—05-016).

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that is why you have got the meeting coming on in early March?

(Mr Berryman) Yes, that is correct.

20495. It was EWS who offered that they were prepared to eliminate one of the connections, instead of having two connections from North Pole to have a single connection, which is the item which means on that table why the permanent way cost comes down by approximately a million, and then there are further reductions in signalling as a result?
(Mr Berryman) That is correct. We are very, very far from suggesting that EWS have not cooperated with us in this matter. We have been working together on this matter. I think there might even be more mileage in this yet. We are not trying to in any way suggest they have not tried to be helpful.

20496. Have you seen the undertaking which has been offered with the amended sentence that is the document which went in immediately after lunch?⁴⁷

(Mr Berryman) Yes, I have.

20497. You have seen in that document, EWS are saying that we will, as it were, cap the Department's exposure. The Department was previously prepared to pay the £73 million, and we say that they should have appreciated that there would be something additional for ongoing costs. We are prepared to assume we have got it right and to limit your exposure to the £83 million. That is a considerable advance, is it not, so far as the Department is concerned?

(Mr Berryman) Certainly it is a very worthwhile offer; but I think there are two things I need to say to that. The first is, as I explained a few moments ago, the estimate of expense is not actually a budget, it is an upper band which the Secretary of State would expect to spend less than on a scheme. That is the first point. Secondly, even at £83 million, for the operations which are being carried on at Old Oak Common and the future operations which may be carried on there, as far as we can judge them, is that a good use of £83 million of public money? It is still a very substantial sum.

20498. Can I take the first part of that. You say it was an upper band, but that is because it includes a contingency; and the £83 million also includes a contingency and, indeed, precisely the Department's own contingencies, which is why we believe it will in fact be able to be done for less than the £83 million?

(Mr Berryman) Yes.

20499. So there is no change there from the basis on which the estimates were done. It has still got a very substantial contingency?

(Mr Berryman) Yes, that is correct.

20500. Even at £83 million it still gives rise to a huge saving, a saving of about £95 million, on the old Depot Strategy, does it not? That is money in-hand as a result of the new Depot Strategy?

(Mr Berryman) It is not actually money in-hand, regrettably.

20501. It is money which no longer has to be spent?

(Mr Berryman) Yes. I think it is worth just mentioning that there is tremendous pressure on this project to bring costs down. You will be aware that it is going to be a very, very expensive project even on the best and most optimistic forecasts. We do not quite work that we have saved £100 million here so we can spend it somewhere else. We base it on the idea that £100 million saved is £100 million saved.

20502. Just a second, Mr Berryman. I suspect that is cheating. Your £100 million saved was taking into account that you were spending £73 million at North Pole. That had already been taken into account in the savings; so it is not a question of taking away your saving; it is just that your saving will be £10 million less than you had hoped for?

(Mr Berryman) Yes, but if we can do this for £43 million, say, by relocating EWS somewhere else, then the saving will be £150 million, will it not? The fact I am trying to get at is, saving made in one location cannot be expended in another location gratuitously; but it is still important to us to keep the costs down.

20503. AP3 was formulated, was it not, as a balanced, revised Depot Strategy by which you displaced EWS entirely from its land and the money was spent on North Pole in lieu? That was the very basis of AP3.

(Mr Berryman) The very basis of AP3 was that the depot would not be at Romford; it would be at Old Oak Common.

20504. And there would be North Pole?

(Mr Berryman) Yes. Certainly we were looking, and we are still looking, as you know, at the possibility of relocating your plan to North Pole. All we are saying at this stage is, there may be and probably are cheaper and just as effective solutions to the relocation which do not involve spending £83 million.

20505. Just two final questions. First, am I right that nowhere in the Environmental Statement or the documentation supporting AP3 is there any caveat to the fact that North Pole is simply an option, and that it is still under consideration?

(Mr Berryman) No, there is no such caveat.

20506. No such caveat. Therefore, you will not be surprised that EWS assumed that if they could swallow losing Old Oak Common that they were

⁴⁷ Committee Ref: A233, New Proposed Undertaking by the Promoter to the Committee or to EWS (SCN-20070227-006).

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going to get North Pole. That, I think, you can well understand, which is why they feel rather aggrieved now?

(Mr Berryman) Indeed.

20507. So far as saving costs is concerned, that is only one aspect of the matter, is it not? The other aspect of the matter is overall fairness and the interest of the freight and the charter passenger business of EWS. That has to be taken into account, does it not, as well as every penny that Crossrail can save?

(Mr Berryman) Absolutely. If you took it to the extreme you could do nothing and save the whole £83 million, but that clearly is impossible. We need to provide and make adequate provision for those businesses to carry on, that is what we are here for and that is what this hearing is about.

20508. You probably understand why EWS would like some certainty—the knowledge that they have either got Old Oak Common, which they have got a very long lease on at the present time; or they have got North Pole. Whereas the undertaking which you have put forward makes it wholly unclear for the future where they are going to be, is that not right?

(Mr Berryman) I would not put it as strongly as “wholly unclear”; but it is certainly a lower degree of certainty that they would have if they were going to move to North Pole, yes.

20509. As to where they are going to be putting the charter passenger fleet, where that will be, what those alternative sites are and so forth, there is no documentation at all on that matter, is there?

(Mr Berryman) No.

20510. Nor is there anything in any Environmental Statement dealing with the environmental implications of any alternative location for EWS’s various facilities, some of them involving freight, some involving large numbers of passenger trains?

(Mr Berryman) That is true, but the intention I think would be to use existing facilities for the storage of those passenger trains.

20511. Wherever you put them it will have some environmental impact, and that is a matter which has not thus far been assessed, has it?

(Mr Berryman) I do not think it is quite right to say that, is it, because if we put them on an existing railway siding or complex which is already in use and is being used for that purpose, albeit on a smaller scale, then it does not require an environmental assessment, does it?

20512. Let us take it by stages. First of all, you are unable to tell the Committee, and you have not yet told EWS, where their passenger trains are planned to go. That is right, is it not?

(Mr Berryman) That is right, yes.

20513. Therefore, it has so far been wholly impossible to carry out any assessment as to whether, if they go somewhere else, it does have an

environmental impact or it does not have an environmental impact because first you have got to locate the site, have you not?

(Mr Berryman) That is right. As your clients are aware, there are a number of sites around London which have the potential to be used as stabling, which are already used to some extent for stabling, which could be expanded. It would be our first port of call to use one of those.

20514. What the Committee knows is that they have got a thorough Environmental Statement which assesses the impact of moving all EWS’s activities to North Pole and concludes that that is an environmentally acceptable solution. Is that right?

(Mr Berryman) Yes, that is true.

20515. **Mr George:** I am very grateful.

Re-examined by **Mr Elvin**

20516. **Mr Elvin:** Mr Berryman, bearing in mind what you said earlier with regard to the possibility of producing an addendum Environmental Statement, what is your view as to whether this issue should be determined by whether or not the Environmental Assessment has put North Pole simply as an option?

(Mr Berryman) I think you have given the answer in the question.

20517. You are not supposed to say things like that!

(Mr Berryman) If you produce a supplementary Environmental Statement these matters can easily be dealt with. They are not substantial matters. They are things which can be dealt with quite easily.

20518. Can I come back to a couple of points so we have the facts right. This point about whether DfT should have known about the rating for the North Pole and Eurostar facility, it is right, is it not, that the Eurostar facility does not come to the Department until Eurostar has vacated later this year?

(Mr Berryman) Yes, that is my understanding.

20519. It is not in departmental operation?

(Mr Berryman) Yes, it is only when they vacate it and move round to the other side of London.

20520. In terms of the position with regard to rating, it seems that EWS were already aware of the position. Did they make any attempt to let you know?

(Mr Berryman) If they were aware of the position that is the first I have heard of it. Certainly, no, they did not.

20521. You said that the plan which shows the additional three sidings and sheds to allow the freight maintenance facility to remain at Old Oak Common was based on the particulars—in what respect?

(Mr Berryman) The sale particulars specifically called up the need to maintain a freight traction maintenance facility on the site.

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20522. You mean the green ones?
 (*Mr Berryman*) Yes.

20523. Can we put up 04-020.⁴⁸
 (*Mr Berryman*) You can see there the purchaser will be expected to make provision for a rail maintenance facility of three sidings and a shed to be constructed within the site. That is what we took our need from. We only talk about need when we got the sale particulars.

20524. These sale particulars we know, because Mr Smith told us, he signed off on them; they went to the market to sell the property in November last?
 (*Mr Berryman*) Yes, we only become aware of them at a meeting I had on the site some time ago and I saw the for sale sign.

20525. Finally, so far as the turntable is concerned, which seems to be a matter of some concern, that was looked at in terms of safeguarding. Did the safeguarding area impinge on the turntable at all?
 (*Mr Berryman*) You mean the original safeguarding?

20526. The original safeguarding. Could you go to 04-029, please.⁴⁹
 (*Mr Berryman*) No, the turntable would not have been affected by that.

20527. What about access to the turntable?
 (*Mr Berryman*) Some of the access tracks would be affected. This one would be blocked off.

20528. Look at the next page where the safeguarding continues to the access tracks?
 (*Mr Berryman*) You cannot see it very clearly on here, but all of these tracks going into that part of the depot are within the safeguarding area. The colours are a bit hard to distinguish, are they not?

20529. Finally, in terms of the revised undertaking, that is clearly a question for the Department rather than Cross Rail. In terms of selling the freehold, would the Department be concerned to ensure that provision was made if the land were to be redeveloped for other purposes, for example, a freight depot?
 (*Mr Berryman*) Yes. As you say, it is for the Secretary of State to decide whether he would be prepared to give up the freehold of North Pole. You are talking about North Pole, I take it?

20530. Yes.
 (*Mr Berryman*) In any event, if such an agreement was come to there would need to be a claw-back arrangement so that if any significant development of the site took place the Secretary of State was able to recover the benefits that may arise from that.

20531. **Mr Elvin:** I have no further questions. Thank you very much.

The witness withdrew

20532. **Mr Elvin:** Sir, the Secretary of State has said in the undertaking which I gave at the outset that he is willing to continue to work with EWS to try and find a way to retain as much as possible of EWS's activities at Old Oak Common, either as the alternatives have suggested, or to continue working on the North Pole costs; but that it is simply not possible at this stage to insist, as EWS does, that this should be signed up in some form of unequivocal manner which would not allow any scope for manoeuvre if matters were not acceptable.

20533. It is important, as EWS stresses from its own position, to view this matter in context. This is not just a question of saving less money, it is a question of actually incurring greater costs than the AP3 proposals presented to Parliament. Even on EWS's revised undertaking, it is an additional £10 million, which is a lot of money in anybody's books, and in a project that is seeking to drive down the costs, they cannot simply be dismissed without proper consideration and without proper detail. Our submission is that one must look at this requirement by EWS to tie the Department into a specific solution rather than continuing the process of trying to find a better solution. In the context of EWS's current usage of the site—because you are asked to judge the public interest in the fairness of the matter in the round and not simply from one point of view or the other—we say the position of EWS at Old Oak Common and its importance has been exaggerated for the reasons we explored and I dealt with Mr Smith earlier.

20534. It is quite clear that the usage of the site is not a heavy usage, it is lightly used. It is quite clear that EWS had development aspirations for a large proportion, if not all, of the site and we suggest that the proposition that was advanced if the site was put on the market for sale with "For Sale" signs was rather a drastic way to try and determine whether there was any value, given that you never have a transaction at the end of the process. It is just nonsense, it does not make sense. You do not need to see whether a site is capable of development and of being attractive in the market and you do not need to go out with some sham operation to try and sell the site in the market. You get your planners and feasibility people in and you do a feasibility study and a development appraisal. That is all perfectly possible. Certainly, you do not put the site on the market and, say, retain three sidings and a shed for a maintenance facility, so we say EWS has overplayed their position at Old Oak Common. Clearly, they see it to a large extent not as a regional or a national freight facility in terms of maintaining the freight fleet or, indeed, the charter fleet that they have but as a development opportunity and that has to be

⁴⁸ Committee Ref: P144, Old Oak Common Traction Maintenance Depot Leasehold Brochure (LINEWD-AP3-43—04-020).

⁴⁹ Committee Ref: P144, Crossrail Safeguarding Directions Sheet 2 (LINEWD-AP3-43—04-029).

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factored into whether you should tie the Secretary of State into a straightjacket requiring additional expenditure over that anticipated when the Bill was deposited. As it is, we think we can secure the essential maintenance plus scope for growth in the business on site. The charter would have been displaced even under the Romford proposals, as EWS's evidence from July made quite clear.

20535. The position on alternatives has been exaggerated too. Clearly, Mr Smith, though not being the most willing witness to answer these questions, recognises that others are bidding for the work that EWS would want to get in terms of freight maintenance for projects in and around London and the region. It is quite clear they are not the only company in the business and one should not, therefore, simply equate the interests of EWS with the wider public interest that you are called upon to judge.

20536. So far as the cost issue is concerned, it is unfortunate, but the fact is we did not know the rating position with regard to Eurostar. One can be critical or less critical about that depending on how one looks at it, but the fact is they were not taken into account. It was thought that the costs would be broadly the same, simply swapping over to the other side of the line and the difference would be the capital costs of getting North Pole up to scratch for EWS's operation. It came as a considerable surprise when we found there would be some 48 additional million pounds' worth of expenditure in terms of making up for rating an operational cost, a rating for which occupies something in the order of £3 million per annum on the North Pole sub. We have offered a process, as I have already said, to deal with that and we do not think the matter can be put simply to one side or the rating can be somehow dismissed in the rather unclear approach of Mr Smith to that. I will come back to the revised undertaking in a moment.

20537. On the Environmental Impact Assessment question, the Environmental Impact Assessment is not a magic wand. It is not even a crystal ball into which you can see with certainty what the future is. What you are required to do is to assess the likely significant effects at the time you carry out the process. If matters move on after you have carried out the assessment, as here, further information has become available, then clearly it would be wrong to simply treat that environmental statement as somehow setting the process for the rest of time. Mr George seeks to say, "Well, you said you would relocate us to North Pole in the Environmental Statement. Alright, you may have got the costs wrong, but that is what you committed to and, as a matter of fairness, you should not be allowed to move from there". In my respectful submission, the world does not work like that nor should it. If there is an issue with the Environmental Impact Assessment, it is an easy matter to rectify; as a matter

of process, we can put in an addendum to the AP3 ES dealing with North Pole as an option rather than as a probability which is what is dealt with at the moment. It is a matter of process only, it does not go to the substance unless the Committee accepts what, I would submit, is an unattractive submission by EWS to say somehow we should be tied to the Environmental Statement just because that is what we said at the time before we knew all the information that we now know. Finally, I say our undertaking is a sensible way forward. It does not offer the sort of certainty EWS requires, but, there again, there are other factors to be balanced, not least the usage which EWS makes of the site. There are more important things than simple certainty and we have offered a process, which we would submit is fair.

20538. So far as the revised undertaking which was put into my hands about three minutes before we came back in, I would say this. First, it is still £10 million more than the costs which were considered to be the estimated costs at the time of the Bill deposited and that is still a significant sum. Secondly, they are still requiring the transfer of the freehold, when all they have at the moment is 112 years of lease. The Secretary of State must be careful that he does not breach European law by providing state aid to EWS because it is competing with other businesses in this sector. You must not unfairly subsidise one to its benefit to the disadvantage of others, so it would be necessary to ensure that the state aid rules were not infringed and that some sort of clawback provision would be made a condition of any freeholder's position because, as we suspect, EWS has a substantial view about re-developing the site and not using it for its freight maintenance purposes, so this would not be acceptable in any event even if everything else was. In my respectful submission, this represents an attempt to achieve a spurious certainty at a cost to the public interest, which is not justified in the circumstances, and we would ask you to accept the Secretary of State's submission and the Secretary of State's undertaking to continue to take the process forward rather than to impose this sort of undertaking at present.

20539. **Mr Elvin:** Mr George did raise the question about consultation on the Access Option and of reporting back to the Committee on the Access Option. I am told that is imminent not within the next week but it certainly will be the case, as I think I have already told the Committee, that we will report back to the Committee when the Access Option goes out before the end of the committee process, so what Mr George has asked will be complied with.

20540. **Mr George:** When I was addressing the Committee in the summer I drew a parallel with the procedures for obtaining planning permission for a

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major project, and, of course, one of the aspects of this Bill is to confer planning permissions, so imagine a major planning developer seeking planning permission for a major project. Such a project will always have, or almost always have, a number of aspects to it, some will be more desirable than others. To take the matter to an extreme, on the one hand, the building, on the other hand, the greenery and the fencing. In the planning world you put in your planning application and the competent authority, namely the local planning authority or the Secretary of State, only grants planning permission when it is satisfied that it secured a package, that is all the development will take place. In my case of the green space and the fences, the office building is not to be occupied until the landscaping and the fencing have been completed to the satisfaction of the local planning authority. Now look at what is happening here: it is as if there was a sentence in Mr Elvin's instructions from the Department which said, "Avoid getting yourself committed to anything". For all I know, it may be in his instructions, it very likely is, I have not been privy to see his instructions. Because here is the position in AP3, in the clearest possible language they bring forward a revised depot strategy of which key elements are Crossrail goes to Old Oak Common, EWS moves across the line and we provide them with equivalent facilities at North Pole. Now what is the stance? The stance today is, "Oh, really? We certainly want to acquire your land compulsorily and we certainly want planning permission for our works there. So far as North Pole, we would like to have a planning permission to do those works which may be years before we decide whether we are going to do those works. We may decide never to do those works at all". Who suffers from it? The person who suffers from it is my clients who have no certainty whatever for the future and it is a deliberate renegeing on the way in which the Environmental Statement and the documents supporting AP3 were drafted. When I asked him questions, Mr Berryman accepted that there was nothing in any of the supporting material to suggest that North Pole was merely an add-on, an option, a possibility, and this morning Mr Elvin opened that North Pole was merely a possibility. We say that is unfair and unacceptable and that the Committee should intervene.

20541. Today, you have heard a deliberate attempt by the Department to suggest that in some way my clients are the ones who are trying to pull the wool over the Committee's eyes. First, you remember it was said, "Oh, when they bought the site they well knew it was all safeguarded", and up went the exhibit. When I intervened they accepted that was the wrong exhibit. When we bought the site it was only a small part of the site, the northern part, which was safeguarded and that, as Mr Smith explained, the operations could have carried on perfectly satisfactorily if that bit at the northern end of the site was lost. There is absolutely nothing in that point. Then it said, "Oh, well, look at the pie chart. The comparison of movements, there are not terribly many movements into and out of this site, it is not a

busy site". In the first place, to measure it by movements is a misleading comparison when one is looking at a maintenance and repair depot and the nature of the charter fleet, but, in the second place, we are not saying that we are such a busy site that we should stay at Old Oak Common and Crossrail should not displace us. That is not the argument, the argument is that we carry out important and significant activities at Old Oak Common, which Mr Berryman accepts, and that those activities could be carried on across the railway in North Pole, as envisaged in AP3 and as assessed in the Environmental Statement. To say the site is not occupied, so to speak, every square foot of the site, and that there are trains going in and out of it is nothing near the point and advances the argument no further. Then it says, we carried out some sort of fraudulent sale, we intended to sell it. It is perfectly plain we would not be able to sell or dispose of the sale at present, because when anyone makes inquiries, they will come across the safeguarding and appreciate that they would be mad to offer to buy an interest at Old Oak Common when the site is about to be taken for Crossrail, they would not get a planning permission because of the safeguarding and, in any event, they would be mad to part with their money. So plainly this was not an exercise to sell the site, it was an exercise to see if, in a no-scheme world, that is a world without Crossrail, there would be market interest. You do not have to have a completed sale to be a relevant matter in later lands tribunal proceedings. We have established that there was a considerable amount of interest. Therefore, there is nothing fraudulent about that matter at all, but then Mr Berryman has made a most unfortunate leap, he said because that document showed only three sidings and a shed, therefore it will be sufficient for EWS's core activities if we squeeze three sidings and a shed into the Crossrail proposals for Old Oak Common, but again that is a complete *non sequitur* and there is no evidence. Mr Berryman accepted that, that the core activities of EWS could be fitted into three sidings and a shed and he admitted the only reason he had gone for three sidings and a shed was because of that document which he had understood to be a *bona fide* sale document. Therefore, the whole of the Crossrail case begins to unroll.

20542. What we say to the Committee is that you have heard the evidence of Mr Smith about the valuable activities carried out on the site. You have every reason to suppose that site is going to be even more valuable as a freight facility in the future, not least because Temple Mills has just been removed from EWS for another passenger rail project, namely Eurostar to St Pancras. The site is likely to be more used and you have also heard there are a number of passenger franchises which are looking for sites to maintain their vehicles, the North London Line and Virgin have been mentioned and so forth, these are all matters which could be carried at this site and there is not a jot of evidence that there are other sites which are as conveniently located to carry out these functions or, indeed,

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which exist at all. The Committee knows that there is an easy solution because, miraculously, North Pole is about to become vacant. Eurostar no longer want it, you are not going to be able to get a train to Waterloo, so it is spare, it is a redundant site, it is absolutely perfect for transferring our activities to it. It is not as good for us as Old Oak but it will do very nicely and it is just a question of committing the Department to this and it is not as though we are asking for anything radical, we are simply asking them to honour what was in the Environmental Statement. My friend simply cannot get out of the Environmental Statement point because actually it is a killer. At present there is not an environmental statement which deals with the position if EWS are not relocated to North Pole. For Mr Berryman to say, "Oh, well, there are lots of other sites around", and EWS's activities could readily go there and there would not be any environmental impact is, with respect, a nonsense. He is unable and he has not identified any of these sites and admits that none of them has so far been assessed. You have got a real dilemma as a Committee, because you could either do what is the straightforward thing and say, "Well, let us go with that which has been environmentally appraised", and that is that we go to North Pole, or you call a halt now and draw stumps until you get a revised environmental appraisal which (a) shows the result of us not being at North Pole but (b) shows the results of wherever it is that the Department proposes we go and it is simply not for the Department to say, "Oh, well, there are places they can go, that is their problem. It is not our problem, it is their problem", and it is the duty of this Committee to grapple with it. I come back to what I said in opening, at that stage the Secretary of State said this scheme, Crossrail, was not to go ahead at the expense of other users of the line, including freight. Here you have a very simple matter, the Department should be bound by what they said when they deposited AP3; alternatively, they say they go away and come back with an alternative home for us. They will not go away and come back with an alternative home for us because we do not believe there is an alternative home for us. It is not that easy, it is extremely difficult to find another site where you can put that sort of turntable or another site where you can store a large fleet of passenger trains. These are not sites which readily exist, and the fact that they have not been identified by Mr Berryman today means that they, Crossrail, have not a clue where these sites are going to be. That is unsatisfactory. Sir, all we ask is what is in our amended undertaking.

20543. Now I come to certainty. You, as a Committee, will study the Department's proposed undertaking with care and you will see that it offers us no certainty at all. Looking at it, it makes it wholly unclear what is to happen to us. Are we to have some of our activities at Old Oak Common and others elsewhere? If the others are elsewhere, where?

When will we be moved? How much consultation will there be? Above all, the matter is driven by costs, as the undertaking says, but the final solution will, in any case, be the cheapest one to the Department. So there is absolutely no certainty there. How can Mr Smith and his company trade and bid for business when they are saying: "You have got a splendid site at Old Oak Common; it is under-used" (that is the Department's evidence) "there is room for expansion of activities but there is a Compulsory Purchase Order, and we are going to be displaced" and the Department say they have not a clue where we are going. That is thoroughly unfair and it is fundamentally against the European Convention's defence of human rights—the right of property. Here, you should not be deprived of your property in circumstances where there is a ready alternative. A "ready alternative" here is to make available the land on the other side as set out in all the documentation.

20544. If the Department are concerned as regards costs, they have only themselves to blame. They drew up the estimate and Mr Berryman, the witness who is here giving evidence day-by-day, signed the estimate and that was the estimate. Parliament was told that is the proposal. We have worked extremely hard in the last month. We have actually got that £70 million down to the £50 million for the construction costs by saying that we are prepared to accept a less well-serviced site than the Department originally thought reasonable. However, the Department forgot about rates. It seems to us it should have been obvious to everyone there would be some factor X to add to the 70 million, but we have worked very hard to get those costs down, which is why, at the end, we are able to come up with the £83 million. The £83 million is still massively less than the saving on the original Depot Strategy and will still leave the Department with a saving of almost £100 million on the revised Depot Strategy. It appears to be the Department's policy (and at least they are overt and honest about it) to say: "Whatever we have said in the past we keep this matter endlessly under review and we grind everyone down and we go for the cheapest, cheapest solution on the very last possible date. If you go out of business or if you lose business and so forth, well, that is tough. The public interest" (they say) "requires the cheapest solution."

20545. I simply say to the Committee that is a wholly improper way of looking at it, and I ask the Committee to require of the Promoters an undertaking of a modified sort, which we are suggesting, which caps their liability, which means that we will be prepared to say that the estimates which have been done are right and if there is any extra expenditure then we cannot get it out of the Department. So we call their bluff, and we ask you to uphold the revised Depot Strategy in AP3 and the Environmental Statement. Those are my submissions.

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20546. **Chairman:** That concludes today's examinations. Mr Elvin? 20549. **Mr Elvin:** I do apologise.

20547. **Mr Elvin:** Sir, I think it concludes this week's business. 20550. **Chairman:** The Committee will now go into private session for the remainder of the week and we may be making an announcement on the revised Depot Strategy on Thursday, but this will be Thursday morning. That is it for this week.

20548. **Chairman:** I was going to make a couple of statements about that.

Thursday 1 March 2007

Before:

Mr Alan Meale, in the Chair

Mr Brian Binley
Mr Philip Hollobone

Sir Peter Soulsby

Ordered: that Counsel and Parties be called in.

The Committee's interim decision on the revised depot strategy

20551. **Chairman:** Mr Mould, this week the Committee has heard cases regarding the revised depot strategy detailed in the third set of Additional Provisions. The revised strategy proposes to relocate the main Crossrail depot from Romford to Old Oak Common in West London. The Committee has carefully reflected on the case of English, Welsh and Scottish Railway Limited and has agreed that the depot should be located at Old Oak Common. We wish to ensure that the necessary arrangements are in place to protect freight interests and, therefore, we accept the undertaking offered by the Secretary of State that he will continue to work with EWS to try and find a way to retain as much as possible of EWS' activities at Old Oak Common, either as the alternatives have suggested or to continue working on the North Pole costs. We ask the Promoters to ensure that if the move to North Pole depot is necessary for EWS that a turning facility is provided, if so required. We have decided to make the following decisions of the Committee public at this time in order to allow Petitioners affected by the original depot strategy to ensure that they will no longer be affected. Mr Mould, do you wish to reflect on that?

20552. **Mr Mould:** It is very happy news for us, I believe. We have made clear that was our preferred approach and we are very grateful to the Committee for what has just been said.

20553. **Chairman:** Mr Lewis?

20554. **Mr Lewis:** Sir, you have not heard from the London Borough of Havering about this aspect for obvious reasons, but I would like to put on record that this was an issue of huge importance for the Borough and for a number of other petitioners as well who were affected by the proposals at Romford. We would like to express our thanks to the Promoters for reconsidering the whole issue and to the Committee, of course, for accepting the new proposal.

20555. **Chairman:** Thank you for that. The Committee stands adjourned until Tuesday, 6 March.

Tuesday 13 March 2007

Before:

Mr Philip Hollobone

Kelvin Hopkins

Sir Peter Soulsby

In the absence of the Chairman, Sir Peter Soulsby was called to the Chair

Ordered: Counsel and Parties be called in:

20556. **Sir Peter Soulsby:** I understand, Mr Elvin, that the Promoters have a short announcement to make regarding Romford Station and it would be convenient to take that first.

20557. **Mr Elvin:** First of all, I apologise for keeping the Committee waiting for a few minutes. I am afraid the Bayswater Road was impenetrable this morning. Sir, with regard to Romford Station on 6 February this year, which is Day 70 of the proceedings, the Committee heard from the London Borough of Havering in support of their petition on Romford Station. We agreed on that occasion to go away and re-examine the operational and engineering feasibility of an alternative entrance to Romford Station in light of the issues raised by Havering, focusing on the possibility of a southern entrance through the existing structure, the widening of the existing mezzanine passageway, and how the design of the station foyer and treatment of the area beneath the railway bridge could improve access to the station from the south. We agreed to do this quickly, to liaise with Havering and to report back to the Committee.

20558. I am happy to report, and you will see the statement on the screen, that we have developed alternative proposals for Romford Station which are acceptable to Havering.¹ Under these proposals the internal layout of the station will be altered so that the existing station entrance underneath the railway bridge can remain open. This entrance will provide a direct route from the bus station area into the railway station for all passengers, including those with restricted mobility, and will be approximately the same walking distance as would have been provided by a walkway through the bridge abutment as proposed by Havering. It will be provided with passenger-operated ticket machines and will be in addition to the proposed new entrance to the north of the station.

20559. I am therefore instructed to read into the record the terms of an assurance agreed with Havering as follows: "The Promoter will require the nominated undertaker to provide entrances to Romford Station at the north end of the station foyer and at the existing station entrance location. The entrance at this existing location will be at least as wide as the existing entrance. This is subject to the necessary approvals from Network Rail (which the

nominated undertaker shall use all reasonable endeavours to obtain), and the necessary approvals under the Bill from the London Borough of Havering being obtained at the time. The Promoter will also require the nominated undertaker to work with the London Borough of Havering as the relevant planning and highway authority, on proposals for the comprehensive treatment of the pedestrian environment immediately outside the station".

20560. For the record, I have been asked to point out that the alternative proposals that have been agreed with Havering supersede the assurances that we gave to the Committee in the response to its initial decisions which was that, "The Promoter will provide a new access ramp complying with modern standards for access for people with reduced mobility at the south side of Romford Station. The new ramp will be built to the west of the existing door, providing access to the south end of the mezzanine level subway of Romford Station". That was the original undertaking, that assurance will therefore be removed from the Register of Undertakings and Assurances and will be replaced with the one that I read out earlier which the Committee has in front of them and I hope that is satisfactory to the Committee.

20561. **Sir Peter Soulsby:** Thank you very much, indeed, Mr Elvin. Would the agents of the London Borough of Havering like to respond?

20562. **Mr Lewis:** This is becoming a rather pleasant habit, coming back before the Committee and saying how pleased we are about the London Borough of Havering, I fear this might be the last time, so I will make the most of it.

20563. **Sir Peter Soulsby:** We will savour the moment.

20564. **Mr Lewis:** We are particularly grateful to the Committee and Mr Meale in particular, who is not here today, for providing the clarification which the Council sought back in February on Romford Station and, of course, we are very pleased with the Promoter's response again.

20565. **Sir Peter Soulsby:** Thank you very much indeed for that. We switch then to the members' list which we have today which is to hear the case of the London Borough of Tower Hamlets.

¹ Crossrail Ref: P151, Crossrail Bill: Romford Station—Statement to the Select Committee (SCN20070313-001).

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Mr Richard Drabble QC, appeared on behalf of the Petitioner.

20566. **Mr Drabble:** I appear, as you know, for the London Borough so I am glad to say that the only task that I have today is to make a relatively short statement which certainly will not take you to your designated coffee break, I will be well in advance of that, which I hope the Committee is happy to hear rather than the reverse.

20567. The statement reads as follows: The purpose of this short statement is to describe the current position in relation to the issues raised in the petition against the third additional provision. There have been constructive discussions between the Council and the Promoter. These have resulted in a number of undertakings and commitments which have been set out in letters from the Promoter to the Council dated 21 February 2007 and 7 March 2007. So that the position is clearly understood by the Committee, and importantly is clear on the record, it seems sensible to place those letters before the Committee, which I think has been done.

20568. Dealing with particular paragraphs of our petition, paragraph 22 in relation to Hanbury Street, the requirement for the Hanbury Street shaft. The Council recognises that the Promoter is still developing a detailed ventilation and emergency intervention strategy for the tunnels and welcomes the undertaking given by the Promoter in the letter of 21 February which the Committee will find on the third page of the letter. The Council is particularly pleased that the Promoters have assured the Council that they will continue to work on the detailed strategy which will include consideration of whether the proposed Hanbury shaft is still required and further that the Promoter is willing to explore alternative proposals which could obviate the need for an intervention shaft anywhere in Spitalfields.

20569. Alternative shaft location: The Council recognises that in its announcement of interim conclusions the Select Committee has decided that Hanbury Street is the appropriate location for an intervention shaft in Spitalfields, albeit that the decision is based partially on incorrect noise information. However, in view of the importance of noise impacts on the community, the Council wishes to ensure that the Promoter's noise predictions are to the highest possible standards of accuracy for all construction sites in the Borough.

20570. The Council welcome the undertakings given in 21 February letter, but the Promoter will continue to liaise with counsel in respect of construction noise impacts at Hanbury Street and Woodseer Street to enable the Council to review the Promoter's noise impact assessments. Further, the Promoter will ensure that the nominated undertaker applies Best Practicable Means, as defined in Section 72 of the

Control of Pollution Act 1974, to all of his activities and will obtain consents from the Council where required.

20571. The promoter confirmed to the Council on 21 February their intention to carry out the Crossrail project so that its impact is as assessed in the Environmental Statement. The Council is very keen to continue the dialogue with the Promoter and is pleased that the Promoter recently provided copies of the noise model files associated with the AP3 noise calculations to the Council. The Council wishes to be confident that the predicted impacts are indeed a robust assessment and indeed considers that it owes a duty to local inhabitants to ensure that this is the case, given that we found, after a considerable degree of work on our part, a degree of error or inconsistency on an important issue, the correction of which led to different results emerging in the SES3 erratum published recently. Whilst we would like to take the latest results at face value we feel obliged to scrutinise the details so that we can have confidence in the results.

20572. The Council also welcomes the Promoter's undertaking of 21 February that there will be no surface work or surface plant operating at the Hanbury Street shaft at night, save insofar as it may be necessary to safeguard the works, or in an emergency. The Council will discuss the extent to which the Promoter anticipates night time activity to safeguard the works but we would expect the Promoter to be able to provide sufficient assurance.

20573. Paragraph six of the Petition relating to restricted mobility access to the western entrance of the Isle of Dogs Station. The Council welcomes an assurance that has been given by the Promoters in the letter of 7 March that it will work closely with the Council, the Canary Wharf Group and Docklands Light Railway Ltd to develop and implement improvements to the pedestrian route between the popular DLR footbridge and the western entrance of the Isle of Dogs Station, having regard to the need of people with restricted mobility. It also welcomes the confirmation that the Promoter has no objection to a further lift being provided by others at the eastern entrance of this station.

20574. Paragraph 12, Isle of Dogs. The Council recognises that the Crossrail Noise and Temporary Rehousing Policy has been revised and new provisions are being included in the Code of Construction Practice. It also recognises that a revised working hours policy has been agreed and incorporated in the Construction Code.

20575. As the Committee is aware there are now two possible construction methodologies on the cards for the Isle of Dogs. The Promoter claims that the revised construction proposals would have no significant

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impacts, however, the Council has not yet received the requested detailed noise information and therefore cannot be certain of the Promoter's claim.

20576. Consequently, the Council seeks an undertaking that the Promoter will continue to liaise with the Council in respect of construction methodologies for both scenarios and in respect of the construction noise impact for both scenarios at the Isle of Dogs in order to enable the Council to review the Promoter's noise impact assessments.

20577. I would also like to draw your attention to the undertakings recorded at the top of page three of the letter of 21 February to the effect that the Promoter undertakes to carry out full liaison and consultation with residents and businesses located to the north side of West India Dock, including the Museum of Docklands, before implementing measures for mitigating the impact of construction work on the Banana Wall and that if we use reasonable endeavours to mitigate the impact, our local residents and businesses work to the Banana Wall in the event that the works are implemented.

20578. An undertaking has been provided in the letter of 7 March that the Promoter will continue to liaise with the Council in respect of the construction methodology noise impacts and other environmental impacts at Stepney Green. It is also indicated that if they decide to tunnel from Stepney Green it will share with the Council any view of the relevant environmental impacts on Stepney Green in comparison with tunnelling from Pudding Hill Lane using the Environmental Statement methodology.

20579. Finally, in relation to Stepney Green, I should mention the Stepney Green worksite. Both parties are committed as recorded in the letter of 21 February to working together with a view to developing proposals to reduce the size of the worksite and to retain the existing Astro Turf pitch on a permanent basis if possible.

20580. Finally, paragraph 24 of the Petition dealing with the Limmo Peninsula worksite, the Council welcomes the undertaking given by the Promoter on 21 February that they will provide a detailed construction methodology for the Limmo Peninsula worksite as soon as reasonably practicable. The Council would like an undertaking that the Promoter will use best endeavours to ensure that the noise impacts of the Crossrail construction works will not cause unacceptable noise impact to residents of any future redevelopment of the former Pura Foods site and will liaise with the Council in respect of the construction noise impacts to enable the Council to review the Promoter's noise assessments. Can I thank the Committee for their patience and their attention.

20581. **Sir Peter Soulsby:** Thank you very much, indeed, Mr Drabble. For the record, the two letters referred to, the first of 21 February from the Promoter to the London Borough of Tower Hamlets will be A234 and the letter of the Promoter to the London Borough of Tower Hamlets of 7 March will be A235. Do the Promoters want to respond? Mr Elvin?

20582. **Mr Elvin:** We are obviously pleased that the London Borough of Tower Hamlets does not find it appropriate to present a case against Crossrail at this hearing but simply to read a statement and that it does not consider it necessary to take any points of oral evidence against AP3 or any aspects of the Bill.

20583. Unfortunately, since we were not able to see the statement before this morning, although we had requested sight of it last week, I think the safest thing rather than confirm whether we accept Tower Hamlets' interpretation of those letters is simply to say that our position is as set out in those letters in the terms in which it is set out rather than seek to analyse the interpretation that Tower Hamlets put on it. I simply have not had the time to look at it in sufficient detail.

20584. In terms of the new undertakings that are requested, I can certainly give undertakings in relation to the Isle of Dogs that we will continue to liaise with the Council in respect of the construction noise impact on the Isle of Dogs to enable the Council to review our noise impact assessments and in relation to Stepney Green, I thought we had done that on 7 March, we will also give an undertaking to continue to liaise with the Council in request of the construction noise impact at Stepney Green to enable the Council to review the Promoter's noise impact assessment. With regard to Mr Drabble's departures from script to request further undertakings and the one on the Limmo Peninsula worksite, if Mr Drabble's clients would put those in writing to the Department, we will obviously give such undertakings as we can but since I do not have the others in writing it is a little difficult to tell at the moment. If it is convenient to the Committee we will deal with those requests in writing and copy the Committee in on any further undertakings that are given. Thank you, Sir.

20585. **Mr Drabble:** Can I say the departures from script, just so members understand, are verbatim quotes from the letters which I wanted to get on the transcript so I do not think Mr Elvin will have any trouble finding those, at least I hope not.

20586. **Sir Peter Soulsby:** Thank you very much, indeed. Clearly that is an interpretation for a later stage and no doubt we will hear more, therefore that is as far as we need take it today which means we can have our coffee earlier. The Committee will stand adjourned until Wednesday 14 March.

Wednesday 14 March 2007

Before:

Mr Alan Meale (in the Chair)

Mr Brian Binley
Kelvin Hopkins

Mrs Siân C James

In the temporary absence of the Chairman, Mr Binley was called to the Chair

Ordered: That Counsel and Parties be called in.

The Petition of Westbourne Park Villas Residents' Association.

Lady Margot Bright appeared on behalf of the Petitioners.

20587. **Mr Binley:** Can I, as usual, inform the Committee that it is my intention to suspend at a convenient point so that members can attend Prime Minister's Question Time and that point will come after 11.45.

20588. Can I now ask, Ms Lieven, if you would open on behalf of the Promoters and explain a little of the case we are dealing with today.

20589. **Ms Lieven:** Certainly, sir, and I will do so very quickly, if I may, because the first Petitioners this morning are the Westbourne Park Villas Residents' Association and the Committee may remember that we have heard these Petitioners before, on Day 45A, which was the evening of Tuesday 27 June last year. In case the Committee do not have a perfect recollection, both, sir, yourself and Mr Hopkins were present that evening, although Mrs James, I note from the record, was not present, so this will be new to her, so I am only going to open extremely briefly.

20590. This concerns the section of the route just to the west of Paddington Station. If you look at the photograph, Paddington Station is just over here and Westbourne Park is to the south and they are the residents' properties along the line and, to orientate ourselves, this is the main line coming out of Paddington going west.¹ This is the West Way, the A40, and just to the west, to the left of this photograph is the existing concrete batching plant which, the Committee will remember, is being reconfigured under our proposals.

20591. Sir, given that the Committee heard not just the Petitioners last June, but also both engineering evidence from Mr Walters on that occasion and noise evidence from Mr Thornely-Taylor, I do hope we might be able to keep that evidence short to non-existent today, though we will obviously have to see how the matter goes. There are two issues, as I understand it, which the Petitioners are going to raise this morning.

20592. The first is noise. Now, sir, that was dealt with, I would suggest, in its entirety last year when we called Mr Thornely-Taylor and, in essence, the points are that this is already an extremely busy and noisy railway and the Petitioners' argument is that there should be an acoustic barrier to the south side of the railway. Mr Thornely-Taylor will explain to you why that is not needed by Crossrail and why it would be difficult to make it in any sense efficacious and why it is really not an issue for Crossrail at all, but that is all evidence which he has given already, so we will see whether or not we need to call it again.

20593. The second issue is a different one. The Committee may remember that across the railway here there is a footbridge, the Westbourne Park footbridge, which goes from Westbourne Park on the south side and across the railway and, to the north of the West Way, Westminster Council are building a new school, the Westminster Academy, so the footbridge plays quite an important role in bringing students to the Academy. After the Committee's interim decision last July, Crossrail have agreed to make the south side of that footbridge DDA compliant, and Mr Berryman will explain how we are going to do that.

20594. I understand that the Residents' Association, and Lady Bright in particular, have two concerns about the footbridge. The first is that they would perhaps like a slightly different design on the ramp for disabled access. Sir, as Mr Berryman will explain, although the position of the ramp is set by the limits of deviation, if there are arguments for a slightly different design, that is something we will discuss with Westminster and the residents and reach hopefully the best solution, so that is not fixed. The other issue is that the residents appear to want us to rebuild the entire footbridge and, sir, Mr Berryman will explain to you why that is neither necessary nor appropriate.

20595. Sir, that was all I was intending to say at this stage, unless there are any other matters which the Committee would like clarification of now.

¹ Crossrail Ref: P152, Westbourne Park—Footbridge (WESTCC-AP2-10—04-014).

The Petition of Westbourne Park Villas Residents Association

20596. **Mr Binley:** No, I think not, Ms Lieven. Thank you for opening in that manner. Can I now ask you, Lady Bright, if you would be kind enough to put the case of the Westbourne Park Villas Residents' Association to the Committee.

20597. **Lady Bright:** Certainly. I have lived in Westbourne Park Villas since 1983 and I have here two other residents who have lived there for rather longer, one of whom I would like to call as a witness on the noise in connection with the noise barriers and the other is here if you would like to ask any questions. I am the member of the Association to whom it has fallen to deal with the issue of Crossrail.

20598. You have heard Ms Lieven point out to you where the street runs. If you ever travel into Paddington by train, you would know it and some of you have actually been on a site visit there. If we could show the wall running alongside, the wall that you can see the corner of there, which is where the footbridge will go, runs opposite the houses alongside the railway.² There are a few houses just on this side where you can see the wall left over from the original street, but the others were all knocked down to widen the railway years ago, so that is what we are going to be talking about where the bridge starts, and you will probably recognise those houses from views from the train.

20599. I do have a bit of a complaint and a plea to make before I go into talking about the bridge, if I may.

20600. **Mr Binley:** A complaint, Lady Bright?

20601. **Lady Bright:** Well, yes, because new drawings arrived from Crossrail yesterday afternoon, just when my printer broke down, showing two revised drawings for the 350-metre sidings which, under AP3, are going to be put in purely to serve the contentious concrete plant which you heard about the last time we saw you back on 27 June. They came with a very clear health warning from Crossrail. They simply said, "Well, these are just indicative drawings, you do realise". In other words, I was getting the strongest implication that these drawings were perfectly meaningless. They were designed to solve some of our problems which are to do with the route of the freight trains which at present runs right down to the end of the Villas to Royal Oak and then runs back, so it wakes up the whole of the Villas, even though the concrete batching plant is actually further over, so that is why we are annoyed. However, we were told that these drawings were only indicative and, "It won't be us that does it" basically, and the same with the bridge, "It won't be us that does it", so you asked, the Committee asked, to have the bridge replaced, which sounds to me like replacing the bridge. It does not sound to me like simply putting a north bit and a south bit and doing nothing about the middle, which is not compliant with disability regulations.

20602. Here we are again and the plea, because of this complaint really, is this: that the problem is that Crossrail can get Bill consent on the basis of sketches like the ones that they produced yesterday afternoon, just whimsical drawings, vague things which may or may not get built, and which may not even resemble what we have been shown once the detailed work has been done by somebody else. For the first time they were absolutely clear yesterday that they will not be doing this work. The assumption is that the nominated undertaker will be Network Rail, but it is only an assumption and I am told that it will not actually happen until after the Bill has received Royal Assent, so whom do we talk to? Crossrail are telling us, "We don't do pedestrian bridges. We are tunnellers. Somebody else is going to do that. Anyway, it is Network Rail's bridge", but does it not look to you a bit like a democratic deficit here if the nominated undertaker is Network Rail and it is only decided after Royal Assent? You will hear from Mrs Hesselberg actually about how difficult it is to deal with Network Rail on the existing sources of the noise, the existing railway, which you talked to us a lot about last time and you were very helpful about and you said we should pressurise Network Rail. Well, we tried, but, as Mrs Hesselberg will tell you, they do not listen to a word.

20603. Now, on Crossrail, which includes so many Network Rail installations and where Network Rail is likely to be the undertaker at the point where the trains emerge from the new tunnels at the portal at Royal Oak, Network Rail explicitly will not talk to us. We have tried at several levels to get some conversation going and they have said, "No, it's not appropriate until after the Bill has been through committee".

20604. Therefore, the plea really is that you help us to arrive at some sort of undertaking which will enable us to be consulted and our concerns to be kept in the frame whoever is dealing with these issues. Can you perhaps simply support the precept that Westbourne Park Villas residents' concerns, which, I should say, are not just ours, but we represent the whole of the Conservation Area to the south and, as you will hear in discussion about the bridge, the area to the north that uses that bridge from the other side, a bridge between communities, if you like, so support the precept that our concerns will be taken into account by the contractor, the nominated undertaker and the Promoter of any works relating to the Crossrail Bill at all stages from here. I do not know whether that can be phrased in a more legally correct way.

20605. **Mr Binley:** We have certainly noted that and we will consider your plea of course.

20606. **Lady Bright:** If that is something we can achieve, then perhaps we need not take so much time.

² Committee Ref: A236, View of Westbourne Park Villas (WESTCC-AP2-10-05-018).

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20607. **Ms Lieven:** I do not know if it is helpful to say, sir, but all those bodies, the contractor, the nominated undertaker and, if the nominated undertaker was Network Rail, then Network Rail, they will all be bound by the undertakings that the Secretary of State gives to this House, so any obligation on the Secretary of State is necessarily in law passed on to those other people, so I hope that gives at least some comfort. Because the Secretary of State is not going to go out and dig and Mr Berryman is not going to go out and dig makes no odds in legal terms; all those other parties will be bound to exactly the same extent.

20608. **Mr Binley:** I think I am right in saying that we can specifically ask for that in our report if we decide that to be necessary.

20609. **Lady Bright:** If the undertaker is not nominated until after Royal Assent, is that not going to cause a few problems?

20610. **Mr Binley:** I feel that my learned support will help us in that!

20611. **Lady Bright:** Good. Well, I have pointed it out and that is the best I can do. I would just like to give you an example which I hope we do not have to go into too much detail on today, which is these new sidings and the concrete plant. As you will recall, we do not want the concrete plant and we think it should go down to Old Oak Common where, in the AP3 proposals, Crossrail has its own concrete plant, so, if it is good enough for Crossrail to have a concrete plant there and it is rail-served and it is only two kilometres down the track, we see no reason whatsoever why the existing concrete plant, the Tarmac plant, instead of having a postage stamp of a temporary plant squeezed on to that site, should not go straight to Old Oak Common and be built as an all-singing, all-dancing modern plant of the size that they need.

20612. In this proposal, the sidings and the reversing facility, which is tucked in there as well, we have heard frankly from Crossrail that there have been a few design problems. There is not room basically, as we said there would not be, on that site, so we know they may not implement these plans as we have them, but it does not matter whether it is done by Network Rail or somebody else, obviously that is not our business, but what is very much our business is the standard to which it is done and how much our concerns are taken into account in the doing of it.

20613. We are not trying to stop this railway; we are just trying to make it liveable and our real fear, and I am going to spell this out and you can tell me I am wrong if you like, but it is a fear, is that we will not get the chance really to try, and I take what you have said about noting that undertaking and thank you. Does the Committee realise that, even though Crossrail is billed as the biggest new urban rail project for 100 years, Network Rail just may try to get away with saying that this bit, the bit that runs

along the street, the bit where we live, is not a new railway at all? It is, we think, the most exposed site along the whole of the Crossrail route and it has umpteen work sites, so it is going to mean four-plus years of absolute misery for everybody while that is happening, but thereafter we should end up with a new railway, or will we? It may not be classified that way because it is just possible that they will say that Crossrail's bit ends at the portal and where the new ramp is and that the railway line running down towards Westbourne Park from that point is just the old railway, the relief lines. This may sound implausible, but they have done it before. They may well just say, "Oh, we're just dusting off the old track and moving it a bit, so it is not a new railway", move it over a bit with maybe a bit of new ballast and that will be it. They will say, "It's just the operational railway", and, as you know and we know from experience, the operational railway has a lot of power to do what it likes and listen to nobody.

20614. It ought to sound implausible, but our experience with Heathrow Express, which I would like to bring in here because it was not all that long ago, 12 years ago, makes us wary. It was Network Rail's predecessor or possibly pre-predecessor, I forget, but that was another new railway which turned out not to be just along our stretch. It was a new railway which started at Paddington, it was a new railway going out to Heathrow, but not where we are. It is right under that wall. At the time, the British Airports Authority, which were the co-Promoter in that case just as you have Crossrail, the Secretary of State and TfL here, were expecting, and were fully prepared, to offer the same modern comforts on our stretch of the line as elsewhere. They completely saw that they would be needed, noise mitigation and so on, continuous welded rail, hardly a major innovation in 1994, but oh no, British Rail would not do that, or Network Rail or Railtrack or whoever it was. They said, "It's running along existing track, it is not a new railway, so we don't have to do any of that. We don't have to consult residents and we won't allow BAA to do so either".

20615. They then told us that we would not hear their quiet, modern trains at all, just as Crossrail are telling us that we will not hear their quiet, modern trains at all. We may even find ourselves in problems with continuously welded rail because there may be points there which cause a problem, I do not know, but with Crossrail trains there are going to be 48 an hour, 24 in each direction, and they will cross, they will pass each other, so that will create additional noise which has not been allowed for. There is also a reversing facility, so how many trains are we going to have whizzing past all the time? I find it completely implausible, because the silent train has not yet been invented, that we would not be troubled by the noise from these trains and we submit that not enough work has been done on noise projections to give us any idea whether they will and to what extent they will affect us.

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20616. We are worried, as you can see, and I do believe that it is possible for Network Rail to try to claim that and we do ask for help in ensuring that that does not happen. Thank you. Perhaps I could now call Mr Kelly.

Mr Michael Kelly, sworn

Examined by **Lady Bright**

20617. **Mr Binley**: Could I ask that the portfolio of photographs be designated A236. Mr Kelly, perhaps you could introduce yourself.

(Mr Kelly) Good morning. My name is Mike Kelly and I am a resident on the north side of this bridge. However, I wear several caps here today. I am a board member on my local area regeneration project, I am the former Chair of the Residents' Association and am currently the secretary of that same Residents' Association. I am a board member with Stadium Housing Association which is a registered social landlord, and I am also a member of our local Civic Watch team, so I come with various expertise in various areas, but my specific interest today is the disability issues with regard to the bridge and, from that side, I am an affiliate with two organisations, one called Action for Better Access, which is based in the north of England, and in Westminster I am an affiliate of the Westminster Action Network on Disability. I have been asked to comment on access issues with regard to the bridge and with personal experiences as a resident living in the area for now 40-odd years.

20618. **Mr Binley**: You are a very busy chap, but we are pleased to see you.

20619. **Lady Bright**: We feel that you tick all our boxes! I believe it is right that you have family on both sides of the bridge.

(Mr Kelly) I do. I have family members on both the north side and the south side of the bridge.

20620. You have never been able to use the bridge, save a 650-metre detour, because of the steps at one side, the steps at the other side and the bits in the middle, yes?

(Mr Kelly) That is right. In all the period of time I have lived here, I have never been able to access this bridge at all. In order to visit family members on either side of this bridge currently I have to jump into a car, do a very brief drive down to one side of the bridge, get out of the car and get back in it to go to the other side. It takes me more time to get in and out of the car than it does to get to the person.

20621. **Lady Bright**: If we could flip through the pictures of the bridge so you can see what it is that Mike has missed and what joins our two sides.³ You can see it is a sort of tin box with various steep steps and there is the corner of the wall.⁴ Next one, please.

That is the structure, seen from the outside.⁵ You can just about see those rather flimsy couple of posts that the thing is standing on, it is not by any stretch of the imagination a 21st century bridge, even to take William Whitely's workers across to the shop, which is what it used to be. What it will be now is a major thoroughfare to join the Academy, the new school and this side. Just before I ask you further questions, Mike, I should say we have had a letter from the Academy to say that a full quarter of their children will be coming from the south side so the families are split.

20622. **Mr Binley**: Could you give us an idea of how many people that would be?

20623. **Lady Bright**: It is difficult to judge. I think there are 1,200 pupils, is that right?

(Mr Kelly) If I could help, Mr Binley. The Academy is designed to absorb the students who used to go to a school called "North Westminster". At its peak number I think there were 1,440 students there.

20624. You have been involved in all the planning for the Academy through the Westbourne Neighbourhood Forum and the local neighbourhood partnership. Would you like to explain how thorough that consultation has been?

(Mr Kelly) It has been very thorough. My involvement with regard to the Academy has been omitted because that is neighbouring to the one I live in; however, I have had involvement as a member of my resident-registered social landlord. We have significant numbers of residents living on the road to the north side of that bridge so we have involvement with that there and, as I say, there are family members on the south side. From there and anecdotal evidence it does appear to be that the consultation has been through several different and extensive corridors, written communications, vocal communications, communications through the Civic Watch and, again, there has been some co-operation through the Civic Watch movement. Civic Watch is a Westminster-orientated group which involves multiple statutory agencies within the area to try to address resident concerns and improve and, in the areas I work, regenerate those areas.

20625. These are just a few pages from the Westbourne neighbourhood plan for 2006 to 2009 which was produced after this widespread consultation. There are 10,000 people within the Westbourne Neighbourhood Forum immediately on the other side of the bridge, and safety and accessibility on that bridge came in their top three priorities, an area which is in the top five per cent of the most deprived in the country. The Westbourne Neighbourhood Forum is partly state-funded and partly local authority-funded. It has got a three-year plan and the Academy is going to open when, do you think?

³ Committee Ref: A236, View of Westbourne Park Villas from footbridge (WESTCC-AP2-10—05-012).

⁴ Committee Ref: A236, View of footbridge steps at Westbourne Park (WESTCC-AP2-10—05-019).

⁵ Committee Ref: A236, External view of footbridge at Westbourne Park (WESTCC-AP2-10—05-020).

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(*Mr Kelly*) September 2007 it is expected to open.

20626. So the bridge is needed in a form that people can use. I believe you have some information on the number of pupils who are disabled, in fact there will be quite a few.

(*Mr Kelly*) I do not have specific numbers as such, but one of the things which has come out through consultation discussion is that the Academy will be a first-class DDA compliant establishment. As a result of that, it is quite likely to act as a magnet for other disabled students within the area because other educational establishments are, to varying degrees, DDA compliant and some of them have listed building status, so the level of change which is available in that establishment is quite limited. It tends to be the new which adapts to the circumstances that are required at the time rather than having a proactive approach of being an adapted premises to the broadest range of disabilities available. Nothing is entirely perfect, there is always something you can add, something that perhaps needs changing, but sometimes you can get conflicts of interest within various groups. To have the Academy as accessible as it is expected to be and to be as open to as wide a range of students as possible, which is what the exception is, I can certainly see the number of disabled residents going to the Academy and then, as a result, will need to cross over the bridge from both sides, and that will increase particularly with time.

20627. **Lady Bright:** Thank you very much. It is probably worth pointing out that for the extended congestion charge barrier we are the frontier of that too, so if you are on the north side of the bridge you are out of it and on our side of it you are in it, and that road inevitably includes foot traffic. The Academy head also wanted me to point out that they are desperately keen to encourage students to cycle, walk and get some exercise. We need a bridge that you can push a cycle over which will obviously be perfectly doable if you have decent disabled access. There will be lots of mothers and small children and older people. This is a bridge that needs replacing and I will tell you just that point about the middle view, if you would not mind showing us the next two pictures, please. They should follow on. That is what you see when you get to the top of the steps.⁶ The width in the middle goes down to 1.6 metres, it is 1.8 I think at this end, it is in three sections basically. I have to explain this for Mike because he has never been able to get up over it, of course. By no standards can you get two wheelchairs past each other or even a wheelchair and a buggy?

20628. **Mr Binley:** My colleague has a question.

20629. **Mrs James:** I was going to ask that, because I have visited on a separate occasion and what struck me was for a person with limited ability there are quite a number of steps and I could not imagine how anybody meeting in the middle would pass. If you met somebody, Mr Kelly, would you be able to pass them?

(*Mr Kelly*) Certainly not on this bridge as it is at the moment. My other concern, having seen this picture now, is if you go to the end of the bridge, there is a curve in the bridge, so you would need a wider circle at the end.⁷ To meet somebody else, whether it be somebody who has a pushbike or a dog, you need a wider curve to get around them. It is certainly not wide enough.

20630. **Mrs James:** It also concerns me that you cannot see anybody coming towards you. It did give me the impression that you cannot see beyond.

20631. **Lady Bright:** You cannot, it is a dog-leg and Crossrail is refusing to remove it. When they make the north bands—it is in three parts: south, middle and north—disability compliant, which they are only going to do because they need to raise it to accommodate the overhead electrical wires, they are going to refuse point blank to put it back straight, it is going to go back with a kink.

20632. **Lady Bright:** I should also mention the police concerns. It is the safety side of this that concerns the largest number of people here. We had some break-ins in cars two weeks ago on our side, the perpetrator escaped, a neighbour was chasing him in total darkness; very easy to escape and disappear. When the police came around afterwards, they said, “Look, we are advising residents not to walk across that bridge in the dark”. Even the school children coming home in the winter would be advised not to walk over that bridge. Therefore, it is a complete nonsense that it should not be replaced and in time for the Academy’s opening but it belongs to Network Rail. Crossrail says, “We are not interested in bridges, we are not going to replace it as you wish”, so can we find a way out of this? Westminster is very happy, Crossrail said they have to consult with Westminster and your groups and the enabled forum and so on, which is one step forward, but they refuse to adopt in its entirety the document of inclusive mobility, which you have. We do not need to read the whole document.

20633. **Mr Binley:** Before you continue, I need to know about school use in the evening. I know the local authorities are very keen to maximise the return on the size of the investment in the school and they would open that to the community. Is that the case?

20634. **Lady Bright:** That is definitely the case. If you remember that first slide that showed the area as a whole you saw a label where the Academy is going to be, it is now there and it is almost finished. Next to it is a very swanky private health club, The Harbour Club, and around it all is going to be community and sports facilities that will be open to the community.

20635. **Mr Binley:** Just one final question, I noticed there were no lights or there did not appear to be any lights on the bridge. Is that one of the things that is vital too?

⁶ Committee Ref: A236, Alternative view of footbridge at Westbourne Park (WESTCC-AP2-10—05-016).

⁷ Committee Ref: A236, Alternative view of footbridge at Westbourne Park (WESTCC-AP2-10—05-021).

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20636. **Lady Bright:** That lighting and CCTV is vital. Network Rail will not put CCTV on their property because it might set a precedent, so Crossrail offered to make passive provision for CCTV on the south side. The Academy will have some CCTV receptors on the other side, I do not know about the middle. The chances are we are back where we started, the bit in the middle will have nothing done to it. Obviously we need to hurry this one through, but the worry is that if it is left until too late in the process, Westminster will not be able to get on with its consultation and produce the bridge that is required. I should just say—I am sure Crossrail will say something about it—there is a plan for repossession of the tracks for about a month, I think, in the course of building the work and they say repossession is needed. If some of that could be brought forward, it would be very helpful. I do not know if there is anything else you feel you need to say.

20637. **Lady Bright:** Inclusive mobility. Could you put the slide up for us.⁸ It is just a page, you do not need to see the whole document. It is the rule book, recipe book, for disabled access and disability act compliance produced by the Department for Transport and Transport for London. If it is good enough for them and they are two co-promoters of the Bill, I would have thought, would you not, that it should be adopted for this bridge, and how Crossrail can say, “We will take it into account” rather than applying it I do not know. I think Crossrail may want to show us some of the drawings for the ramp, et cetera, at the end. All I can say about that is we have barely begun to get the design going. I think Mike may have something to suggest in general terms of the design of the bridge that would make it a great deal better than anyone has thought so far.

(Mr Kelly) Could we go back one picture to the one we were looking at before.⁹ First of all, if I can address what I believe to be the major concerns with regard to the bridge that Lady Bright has already made reference to. My most important concern is that this bridge needs to be as inclusive in terms of DDA as possible so we are not looking to make this just a stepless bridge, which has been proposed, we want to make it accessible and useable for all residents irrespective of what disability or restriction there may be. Just to highlight a couple of these, sound reverberation has come up in another issue, and if we look at this picture at the moment we have got the hoarding on either side. If you have got a blind resident with a guide dog walking across here and a train passing at the same time, my understanding is that there is a potential for this noise to bounce around in this area and therefore cause problems for the blind and their guide dogs. Apart from anybody else they would be going over there anyway, but the blind would have additional sensitivities to that kind of noise. Multiple wheelchair users we have already addressed in terms of not being able to use the bridge in the first place. I have seen several sets of plans, and I do appreciate that the drawings of the plans are being

negotiated now, but one of the absolute minimum things I would like to see is that the width of the bridge is two metres wide at all points. Some of the plans we have seen show that the platform part of the bridge reduces down to 1,600 at various points, it is absolutely essential that the absolute minimum would be two metres. In addition to that, there should be rails on both sides of the bridge for various reasons and also rails with passing points in the centre. If you agree to that, then you would need to expand the bridge slightly more to about 2.5 metres. Natural light again with regard to people with visual impairments, as you can see this bridge is currently open with a cage at the top there to stop things being thrown onto the track. A suggestion I would like to propose in respect of that is we retain the same principle of the cage but we make this a perspex cage and that would then help to address some of the issues with regard to the noise and reverberation of the noise. It would also provide natural light into the area and protect users from external weather in the event that they get caught midway. The Academy proposes an issue to have 25 per cent of its students using this bridge on a regular basis. In addition to that, there will be, as Lady Bright has mentioned, all the evening classes and events on the north side of this bridge and there are extensive community sports facilities. I understand that the Academy does intend to make full use of those facilities both during school time and in the evening, so traffic over the bridge will be substantial in the evening. I think CCTV and lighting in particular are very, very important, the right sort of lighting as well. I know we hear various discussions about the right sort of this, right sort of that, but the lighting, as much as possible, needs to be natural lighting. Sodium is a yellow light which, for some visually-impaired people, is quite difficult to work with, so it does need to be almost natural light.

20638. That chimes in with the need for translucency from a safety and security point of view which the police are concerned about, they want a straight bridge with disability pass and good lighting at either end so people will scoot off, because the bridge will not be used as long as people continue to be afraid of it.

(Mr Kelly) Could I mention two final points. With regard to access to the bridge, one of the designs I have seen suggests an elevation level of 1:17. Under the building regulations, it is suggested that the maximum elevation which should be considered for DDA compliance is 1:20, so that is something we need to look at. In addition to that, all the proposals that I have seen suggest quite a lengthy ramp. Some have already suggested this as an option, but it is absolutely imperative that along that ramp you have approximately ten metres apart level platforms so people going over those ramps can then stop and rest before going on to the next point, because the longer the ramp is the harder it is to get to the top of it. I know I would not make it over a 1:17 ramp, I have tried it and it is absolutely impossible and I do not consider myself to be unfit or weak by any stretch of the imagination.

⁸ Committee Ref: A236, Inclusive Mobility, Department for Transport, www.dft.gov.uk (WESTCC-AP2-10—04-006).

⁹ Committee Ref: A236, Alternative view of footbridge at Westbourne Park (WESTCC-AP2-10—05-021).

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20639. **Lady Bright:** Perhaps we should point out that Mr Kelly is a Guinness Book of Records holder for the number of wheelies.

(Mr Kelly) It was quite a time ago and has been superseded, but it was for the amount of time I managed to sustain a wheelie.

20640. **Mr Binley:** You are a man of many talents, Mr Kelly.

(Mr Kelly) Thank you.

20641. **Lady Bright:** Shall we show them slide 013, which is how not to do it.¹⁰ You see that extension, they spent a lot of money doing a nice long bridge and then how come they put that extension right in the middle of the bridge? Do you think you could get past that? It would be a squeeze?

(Mr Kelly) It would be a squeeze.

20642. It is how to ruin it and the point about our insisting that they stick to inclusive mobility is all these things are tried and tested, you do not have to make it up as you go along, and we propose a disability audit by Mike's organisation to check that it is right.

(Mr Kelly) If I could close with one final statement. The one thing I would like to see coming out of this is that consultation exists both with residents on the north side and the south side, that is quite important because although Lady Bright is here specifically for the north side, it does have an impact on the south side. The consultation on the south side has been more extensive than the consultation on the north side, so I think that needs to be addressed. With regard to the bridge, I would also like to see a regulator, somebody to take responsibility for the bridge itself, and the reason I suggest that is I have been involved as part of my work in Stadium in lots of broader projects where we have consortia and we generally find if you have a regulator who deals with the issue and re-charges to other organisations that you get a much better result.

20643. **Mr Binley:** Thank you very much. Ms Lieven?

Cross-examined by **Ms Lieven**

20644. **Ms Lieven:** Can I ask a few questions, sir, really for clarification. Mr Kelly, first of all, as far as details of the ramp, the light, the canopy, raised sodium lighting, perspex are concerned, all of those matters will be subject to detailed design stage and approval of Westminster Council, so I am not going to deal with them now, sir. They are all in Westminster's hands ultimately as to whether they approve what we are doing, the right kind of lighting and matters such as that. I hope I can put your mind at rest with one thing, Mr Kelly. As far as lighting is concerned, we are quite happy to light the bridge, I think the original proposal was to light the bridge we are widening, but we are quite happy to say to the Committee that we will light the whole bridge if neither Westminster nor the Academy will do it. I

hope that at least makes you happier. Could we work out what is going on here. At the moment, as a wheelchair user, you cannot get across the bridge at all, is that right?

(Mr Kelly) Not at all.

20645. Under the Academy proposals the Academy is intending, and indeed may have already done so, to upgrade the north end of the bridge to provide full disability access, is that right?

(Mr Kelly) It is my understanding that they are in the process of doing that, it is not yet complete.

20646. They are going to do it. You have spoken about how many Academy students will use the bridge, they are likely to be the main users, and a significant proportion of them may be disabled in, or not in, wheelchairs but as far as the Academy is concerned it has been sufficient, in their view, to make one end of the bridge DDA compliant but not the other end. Is that right?

(Mr Kelly) I think there are two issues here and one of them is to do with the very last issue I raised in my formal comments to do with the consortium. It has been very difficult to get agreement between all the bodies involved in what is going to be suitable for everybody and how that can best be achieved. The Academy is opening in September 2007 and, with that in mind, they have tried to progress the issues from their end as quickly as possible to ensure that side of the bridge is compliant and is accessible by the time they propose to be able to use it. I understand similar agreements might have yet been reached on the other side because of the issues about the platform itself of the bridge and the access to the ramps on the other side.

20647. So, as far as the Academy is concerned, if you take Crossrail out of the equation and assume no Crossrail at all, you will have a situation where the north side of the bridge is DDA-compliant but disabled people cannot get off the south side of the bridge under the present proposals. Is that right?

(Mr Kelly) That is my understanding, but, as I say, these works have not yet been completed, so I cannot—

20648. **Lady Bright:** I think it is a bit unfair to ask Mr Kelly to answer that.

20649. **Ms Lieven:** I am so sorry, sir, I thought he knew about—

20650. **Lady Bright:** He is not here to represent the Academy.

20651. **Mr Binley:** Bear with me a little, ladies! It is perfectly correct for Ms Lieven to ask questions of that kind, and whilst they might not be overly helpful to what you are trying to say, that is the point of this Committee.

(Mr Kelly) Can I make a point of clarification, though, Chair? I have not actually had any direct consultations with the Academy in respect of that bridge.

¹⁰ Committee Ref: A236, View of footbridge at Paddington Basin (WESTCC-AP2-10—05-013).

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20652. **Mr Binley:** That is helpful. Thank you.

20653. **Ms Lieven:** I am sorry, perhaps I slightly misunderstood Mr Kelly's role at the Academy. Let us move on to Crossrail. Crossrail is coming along and is now proposing to make the south side of the bridge fully DDA-compliant.

(Mr Kelly) Yes.

20654. So, assuming that Crossrail happens, as we all hope it will, and works go ahead, you will then be in a situation where as a wheelchair user you will be able to get on the bridge, get across the bridge and get off the other side.

(Mr Kelly) Yes.

20655. A major benefit over the existing situation.

(Mr Kelly) Yes.

20656. As far as this situation—is the bridge wide enough—is concerned, the bridge is, as I understand it, presently 1.8 metres along its width. Is that so? It sounds about right.

(Mr Kelly) It sounds about right. I have not been able to use the bridge. All I have been able to see is the drawings and pictures.

20657. **Lady Bright:** It does go down to 1.6 at one point.

(Mr Kelly) It is my understanding, if we go back to one of those earlier pictures, that the curve that occurs at the far end of the overview of the platforms—it does narrow to 1600 at that point.

20658. **Ms Lieven:** My instructions, and Mr Berryman will pull my gown vigorously if I have got it wrong, is that the entire span of the bridge—Can we just work on the 1.8 for the moment, even if there is a short stretch that is 1.6? As far as 1.8 is concerned, let us use, if we may, your wheelchair as a comparator. I guess your wheelchair is the right size to get through doorways, is that right?

(Mr Kelly) As a rule mine would not get through the average doorway. This is not an atypical wheelchair; the wheelbase of this particular wheelchair expands outwards. This is a sports wheelchair, so it is slightly wider.

20659. The average wheelchair is about 700mm, I ascertained from the Department for Transport document. Is that right?

(Mr Kelly) It varies according to the weight and size of the users. They generally start at, I think, 700 and they go through to 950, at the top of the range.

20660. We can turn to the page if we need to, but according to the Department for Transport document the 95th percentile of wheelchairs is slightly over 700mm, which means that, as I understand it, 95 per cent of wheelchairs are a little over 700mm or less.¹¹ Assuming, let us say, a wheelchair of 800mm, to be generous, and remembering one has to have hands pushing, so you have to have space for hands as well,

my understanding is that if you have wheelchairs of that dimension, 800mm, they are a bit above the 95th percentile and a bridge of 1.8 metres—width of 1.8 metres—is wide enough to pass.

(Mr Kelly) I would argue that it probably is not, for several reasons, particularly with regard to this bridge. If we can go back to that picture, I know there are going to be proposals to change the boarding, but as part of DDA you would want to have railings along both sides of the bridge here. You have the encroachment—it is almost shown as a curve along the side there. Presumably there would be something like that, again, in any revised bridge, so you have got run-off from the bridge, and also, when you get to the end of this, there is a curvature in that bridge, so you need to allow a wider circle at that point for two wheelchairs to be able to bypass or pass each other in a curve. It is not a straight-over crossing.

20661. **Mrs James:** I am fully respectful of disabled access here but speaking as somebody who has had to organise disabled access and disadvantaged access at many different places, you have to take into consideration people with double-buggies; anybody pushing a double-buggy along there would certainly cause a problem, and anybody carrying large bags along there meeting somebody with a wheelchair—there are many, many different permutations rather than two wheelchairs meeting. Anybody on crutches would have a problem to manoeuvre around and certainly you are going to get other people, elderly people, and people with babies in prams, buggies, etc. So there is an advantage in having disabled access but it also has a wider advantage for the less able.

20662. **Ms Lieven:** Absolutely, Madam. I was only using the two wheelchairs as a kind of *aide memoir*; I completely accept that is why London Underground call it “mobility impaired” rather than disabled, because there is a whole gamut of different kinds of users. I will just let the Committee know there are two points here: one is we are widening the part of the bridge we are rebuilding, and we are widening it to 2 metres. That is wholly DDA-compliant. So far as the other stretch of the bridge is concerned, it is acceptable in DDA terms because it is not 2 metres but it is 1.8, it is not far off and there is, in reality, enough room for users to pass with a small amount of flexibility, with one, perhaps, in exceptional circumstances, having to wait. The other point is, and it is an important one, albeit I accept not necessarily a wildly attractive one sometimes, that that bridge is nothing to do with Crossrail. It is going across Network Rail land, it is a Network Rail bridge and if the Academy do not feel the need to upgrade it for their purposes then Crossrail do say to the Committee it is not our responsibility. In the same way that we cannot go across London sorting out every transport problem we cannot go across the route sorting out every pedestrian accessibility problem. This is a bridge where we are doing, we would say, well beyond what is strictly a Crossrail issue, and if there is unacceptability about the remaining bridge, that is ultimately not our, I am afraid, responsibility. I will ask Mr Berryman to deal with that.

¹¹ Committee Ref: A236, Inclusive Mobility, Department for Transport, www.dft.gov.uk (WESTCC-AP2-10—04-007).

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20663. **Mr Binley:** The Committee did ask for this matter to be looked at and, of course, you have undertaken to do one part of the bridge. There is a concern about that, and we have a right to express that concern. That needs to be noted in response to what you have just said.

20664. **Ms Lieven:** Of course. I think, Mr Kelly, those are all the questions, because the other issues I will ask Mr Berryman to deal with, and obviously noise is for Mr Thornely-Taylor. I am not going to ask any more questions on that. Thank you, Mr Kelly.

20665. **Mr Binley:** Lady Bright, would you like to re-examine? You do not have to.

20666. **Lady Bright:** I just briefly wanted to make a few points. I think it is terribly unfair to blame the Academy for not making arrangements on the south side of the bridge; it is nothing to do with them, it belongs to Network Rail and Network Rail will not let anybody touch it. Now Crossrail get—I do not know quite what it is, it is not a leasehold—whatever they get over this bridge because they are going to be—

20667. **Mr Binley:** Lady Bright, you will have the chance to sum-up at the end of this. The point at this moment is if you wish to re-examine Mr Kelly.

20668. **Lady Bright:** It is not necessary. Thank you very much.

20669. **Mr Binley:** Thank you. We are very grateful to you.

(Mr Kelly) Is it possible to make one point of clarification before I go?

20670. **Mr Binley:** Yes, of course.

(Mr Kelly) With regard to the Academy's view on the bridge, my understanding is that the north side, which they are in the process of making DDA-compliant, does not satisfy them that the bridge itself will be DDA-complaint. One of the reasons that they continue to maintain that stance is because at this stage that appears to be as in the photograph.

20671. **Mr Binley:** Thank you very much.

The witness withdrew

20672. **Mr Binley:** Do you have any other witnesses, Lady Bright?

20673. **Lady Bright:** Yes, not on the bridge, but on the noise issue.

Ms Nicky Hessenberg, sworn

Examined by **Lady Bright**

20674. **Mr Binley:** Make yourself comfortable and then tell the Committee your name and a little about yourself.

(Ms Hessenberg) Good morning. My name is Nicky Hessenberg. I have lived in Westbourne Park Villas as a resident for the last 42 years, and I am a member of the Westbourne Park Villas Residents' Association. I cannot really add any more to that.

20675. **Mr Binley:** That is perfectly adequate, thank you.

20676. **Lady Bright:** We thought it might be helpful to have Ms Hessenberg come along because of the freight sidings and the batching plant that you have heard about before. I will not go into that in any further detail because we have got such unreliable drawings, but I know Crossrail will. The Hessensbergs suffer, like the rest of us, the effect of this, but it works in a rather peculiar way. Would you like to explain how the noise of that freight train affects your house and the people in it?

(Ms Hessenberg) I live at number 60, which is about halfway down the street. My sister and brother-in-law live at number 58, so we have a bit of a rabbit warren, how it is joined up. My daughter and granddaughter sleep on the top floor of our house. Our houses are basement, ground floor and first floor. Our daughter and granddaughter live on our top floor. My husband and I sleep on the ground floor level on a bit which is joining numbers 58 and 60 together. So we are on the ground floor level on the south side of the house. My sister and brother-in-law in number 58 sleep on the south side on the top floor. So, again, it is a basement, ground floor and first floor building. My husband and I have very sleepful nights, quiet, overlooking the garden with just the blackbirds in the spring. My daughter, who sleeps on the south side of our house, on the top floor, and my sister and brother-in-law, who sleep on the south side first floor of their house, are shaken by freight trains that come and load and unload every night between the hours of 11 and one, or something like that. They say that they lie in bed and things shake on the shelves, literally shake—bottles, china, whatever—vibrate with the noise. But where we are, on the ground floor level, we hear very, very little—a few clanks sometimes, but we do not get the vibration. So the noise is obviously going up. We are protected by our wall, which you saw on the photograph, and I think where we are on the ground floor level we have greater protection than people who are living on higher levels. So the noise is going up.

20677. How often have you tried, over these 45 years, to get something done about it, or is it, perhaps, only the last few years that have been particularly difficult?

(Ms Hessenberg) The noise at night, we have had 'phone calls about. The noise that I have been particularly embattled with are the 125 trains which stop just outside our house during the day, waiting to get in and out of Paddington Station. In the old days when British Rail owned the tracks if we had a train sitting there waiting to be admitted you could ring them up in the duty office and someone would be sent down the line and the driver would be asked to turn his engine off, to stop the vibration. Plus you do get fumes; it is really unpleasant smoke going up. That we

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have battled on for the last 10, 12 or 15 years on a regular basis. I have got worries for my granddaughter, who is 18 months going on to two years, because I was extremely worried about the effluent coming off the train, and also about the effect it was having on our house because the vibration is really terrible. It is quite low level but it creeps up through the ground and you can feel it in the house, shaking. But since British Rail gave up, or were passed on, we have had absolutely no response at all; we have been passed from pillar to post, telephone call to telephone call; drivers are given instructions which they do not follow because, obviously, it takes time to start a train up, so it is much easier for them to leave their generator running. That is very unpleasant, and we dread the summer months because that is when the summer timetable comes in and that is when we get the 125s sitting on tracks during the afternoon, and sometimes in the morning as well, and the freight trains at night. So it makes for a fairly vibratory situation, let us say.

20678. You have your file of unanswered correspondence with Network Rail.
(*Ms Hessenberg*) It has been answered but it has always been deflected.

20679. The line is: "We always wish to be good neighbours". Silence. Sir, we wanted to raise these points just so that you could, if you wish, ask questions of Ms Hessenberg, just to hear that it is not me making it all up! I wanted to make a couple of points to see whether you agree. You mentioned the wall and how effective it is as a sound barrier. That, basically, is what it was built for. It is to hold up the railway embankment but it is there to protect the remaining houses on the street after they knocked those down on the other side. As I am sure Mr Thornely Taylor would agree, it works only at the lower level and only to a certain degree. That is why we wanted to go on to tell you something about noise.

20680. **Ms Lieven:** I have no questions.

20681. **Mr Binley:** Clearly, there is no need for you to re-examine, is there? Thank you very much, Mrs Hessenberg.

The witness withdrew

20682. **Mr Binley:** Do we have any other witnesses to call?

20683. **Lady Bright:** No, we do not, unless you wish to question anybody else from the street.

20684. **Mr Binley:** You will have the chance, of course, to sum-up at the end of the process. Thank you. I am going to call on Ms Lieven if she will be kind enough to present her case.

20685. **Ms Lieven:** Certainly, sir. I am going to call Mr Berryman first.

Mr Keith Berryman, recalled

Examined by **Ms Lieven**

20686. **Mr Binley:** I might say we do not need further introductions.

20687. **Ms Lieven:** No, I do not think Mr Berryman needs me very much, either. Just vaguely to keep the evidence in order, can we deal with the footbridge first and then the noise issue. Can you explain briefly what Crossrail is planning for the footbridge? It might be useful to put up the photograph.¹²

(*Mr Berryman*) Basically, the footbridge spans across the whole of the railway network near the approach of Paddington Station, as everyone knows. What we need to do is to put new tracks under this area here, to go down into the Crossrail tunnels. Those tracks will be electrified and have overhead electrification. What that means is that to do that we have to raise this end of the bridge slightly by about 200mm.

20688. Is that there?

(*Mr Berryman*) That is just there, yes—your hand is steadier than mine. So that span of the bridge has to be raised by about 200mm. The southern span of the bridge, that bit there which Ms Lieven is pointing to, was already raised by British Railways when they built the Heathrow Express service, because that line is electrified, as you know. What we are doing is raising the rest of the bridge to make it level. That will have the effect of making that part of the bridge DDA-compliant. That is the only bit of work we need to do for the Crossrail works. That is the bit we actually need to do.

20689. Can I stop you there, Mr Berryman? In the photograph (I think it was one of the photographs with the dog) you can see a little step in the middle of the bridge.¹³ That is being removed by our works.

(*Mr Berryman*) That will be removed. My original intention was that we would just jack up this span—you see the span between where the cameraman is and where the step is, the original idea was to jack it up and put new bearings underneath it—but my engineers are advising that it may need to be replaced because of the state of it. But that is Network Rail's property, that bridge. We have arranged with the Academy that their walkway which links to the north end of the bridge will actually be at that slightly higher level. So when the walkway is initially built there will be a step down, you walk along the north span of the bridge and there will be a step up. When we have finished our works that section of the bridge will be raised so it will be level all the way across. Then, at the request of the Committee in your interim findings, we have agreed to make this southern end of the bridge DDA-compliant as well. That is, really, the works that we need to do to the bridge.

¹² Crossrail Ref: P152, Westbourne Park—Footbridge (WESTCC-AP2-10—04-014).

¹³ Committee Ref: A236, Alternative view of footbridge at Westbourne Park (WESTCC-AP2-10—05-021).

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20690. Before we look at the southern end of the bridge in detail, Lady Bright raised a concern right at the beginning that our plans were changing and that the plans she was sent sometime yesterday were sent with a health warning about changes. Can you explain, first of all, in terms of the main works, the works to the railway, what scope is there to change there?

(Mr Berryman) There is very little cope to change, but I think what Lady Bright was being told was that it is still subject to detailed design. Everything we do is subject to detailed design. The exact railings, the curve, the exact kind of transition curves, and so on, will be reviewed. Not the design layout (we know where things are going to go) but there may be movement—and we are talking about a few hundred millimetres; we are not talking about big movement—and that is as far as the railway works are concerned. As far as the footbridge is concerned, and the works associated with that, of course, this is subject to detailed planning in Schedule 7 of the Bill (I think it is Schedule 7). That will be for Westminster City Council to approve the plans that we put forward for those works.

20691. Can we then look in a little more detail at the southern side of the footbridge and put up 005, please?¹⁴ Can you explain what Crossrail is currently envisaging and the benefits and disbenefits?

(Mr Berryman) Yes. What we are planning to do is replace the section of the bridge from here southwards and put in a ramp which runs down like that—it has got zigzags in it. The reason for the zigzags is to prevent skateboarders and people with funny trainers rushing down and bashing into people. It has been designed like that after consultation with the Metropolitan Police and with British Transport Police and with Westminster City Council. However, it could be changed; it is not written in stone. I think the Petitioners have proposed that we turn it 180° and bring it back to there, and that is certainly something we can look at in detail. As I say, it is something which requires input from various authorities particularly the police, to make sure it is safe and it has been built in a manner which is not going to be increasing the possibility of crime.

20692. The principal concern of the Petitioners appears to be the width of the main span of the railway going across the active Network Rail track. Can you explain why Crossrail is not planning to replace the entire footbridge?

(Mr Berryman) Well, replacing the entire footbridge would be a very, very big job. The footbridge is not ours, of course, it is Network Rail's (as has already been mentioned several times) and it would involve putting new foundations in the permanent way as well as erecting new bridge spans. It would be quite a substantial piece of work. The existing span, the central span, is only very marginally below the 2-metre width which is required by the guidelines and it just does not seem to be justified, from a cost-benefit

point of view, and it is certainly not justified from Crossrail's point of view because, as I said earlier, this is nothing to do with us, we are just doing it because you have asked us to, basically.

20693. **Mr Binley:** Out of the goodness of your heart. I understand that.

20694. **Ms Lieven:** With the goodness of our heart prompted by the appropriate response—

20695. **Mrs James:** Being a good neighbour!

20696. **Ms Lieven:** You have talked about cost and it not ultimately being our responsibility. What about disruption to the railway? Would there be implications on that?

(Mr Berryman) I was using cost as shorthand for the generalised issues of how it would need to be done. I feel bound to say this bridge has been controversial for many years. It has been a source of a very long-running—I think one could call it—dispute between Westminster City Council and the railway authorities. It certainly goes back to British Railways' days, and whether it goes back to the Great Western Railway days or not I do not know, but it certainly goes back quite a long way. This has been a bone of contention locally for many, many years.

20697. So far as the width of the existing footbridge is concerned, it might be helpful if you just put up the Department for Transport Inclusive Mobility document, first of all, exhibit page 6, please, which, just so the Committee can see, is the place where it refers to the wheelchair users' width of the 95th percentile slightly over 700mm. Then if we go on to the following exhibit page, page 8, and expand 3.1, please, on widths.¹⁵ That says: "A clear width of 2000mm allows two wheelchairs to pass one another comfortably. This should be regarded as the maximum under normal circumstances. Where this is not possible because of physical constraints 1500mm could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another." The absolute minimum is 1000mm. Just applying that to the circumstance of this, the retained portions of this bridge, in your view is there adequate width being left, taking into account, in particular, Mrs James' point that we are not just talking about two wheelchairs, but probably the more common situation of one person with a double-buggy and one person with a lot of shopping, or crutches, or something such as that?

(Mr Berryman) We know that the majority of the bridge is 1.8 metres wide—one of my staff has actually measured it. The reason I was tugging on your gown earlier was because I could not actually swear that the whole bridge is 1.8 metres, because he did not go along and measure every section. The vast majority is certainly 1.8. There may be short sections which are slightly less. We do not think there are but it is

¹⁴ Crossrail Ref: P152, Westbourne Park Passage Footbridge reconstruction of south span to provide step free access—Option 5 (WESTCC-AP2-10—04-005).

¹⁵ Crossrail Ref: P152, Inclusive Mobility, 3.1 Widths, Department for Transport, www.dft.gov.uk (WESTCC-AP2-10—04-008).

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possible. Now, 1.8 metres is 8 inches less than the 2 metres suggested here, and that is enough to allow—sorry to mix my units.

20698. You are showing your age, I am afraid!

(Mr Berryman) That will be enough to allow two wheelchairs to pass, perhaps not comfortably but certainly to pass.

20699. I do not know what your experience is of double-buggies.

(Mr Berryman) I have managed to avoid double-buggies myself, at least so far. My recollection is that they are usually narrow enough to fit through a doorway, an ordinary household doorway, and that would be a similar width to a wheelchair. That is the major design factor for a wheelchair width: that they can fit through doorways.

20700. With a more extensive knowledge of double-buggies, I would agree with that. That is the width issue. What about the safety issue and the kink in the middle of the bridge, or the curve, as it has been described?

(Mr Berryman) The curve, or kink, is a very slow change of direction; it is not a right-angled bend or even quite an acute angle; it is a very slow angle. It is not the kind of angle behind which a person could conceal to jump out and surprise somebody, because as you walk towards the kink, or curve, you can see round it.

20701. **Mrs James:** In general, sometimes when you are looking down it is really quite intimidating.

(Mr Berryman) When you are standing on one end and you cannot see the other end of the bridge, but similarly someone could not stand behind the kink and conceal themselves.

20702. Somebody could think twice about using that bridge, however convenient it would be, if it was dark; you would think: "I cannot see the other end".

(Mr Berryman) I have to say, straightening it would be an absolutely monumental undertaking; it is not something you can just tweak.

20703. Could you have a mirror there so people can actually see?

(Mr Berryman) You could put a mirror up. We would be happy to do that. I am not sure how helpful a mirror would be, actually. We have promised the provision of CCTV, and Westminster, I think, have indicated that they would make it part of their supervisory scheme. Obviously, it would be pointless for us to have CCTV cameras because we do not have any presence there or even anywhere near it.

20704. **Ms Lieven:** I think Lady Bright mentioned the CCTV planned by the Academy on its site.

(Mr Berryman) We could link to that. What we have basically said is we will put the brackets and the conduit up but it obviously cannot be part of our CCTV because we have no supervisory role there.

20705. What about lighting?

(Mr Berryman) Obviously, we will be lighting the new sections of the bridge in accordance with the necessary standards, and we can extend—I think I have already told Westminster City Council this—that to cover the whole bridge.

20706. Thank you very much. Can we move on to the noise issue, please. I think Mr Thornely-Taylor will come back to this in more detail but can you explain why from an engineering point of view we cannot provide a noise barrier on the northern side of the villas?

(Mr Berryman): Would it be more helpful to explain what the trains are actually doing, first?

20707. Certainly. I am only reading out the question I have been provided with!

(Mr Berryman): If we could show the plan of the existing freight movements, what this shows is the way the trains currently work at the present time.¹⁶ What happens is the freight train comes in from the Great Western mainline and runs right down to point A, and for reference you can see the footbridge we have just been talking about and Westbourne Park Villas. The train runs down, reverses back up to a siding, and it is unloaded in the open air. The train then pulls forward again and is pushed back into another siding, at which point the trains splits and pulls forward again and then pushes back into another siding, at the top left, to have the other nine cars of the train re-loaded, so there is quite a lot of manoeuvring which goes on between points A and B, and this takes place in the middle of the night. The trains typically come at 11.30 and depart at 2.30. There is a path at midday and a path at midnight, so quite often it is in the middle of the night. In future the furthest point the trains will come down to is just adjacent to the footbridge we have just been talking about.¹⁷ The locomotives will not be able to go beyond that point because there is insufficient room. Even if we wanted to—and we do not—there is insufficient room under the new scheme to extend the siding further down, so that, point Y, will be the absolute limit of operation of the freight trains. What will happen then is that the freight train will come through here at the top left, be pulled slowly through a discharge point, which will be concealed in a building and soundproofed, until it gets to this point Y, at which point the locomotive will be detached, will run round to the other end of the train, will pick up the train and take it away. So the level of movements required and the level of manoeuvring and splitting trains and shunting will be enormously reduced. Moreover, from this point Y to the east there will be no freight train movements at all, other than what might be required for maintenance by Network Rail, which is obviously when they deliver stone and so on for their maintenance operations. So the impact in any event on Westbourne Park Villas from freight

¹⁶ Crossrail Ref: P152, Westbourne Park—current turnback and freight area (WESTCC-AP2-10—04-015).

¹⁷ Crossrail Ref: P152, Westbourne Park—proposed turnback and freight area (WESTCC-AP2-10—04-016).

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trains will be enormously reduced; and the impact on the properties shown in the middle will be no worse than it is now, and probably better.

20708. In terms of the “probably better” can we just look at a new concrete batching plant to be built at King’s Cross, shown on exhibit 002?¹⁸ We are not saying this will be exactly like this, and I think this is a rather bigger one than the one that will be built at Westbourne Park, but can you explain the benefits to the residents of having a new batching plant as opposed to the existing arrangement?

(Mr Berryman): The main point about the new plant is it will be enclosed. On this slide you can see the aggregate unloading facility which already exists at St Pancras, and it will be something similar to that—probably slightly more enclosed because this is not in a residential area—that will be constructed at Westbourne Park. The bunkers or hoppers for storage of the aggregate will be something like the one shown, although smaller because this is a big scheme, and the advantage of that is that will be soundproofed so that the noise from handling the aggregates and so on will be much reduced as compared with the present day.

20709. At the present day it is not enclosed at all?

(Mr Berryman): No; it is entirely open air. It is a rather old-fashioned sort of plant and I would guess, if we were not coming along, the owners would be thinking about renewing it anyway.

20710. Just one other issue on the batching plant. Lady Bright and the residents over a long period of time have said: “Why not move it to Old Oak Common? You have a batching plant there; take this one away up there.” Why is that not an option?

(Mr Berryman): The two things are serving different purposes. The first point is that we will be putting a batching plant at Old Oak Common; that will be for the purpose of pre-casting the tunnel linings, which will be actually made there, and the batching plant will be immediately adjacent to the production line for those segments. The distance from Westbourne Park to Old Oak Common is quite a long way. We did go on a trip, if you remember, two or three weeks ago and it is quite a long drive from Westbourne Park to Old Oak Common. If you were to put the batching plant at Old Oak Common it would mean that concrete lorries, before they could even start the same delivery run as they have now, would have a 20 minute or so run to get into town. Concrete normally has to be placed within two hours of batching. I have not been on a site for years but normally we would turn concrete away at the site gate if it was more than an hour old, so the fact you have a 20-minute delay before you even get in towards the city centre would be a major problem for construction sites in the city centre. The great beauty of Westbourne Park is, first of all, it is rail-served so aggregates can come by rail which is less environmentally damaging but, secondly, as far as the despatch of the concrete is concerned, it is near the areas where heavy

construction is taking place, and that is an obvious advantage which would not be shared if the plant was moved to Old Oak Common.

20711. Lastly, it appears from the evidence that we have heard that the principal noise source is the passenger trains coming into Paddington, particularly the high speed diesel trains. Is there anything that Crossrail can do about them?

(Mr Berryman): There is absolutely nothing at all we can do about them. They are part of the national rail network; they are the HSTs, as you have just said; they are very noisy; they are diesel/electric trains, the diesel engines are quite loud and they discharge upwards. They are very loud, I have to say, but they are nothing to do with Crossrail; they are the existing railway network.

20712. Stepping outside Crossrail, for a moment, and this has absolutely nothing to do with us but from your own knowledge, is there any hope for the future for the residents in respect of those trains?

(Mr Berryman): There is a plan on which consultation has just been started to replace those trains in due course. As I understand it from colleagues, the current plan is to have dual power trains so that when they are running under the electric wires they are able to run from using electrical power, which is relatively quieter, and when they get off the end of the electrics they can use diesel power. I think there are many unresolved problems with that proposal but that is certainly the direction in which thinking is going at the present time.

20713. **Mrs James:** The tender has gone out already. The idea is we would replace these high speed trains, our existing fleet, with a fleet that is uniform across the country. 2010 I think.

(Mr Berryman): I do not think the tender has gone out but it has gone out for consultation.

20714. 2010, I think.

(Mr Berryman): Yes.

20715. **Ms Lieven:** Thank you very much, Mr Berryman.

20716. **Chairman:** Lady Bright, would you like to examine Mr Berryman’s evidence?

Cross-examined by **Lady Bright**

20717. **Lady Bright:** Thank you for explaining. It is very useful to have a drawing of the full route of the freight train which goes right round the houses and does cause a lot of the problems. If you were to move it back to the point indicated on the previous drawing it would be useful but obviously we cannot rely on that happening because the drawings are not indicative—and I was given a strong indication it was more than millimetres we were talking about. Could you give me an idea how much it costs to put in a new 350m siding? I mean to the nearest million, probably.

¹⁸ Crossrail Ref: P152, Concrete batching plant at Kings Cross (WESTCC-AP2-10—04-002).

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(Mr Berryman): It depends where it is. I do not want to evade the question, but the permanent way would probably cost—I do not know, a couple of millions, probably. Maybe a little bit more. It just depends what the obstructions are, what point works are required and what signalling is required. There is not a straight answer that I can give to that. But can I just make one point about the remark you just made? You suggested that nothing is definite. I am telling you it is definite that the end of the freight siding will be at the point where I indicated on the drawing, and I can tell you that with complete confidence because it is physically impossible to fit the Crossrail trains and a siding in the space which is available beyond that point. That is, in fact, why, as you may recall, we took some limited compulsory powers over this corner of the Academy site so we could get the end of that siding in.

20718. I am not sure I completely understand. It is physically impossible to get the Crossrail trains --
(Mr Berryman): It is physically impossible to get the Crossrail tracks and a siding in the space between the London Underground tracks and the boundary of the railway land.

20719. So that is the only reason for moving it.
(Mr Berryman): Sorry?

20720. That is the reason for moving it?
(Mr Berryman): No, that is not the reason for moving it; that is the reason why we definitely cannot go any further. The reason for moving it is to get a better operational layout.

20721. It is for the concrete plant; it is nothing to do with residents, noise, pollution, planning—none of that. It is for the concrete plant --

20722. **Chairman:** Is this a question, Lady Bright?

20723. **Lady Bright:** I was just going to ask Mr Berryman, what advantage is the concrete plant for the operation of the railways?
(Mr Berryman): What advantage is the concrete plant for the operation of the railway?

20724. Does it give any advantage? Is it useful to have it there from the railways point of view?
(Mr Berryman): From Crossrail's point of view or from the railway in general?

20725. Both.
(Mr Berryman): From Crossrail's point of view it is not relevant, because Crossrail is not a freight railway.

20726. **Kelvin Hopkins:** If I can interrupt, if somebody decided to move it, you would be perfectly happy about that?
(Mr Berryman): We would not mind either way, no. From the overall railway point of view and from the point of view of the planning policies of Westminster City Council of course it is important that it is there, because it is rail-served and it allows the aggregates to

be delivered by rail, keeping many lorry movements off the road, and, secondly, it is in a position which is close to its market minimising the amount of road time for the truck mixers which need to deliver. That has two benefits—benefits for the operators in that they get the concrete quickly before it starts to go off, and it has benefits for Westminster or the residents in the area, as it means the amount of time that the truck mixers spend on the road and the amount of congestion they cause is minimised. So those are the positive aspects of moving the concrete batching plant.

20727. **Lady Bright:** Are you sure Westminster favour having that plant there?
(Mr Berryman): Absolutely certain.

20728. I think that is misrepresenting Westminster, frankly.
(Mr Berryman): Well, Westminster is a large organisation. It may have many people in it but the people we deal with in the planning department are absolutely certain that they want it to stay there.

20729. Well, they have pointed out, the people in the planning department at Westminster, which is our local council, that that plant was granted permission under a 1971 regime and it was built I think finally in 1984 when the area was completely different—and they said all this to the Committee but I am just reminding you—the area is now densely populated all round and the last thing you want when you are building a school is a concrete batching plant right there. The plant has been safeguarded since—can you remember? 1991, is it?
(Mr Berryman): Ish.

20730. And you pointed out that it had not been modernised. I believe Tarmac would have modernised it by now because it would have been able to increase capacity, is that not right?
(Mr Berryman): You would have to ask Tarmac that question, I do not know. It is probably getting towards the end of its natural life.

20731. Obviously one must ask why they did not modernise it, knowing it was safeguarded.
(Mr Berryman): They are fairly careful with money, concrete producers, in my experience, but the only dispute between us and Westminster on the batching plant has been about the conditioning of it, in other words what planning conditions should apply to it. Obviously, as I think you are aware, we have come to substantial levels of agreement with them about that, which is why they did not appear when they had the opportunity to recently.

20732. It is causing you a lot of problems, that concrete plant, for something that does not bring any benefit because you have an awful lot of stuff to put into that area, have you not? You have reversing sidings that you also want to have there that we do not want there because we think they should be in the

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depot, but there is that, and have you now settled finally on the design for the postage stamp temporary plant?

(Mr Berryman): No. The temporary plant will be subject of on-going discussions between the operator and ourselves and Westminster City Council. Do not forget, it will be quite some time before construction actually starts.

20733. But the design was approved under the AP2, is that not right?

(Mr Berryman): The location was approved, yes. There is a difference between location, which is effectively drawing a red line around the site where something will be, and the detailed design which goes to exactly where each bit of kit will be.

20734. **Lady Bright:** We have to disagree about what Westminster thinks on this. We know that the London Plan—can I just make this point?

20735. **Chairman:** I think the point is noted, Lady Bright. You are able to sum up and you can mention it then.

20736. **Lady Bright:** Then I have one last question because I am still very puzzled about all the trouble everyone is going to for this large multinational. What was the price of the deal with Tarmac to let them stay there?

(Mr Berryman): There is no price. Do you mean have they given us any money?

20737. Well, you are in negotiations still with Tarmac, I believe.

(Mr Berryman): Not about money. Tarmac are no different from any other land owner on the route or adjacent to the routes. We have as part of normal practice, and I think legally, to preserve their interests as far as we possibly can, and we do not go around gratuitously putting people out of business. It would make our lives a lot easier sometimes if we could, but we do not do that; we are not allowed to. If we put someone out of business we have to be able to demonstrate to this Committee that there is no alternative and there is an alternative. It can be kept going.

20738. **Lady Bright:** There is always the difficulty of fitting in a temporary plant which we know from Tarmac cannot handle their current capacity at all, but do you not think that most businesses, if they are going to have an interruption of four and a half years, would prefer to go straight from plant A into a fully functioning plant B, and has that option been put to them? I am thinking of Old Oak Common or points west.

(Mr Berryman): We have discussed with them the alternative of moving their operations to various sites; we have talked about North Pole and I am not sure if we have talked about Old Oak Common in great detail but we have certainly indicated that there are a number of other potential sites around in that general area of Old Oak Common; we have certainly talked about sites up in the industrial estate where

Guinness used to be—I have forgotten the name of it offhand—and they are just not interested because their market is central London and it is important to them to get the concrete to the sites in a timely manner, or wherever it fits in with planning consents.

20739. **Chairman:** May I just mention that I would hope that we might finish the witnesses before we break.

20740. **Ms Lieven:** I was not going to re-examine Mr Berryman. I think he has covered everything, so perhaps we can do a quick change to Mr Thornely-Taylor, if the Committee has no questions.

20741. **Chairman:** Thank you. We are grateful to you as always, Mr Berryman. You may leave.

The witness withdrew

Mr Rupert Thornely-Taylor, re-called

Examined by **Ms Lieven**

20742. **Chairman:** We welcome Mr Thornely-Taylor; we also know full well his distinguished background.

20743. **Ms Lieven:** I have to say this is the first time I have called Mr Thornely-Taylor so I hope the Committee will bear with me, but I think I only have one question really, Mr Thornely-Taylor, which is can you explain to us the problems with putting a larger acoustic barrier on the south side of the railway?

(Mr Thornely-Taylor): Yes. I think it is helpful if I very briefly say how noise barriers work. They work by being higher than the line of sight from the source of the receiver, but not only that—they have to be either quite close to the source or quite close to the receiver. They do not work at all well, even if they are reasonably high, if they are a long way from both; if they are more or less in the middle of the space between the two. It is quite helpful to look at a cross-section through the railway in this area, and there is a cross-section on the system at number 17, I think, with 18 as the second one, and it is possible to see that the layout of the tracks in this area is very unfavourable from the point of view of the geometry of noise barriers. The Westbourne Park Villas facades are on the right, and this particular one applies to 14-16, which is towards the eastern end of the terrace of houses.¹⁹ At this point the Crossrail tracks are low down and there is the retaining wall of the cutting in which they run which itself is a noise barrier, so in that area one is only really considering whether in principle a noise barrier could reduce noise from the existing railway. Whether or not it is a matter for Crossrail to do that is a separate issue, but leaving that on one side for the moment we have to remember that the noise source on a high speed diesel is 4m above the track, and even if a high speed diesel was on the nearest track to Westbourne Park Villas the noise source is going to be up there, and we heard

¹⁹ Committee Ref: P152, Cross sections—Westbourne Park Villas (14/16) Existing and Future (SCN-20070314-002).

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in evidence today that bedrooms tend to be on the upper floors of these buildings, and although you might get a little bit of benefit from the very nearest track by extending the height of this wall with the noise barrier, in terms of the overall noise exposure of these facades, with the contribution of all the other trains on all the other tracks, the Heathrow Express and in this particular location the negligible contribution from Crossrail, the cost benefit of such a noise barrier simply would not be worthwhile. If we quickly look at the next cross-section which takes you to the western end of the Westbourne Park Villas area, where there is a short terrace of houses on the north side of the road, again the same thing applies.²⁰ There is the facade of the house and, again, the main noise source of the high speed diesel is 4m above the rail. Here Crossrail is at the same level as the rest of the tracks but its contribution to the overall noise exposure of that facade is very small indeed, it only just triggers eligibility for noise insulation through the statutory procedures, and the only thing you could do to reduce Crossrail noise would be somehow to get a noise barrier in the middle, which is impracticable, and putting extra height on the right hand wall would mean it would have to be extremely high to reduce noise from other non-Crossrail railways, and as a general principle it is simply not a practical proposition for Crossrail to reduce noise from existing railways, otherwise all railway schemes throughout the country would have a huge cost burden attached to them if it fell to them to reduce noise from existing railways. It would be a nice thing to do in many areas but it is just not practical proposition.

20744. Mr Thornely-Taylor, last time you appeared on a Petition you dealt with the level of noise in some detail that was going to be generated by Crossrail at these locations, and just for the Committee's note it is Day 45A, paragraph 12761. I do not ask you to read back through that but can you just explain how much additional noise, if any, is the Crossrail scheme going to generate at this location?

(Mr Thornely-Taylor): The difference between with and without Crossrail is a matter of 1-2 decibels on the LAeq scale that I have talked to the Committee about earlier on. It is a very small increase; not enough to trigger significance using the Environmental Assessment methodology, and it would be impractical to reduce it by means of noise barriers, for reasons I have just explained.

20745. I have one other issue which Lady Bright asked about which I think you know something about. She raised the concern that the Crossrail scheme at this location might be treated as an old railway rather than a new railway by reference to what happened with Heathrow Express. As I understand it the only relevance of old or new is as far as the railway noise regulations are concerned. Can you just explain what happened with Heathrow Express, and why Crossrail will be treated as a new railway for noise regulations?

(Mr Thornely-Taylor): Heathrow Express runs on a remodelled layout of the existing track in this middle area. Crossrail will run on new track laid; it is hard to see but the existing drawing shows that there is no railway in this space to the left and Crossrail will run on newly laid track, and it is absolutely clear and is set out in terms in the Noise Insulation Regulations that Crossrail will be treated as a new railway, and eligibility is absolutely clear.

20746. **Ms Lieven:** In light of the time, I think I will stop there.

20747. **Chairman:** Thank you very much; I am most grateful. Do you have many questions, Lady Bright?

20748. **Lady Bright:** Because the exhibits were not arranged as we had hoped we missed putting in our exhibit on noise barriers which is an alternative view to Mr Thornely-Taylor's.

20749. **Chairman:** You will be able to do that in cross-examination. I now adjourn the Committee until 2.30 this afternoon.

After a short adjournment

20750. **Mr Binley:** Ms Lieven, do you wish to complete your examination?

20751. **Ms Lieven:** Sir, there are just two things I wish to deal with at this stage, and the first is to tell the Committee the happy news that Mr Reuben Taylor's wife had a baby this morning.

20752. **Mr Binley:** Then you might extend our very good wishes to the lady in question and also to Mr Taylor.

20753. **Ms Lieven:** I will, sir. Secondly, over the luncheon adjournment, a member of the team went out and measured the footbridge at Westbourne Park so that we are absolutely clear. The span of the footbridge is 1,850mm all the way along, except at the two points where there are handrails, one of which is the step up in the middle. If you remember, there is one step which will be removed by our works because we are lifting the other span, so there will not be any handrails, so that will all, when the handrails go, go back to 1,850. The other is 1,600 between the handrails at the northern end which again I believe will be removed when the northern end is rebuilt by the Westminster Academy. Sir, that is the factual point.

20754. Then finally, sir, Lady Bright wanted to refer to a letter that she meant to put up this morning, but it did not quite happen because of a failure of co-ordination, so, before Mr Thornely-Taylor proceeds, what Lady Bright and I have agreed is that she is going to read the letter to the Committee and then Mr Thornely-Taylor will comment on it, and then his proper cross-examination can begin. I hope that is

²⁰ Committee Ref: P152, Cross sections—Westbourne Park Villas (93/95) Existing and Future (SCN-20070314-003).

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acceptable, sir. Perhaps then we can put up the Sound Barrier Solutions letter and I think it is probably more appropriate if Lady Bright reads it.

20755. **Lady Bright:** It should be attached to the Van Campen letter. Is it?

20756. **Ms Lieven:** No, we just have it in the normal exhibits, I am afraid.

20757. **Lady Bright:** Unfortunately, the chap at Crossrail who sent the exhibits through to me yesterday is off sick today, so that is why we have had some problems. The letter from SBS is simply that there is another point of view on sound barriers in this location and Mr Thornely-Taylor has said that it would have to be completely unrealistically high to work. I just wanted to read you this letter from the expert we had to look at it.

20758. **Mr Binley:** I need to be clear. Lady Bright, are you going to read the letter in front of us into the record?

20759. **Ms Lieven:** That is what I believed was going to happen, sir. Beyond that is beyond my control.

20760. **Mr Binley:** Would you do that then, please, Lady Bright.

20761. **Lady Bright:** It should have come up earlier and, because of the technical problems, it did not.²¹ It says:

20762. “Dear Margot, First of all, I would like to thank you for our visit yesterday. I would have to say that, from a noise perspective, the potential scheme at Westbourne Park Villas is both a very interesting one and acoustically of clear benefit.

20763. “The existing wall—The primary issue is whether the 2.75-metre-high existing wall is capable of supporting the increased load of a noise barrier structure attached to the top. Certainly a structural engineer or a competent noise barrier installer would be able to confirm the integrity of a design. However, from first examination, we believe that even a low barrier system would provide a perceptible reduction in noise and it therefore should be considered as a viable option.

20764. “Potential noise reduction—It is apparent that a suitable noise study has not been carried out. As such, an informed judgment has not been presented as to whether a noise barrier would be of benefit. In our opinion, it should therefore be pursued. We have carried out an indicative examination of the location taking into account the existing wall, the position of the houses in Westbourne Park Villas, the basic topography and

spread of rail tracks. From this we have deduced an estimate for the performance of barriers of differing heights.”

20765. These are that the potential noise reduction from the ground floor façade with a one-metre barrier is two decibels, a two-metre barrier of four decibels, a three-metre barrier, six. From the first-floor level, a one-metre barrier would be three decibels, a two-metre barrier, five decibels, and a three-metre barrier, seven. For the second-floor façade, it would be a three-decibel reduction with a one-metre barrier, six decibels with a two-metre barrier, and nine with a three-metre barrier. It goes on:

20766. “This has assumed that the barrier has been installed to rest on top of the existing wall and that the barrier is absorptive in design. We would recommend that it is absorptive on both sides to reduce back reflections from the houses in Westbourne Park Villas. Normally, a 3dB drop in noise is regarded as not only perceptible but retainable. In other words, the noise reduction is noticed immediately and at a later stage. With this in mind, we would expect even a 1-metre-high absorptive barrier to give a moderate reduction in noise. The added load of a 1-metre high barrier would not be too onerous.

20767. “We would expect a 3-metre-high absorptive barrier to give a substantial reduction in noise at ground, first and second floor. This would clearly make a large difference to the quality of life for residents in Westbourne Park Villas. Our concern would be regarding the capability of the wall to support such a structure. Once again, we would emphasise that this is not our field and that it is a question to be put to a suitable structural engineer. However, Crossrail have confirmed that the wall is solid and well constructed in the environmental statement.

20768. “We would therefore view a 2-metre-high absorptive barrier as a possible compromise that still is expected to give a healthy reduction in noise.

20769. “Dimensions and Costs—We estimated the span between wall pillars to be about 4 metres. There are about 90 spans between the two rail bridges giving an estimated overall length of 360 metres. Assuming normal ground conditions, the cost of supplying and installing a 2-metre, high-performance, absorptive noise barrier would be in the region of £250 per linear metre. This would make the total cost of such a system to be only £90,000. This gives an indication of the order of magnitude of cost since the existing wall would most likely make the installation more complex.

20770. “This estimate is based on the installation of a typical zero maintenance metal absorptive noise barrier system similar to the Van Campen design.”

²¹ Committee Ref: A237, Correspondence from Sound Barrier Systems to Lady Bright, Environmental Noise Barrier Design for Westbourne Park Villas (WESTCC-AP2-10—05-001 and -002).

20771. I think perhaps I do not need to read the bit where they are offering to do a detailed study. Thank you very much for your patience on that. It was

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supposed to go with some photographs of which are quite unlike the sort which you will have seen Network Rail erecting, solid pieces of timber, on the West Coast Main Line. Is it possible to show those photographs or not?

20772. **Mr Binley:** Do you think it will help us?

20773. **Lady Bright:** Yes, if you have not seen any, because you will not have seen barriers like this much in the UK, certainly not in railway settings.

20774. **Mr Binley:** Are they included in this portfolio of photographs?

20775. **Lady Bright:** There is only one at the end.²²

20776. **Mr Binley:** I think members of the Committee are okay with this. Any concerns? No, I think we are okay.

20777. **Lady Bright:** You have seen enough barriers.

20778. **Mr Binley:** Before we move on and thereafter you might cross-examine Mr Thornely-Taylor, can I just for the record state that the letter which you have just read out will be entered into the record as A237.

20779. **Ms Lieven:** Sir, perhaps I could just ask Mr Thornely-Taylor for his comments on that letter.

20780. **Lady Bright:** Do you need the qualifications of the author?

20781. **Mr Binley:** We have a copy of everything, I think.

20782. **Ms Lieven:** Mr Thornely-Taylor?

(Mr Thornely-Taylor) Yes, I have studied the letter and the predictions appear to be appropriate for the location which we saw earlier on in the cross-sections, an example being 14-16 Westbourne Park Villas, and that was the exhibit number 17.²³ The only problem with the numbers is that I think they all assume the rail noise source is down at rail level. If you take into account the fact that with high speed diesels the noise sources falling to above ground level, the numbers come down a little bit, particularly for the higher barrier. Let us, for other purposes, assume they are broadly right for this cross-section. Here, of course, we have the case where Crossrail is done in a cutting and, however much one might wish for Westbourne Park Villas residents the reduction in noise from the main line, it could not be said that the Crossrail project there merited the introduction of a noise barrier against the Network Rail traffic. The important thing is the other exhibit number, 18, which represents the cross-section for the terrace to the west, the short terrace that remains on the north side of the road and immediately backs onto the

railway.²⁴ Even the noise barrier company we have just been hearing from would say that above ground floor level there is no effect from the three barrier heights that they have considered, because on the upper floors of the houses, where we have heard people sleep, they would simply be seeing all the trains over the top of the noise barriers, and no noise reduction is possible there. In the location where Crossrail is at grade and does contribute a small amount, as was mentioned this morning, to the total railway noise environment, that is the place where noise barriers would have no effect at the floor levels concerned.

20783. **Ms Lieven:** Thank you, Mr Thornely-Taylor.

20784. **Mr Binley:** Lady Bright, would you now like to cross-examine Mr Thornely-Taylor's evidence?

Cross-examined by **Lady Bright**

20785. **Lady Bright:** To pick up on what you mentioned about the terrace on the north side of the few houses there, they were not be included in this assessment because Crossrail has already offered them insulation because they are way above the trigger levels and they know that. Would it be right, Mr Thornely-Taylor, to say that a sufficiently-detailed assessment to make sound predictions has not yet been made and cannot yet be made because you cannot feed in all the data you need for that site until you know what is going to be there?

(Mr Thornely-Taylor) That is not the reason. A detailed noise prediction would be carried out if the Crossrail project had an effect which merited the possible inclusion of the noise barrier. It does not require a detailed study to see that noise barriers would have no effect to the terrace to the west, and Lady Bright appears to accept that. To the east where the Crossrail alignment is diving down in the cutting the effect does not merit looking in detail at the benefits of the noise barriers, so while, indeed, if it were in somebody's powers to put noise barriers against the existing Network Rail noise sources that is something quite separate from the Crossrail process.

20786. You accept the only difference to the west is only to the houses sitting on the tracks, I am referring to, not the west end of Westbourne Park Villas, just to clarify. Would you accept that the screaming 125s are being phased out, and would you also accept that there is no point making the best the enemy of the good?

(Mr Thornely-Taylor) I too have read the announcements that have been made about the phasing out of the high speed diesels and I think it is quite possible by the time Crossrail comes into operation they will be no more on that section of the track. There is a general principle that one should not make the best the enemy of the good. Unfortunately, we are offered neither good nor best nor anything worth doing at all from the point of view of mitigating the effect of the Crossrail project.

²² Committee Ref: A236, Example of an absorptive noise barrier (WESTCC-AP2-10—05-003).

²³ Committee Ref: P152, Cross sections—Westbourne Park Villas (14/16) Existing and Future (SCN-20070314-002).

²⁴ Committee Ref: P152, Cross sections—Westbourne Park Villas (93/95) Existing and Future (SCN-20070314-003).

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20787. Would you agree that your dismissal of the efficacy of the noise barriers in this situation does not stand up if the high speed diesels with the noise on the top are no longer there?

(Mr Thornely-Taylor) Two things will happen. The overall noise level goes down, so the severe effects that we have heard in evidence of having high speed diesels going past your window at night will be greatly improved. It is quite true that then the remaining rail vehicles which operate on that end of the track will probably still be diesel, but I have not seen plans to rectify the main line. The formal method of prediction always says when there is a diesel locomotive the source is four metres above rail level, but I do accept that future cars on diesel or mainline stock may well have lower noise levels. On the bottom, things may get better, but the noise barrier company I think followed the formal statutory calculation procedure—it is called the “Calculation of Railway Lines”—published by the Department for Transport and that tells you, whether you like it or not, if it is a diesel locomotive the sources all need upgrading so they would produce the same letter in the year 2012, or whenever it happens to be, even if the high speed diesels have gone.

20788. Do you recall saying in your evidence, and there was a great deal of discussion and questions from the Committee, on 27 June that there was a great deal that could be done to improve the noise environment there if Crossrail had the power to deal with Network Rail’s noise?

(Mr Thornely-Taylor) Yes, I have not said that I disagree with the letter from the noise barrier company. It is possible to reduce the noise from the main line in that area.

20789. But you did come up, indeed, with some very helpful suggestions of other things that could be done if we were dealing with Network Rail and not Crossrail last year, you recall that I am sure?

(Mr Thornely-Taylor) Yes, there are other issues. We heard evidence about noise from the Heathrow Express coming over there and there may be some form of mitigating that, I do not know. It is not within Crossrail’s power or the area for which we are concerned for these purposes.

20790. **Lady Bright:** Again, we wish to make the point we will be dealing with Network Rail on Network Rail’s property and we will come to that. Thank you.

20791. **Mr Binley:** Thank you very much, Lady Bright. Ms Lieven, would you like to re-examine?

Re-examined by **Ms Lieven**

20792. **Ms Lieven:** There are two little points of fact to cover, Mr Thornely-Taylor. First of all, if we could put up the photograph 001 to explain the position to the Committee.²⁵ I am going to lead you on this, Mr Thornely-Taylor, as a matter of fact. We have got the footbridge there and the farm is over here. I think it is

correct that these are the properties you were talking about, which have been retained and are on the north of Westbourne Park Villas and I think it is right that Crossrail starts going down into cutting just to the west of the footbridge. Is that right?

(Mr Thornely-Taylor) Approximately there, yes.

20793. **Ms Lieven:** The only other thing which we should have picked up earlier is we heard that the Heathrow Express continues to go across jointed track; as far as Crossrail is concerned will it be a continuous welded track in this location?

(Mr Thornely-Taylor) I understand it will be.

The witness withdrew

20794. **Mr Binley:** Do you have any other witnesses?

20795. **Ms Lieven:** No, sir, I cannot think of any other witnesses that would be relevant.

20796. **Mr Binley:** We are not encouraging you!

20797. **Ms Lieven:** Just checking.

20798. **Mr Binley:** Would you like to proceed to your final statement then?

20799. **Ms Lieven:** Yes, and I will keep it short. The first issue is the footbridge, sir, and the simple point to emphasise is that we are making it DDA compliant, we are providing disabled access on the south side which means that anybody with mobility impairment problems will be able to get across that bridge where they cannot do at the moment and where it is important to emphasise neither Westminster City Council nor the Academy have seen fit to upgrade the south side of the bridge. We have heard a great deal from Lady Bright and Mr Kelly about the real need to upgrade this bridge is for the academy students, but the Academy has not felt that need. It is prepared to live with the situation where the north side is DDA compliant and the south side on any analysis will not be DDA compliant for a number of years until Crossrail comes along, so, sir, it is difficult to see that the need is quite so great for the Academy, as has been suggested. The point to emphasise is that once Crossrail comes along it will be a fully-compliant DDA bridge. As far as the width across it is concerned, that width is acceptable within the Department for Transport’s standards; it is not ideal but it is expressly acknowledged in that document I showed you earlier to be an acceptable width. It is plain, sir, that there is sufficient space for, for example, two wheelchairs to pass on the vast majority of the bridge. There is plenty of space for a wheelchair and a double-buggy, say, to pass. So one does have to approach this with just a touch of reality; the number of times when two wheelchairs need to get past each other, or indeed a double-buggy and a wheelchair, is not going to be a huge number. So the fact that one may have to wait for a few seconds for the other to manoeuvre past is, in my submission, not really a tremendously great disadvantage.

²⁵ Crossrail Ref: P152, Aerial view of Westbourne Park (WESTCC-AP2-10—04-001).

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20800. The final point, sir, is that I would stress, and I know I have said this on a number of occasions in the last 18 months, and maybe I will say it once or twice more, but there is a need to keep some hold on what is Crossrail's responsibility in London, and what is other people's responsibility. It is no part of the need of Crossrail for this bridge to be DDA-compliant; it is not for Crossrail passengers, it is not for Crossrail's operational purposes; it is a bridge owned by Network Rail, a Network Rail operational track where the need appears, if there is one, to stem from Westminster City Council education and the Academy proposal and use. I do suggest to the Committee that there is a moment to say that Crossrail cannot solve a vast array of problems that really have absolutely nothing to do with it. That is the bridge.

20801. On noise, I split this into two parts. The batching plant. There are two major advantage, as Mr Berryman explained, to our proposal in terms of noise from the batching plant. The first is that the freight trains will not go anywhere near so far east. You saw that from the photographs; they cannot physically go beyond point Y.²⁶ There is no question of detailed design there; there is no space. So residents living at the western end of Westbourne Park Villas will have a major advantage in terms of noise from freight trains there. The second advantage is that the new batching plant will be enclosed—you saw the photograph of the King's Cross plant—and for those who went on the site visit you will remember the existing batching plant is entirely open, so there will be a major benefit there by the enclosure in terms of the noise that comes from the aggregates being dropped into and out of vehicles.²⁷ So two big advantages.

20802. In terms of should we just wipe out the batching plant, sir, I gave quite a long submission on this back in June, day 45A and before, on planning policy. The London Plan is entirely clear that rail-served plants such as this must be protected. The reason is obvious: if they are removed then it is highly likely that there will be a transfer of traffic from rail on to road which is wholly contrary to the sustainability principles in the London Plan. So the idea that, really, it would be better to wipe it out is, in my submission, a non-starter. Sir, the idea that it is acceptable for Crossrail to go along and remove businesses such as Tarmac in order to assist local residents—if we did that we would have Tarmac here, who were Petitioners earlier, protesting in the strongest possible terms that it was simply unjustified for Crossrail to wipe out their business at this location because there was a perfectly feasible plan to put it back.

20803. Sir, on the batching plant and the suggestion of sending it to Old Oak Common, there is neither the space at Old Oak Common and it involves

significantly longer journeys by road for the concrete, which as Mr Berryman said is neither good for the concrete and is likely to involve more of it being rejected, but also is contrary to the sustainability principles in the London Plan, again.

20804. Finally, on noise barriers, the point to stress is that Crossrail causes virtually no appreciable difference to noise at this location because the new trains will be quieter than the existing trains and for a significant proportion of this section they will be going down into cutting. The real noise here, and Mr Berryman was asked this something like nine times, is from the high-speed diesels coming along; not Crossrail. I quite understand Lady Bright's desire to seek this opportunity of Crossrail to gain a noise improvement, but it is important to understand the cause of the problem here, which is the high-speed diesel. So far as putting up the noise barrier is concerned in terms of limiting Crossrail noise, you have just heard Mr Thornely-Taylor's evidence that it would have a minimal to non-existent effect on Crossrail noise because of the location, and even will not impact on the high-speed train noise, because the noise is coming out of the top of the train, at something like 4 metres high. It would be exceptionally difficult to build a barrier high enough to have any real impact on the bedrooms. As you have heard from the witness earlier, it is the bedrooms at the upper level of the house which are suffering noise at night, and in order to protect those you are talking about a monumental barrier. So, sir, in my submission, it is just not Crossrail's problem. The answers just do not lie in the proposal.

20805. Sir, that is all I was going to say in closing, unless there are any other matters you would like me to cover.

20806. **Mr Binley:** No, thank you. Lady Bright?

20807. **Lady Bright:** The bridge and wheelchairs rushing about. We spent half an hour waiting outside and we saw two wheelchairs pass twice in the corridor, while we were sitting there, and it is a nice, wide corridor. So it is not that rare. The bridge that we need there has to be done properly; there is no point in doing it if you are not doing it properly.

20808. The Committee was helpful in its questioning and seems to have taken the point very well, so I do not want to hammer it all too hard. The difficulty is that the Academy which Ms Lieven has just blamed for not doing the southern end has not even been born yet; it opens in September, so it is a bit rough to blame the Academy for not making plans that work better on Network Rail's bridge. I say that Network Rail is really the ghost at the feast today; there are so many things we would like to have been able to say to Network Rail or asked Network Rail about. I think we are right in assuming they will be the nominated undertaker; they have, at some point, to pick up responsibility for what is their bridge. What we have asked Crossrail for is to abide by and stick to the recipe they were given in Inclusive Mobility for

²⁶ Crossrail Ref: P152, Westbourne Park—proposed turnback and freight area (WESTCC-AP2-10—04-016).

²⁷ Crossrail Ref: P152, Concrete batching plant at Kings Cross (WESTCC-AP2-10—04-002).

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standards, which would mean doing a proper job and to have broadening consultation to include Westbourne Neighbourhood Forum and the various local residents groups, the police and the disabled. The later part of the Disability Discrimination Act which has just come into effect, at the end of the year, says that you do actually now have, as a public body, to have a disability equality policy. There is time to phase it in but that means including them in consultation. So I do hope for the support that we are asking you to sign up to and which Crossrail finds difficult. Obviously, Network Rail will be part of the consultation.

20809. Thank you to Crossrail for clarifying and tightening up and all the work you did on those drawings for the freight side. It clearly will make a lot of difference. I am sorry we were a bit sceptical to begin with but thank you for doing that. We still do not think the concrete plant should be there and, just for the record, we would not call Old Oak Common a place with no space—it has 33 acres and not much happening there. Also, it will have Crossrail's own concrete plant, but will leave that subject at that point.

20810. Noise barriers. I hope you accept there is an alternative view. I hope you accept that by the time Crossrail trains start running the high-speed trains should not be there any more. So that makes a difference to all the calculations. I hope you also accept from Ms Hessenberg's evidence, that you may have gathered that it is quite a complex noise environment and it would require a much more detailed study before anyone could say with any certainty what the noise effects of Crossrail's trains are going to be, bearing in mind that the initial baseline measurements were taken at the noisiest location and only one on the north side where the houses sit on the track. Also, the projections do not account for Crossrail starting later and there being high-speed trains there. So we have to repeat, as we said before, we find it quite incredible that anyone can run 48 trains an hour and that sometimes they will be passing so that will amplify the noise, and have a siding there so close to the houses with nothing but

that low-ish wall between us and them, and that we will not hear an appreciable difference. What we are asking for is certainly no material worsening from Crossrail. As for improvements in the rail noise environment, we would refer you to last week's publication of the Royal Commission on Environmental Pollution's latest report on the urban environment, some of you may have read it, some of you may at least have heard what Sir John said that "The commissioners were absolutely astonished that on the eve of a new phase of urban generation and expansion we lack an overarching urban environment policy to co-ordinate the provision of housing, transport, energy and other vital services".

20811. Ms Lieven referred to the Greater London plan on losing rail serve batching plants, we are not going to go into that argument again, but what about planning PPG24, that equally important planning guidance note, which says, "You should not give planning permission where the day time noise level is higher than between 66 and 74 decibels and the night time level between 59 and 66", if that were applied you would not be building anything around us. That is one reason why we have only got office blocks in the Paddington development where they are immediately adjacent to the railway. I think this picks up the point that the Royal Commission was making, we do need some joined-up thinking here and we would be very grateful for any help that the Committee can give us in pushing that forward because we do believe, not just for our own narrow interest, that the time is now. Thank you very much.

20812. **Mr Binley:** Thank you very much. That ends the deliberations at this stage on this particular item and it is time for me to relinquish this rather comfortable chair to the dually appointed Chairman of this Committee and resume my place on a less comfortable chair over there.

Mr Alan Meale resumed the Chair

20813. **Chairman:** The next petition will be the Marriot Hotels presented by Mr Allan Leddon. I understand that you are representing two cases including the West India Quay Development?

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Mr Allan Leddon appeared on behalf of the Petitioners.

20814. **Mr Leddon:** That is correct, Sir. If I can give you a bit of background about the matter.

20815. **Chairman:** Before you proceed, Ms Lieven, would you like to outline?

20816. **Ms Lieven:** Yes, I will give you a very quick factual outline of where we are, Sir. We are moving from the west side of London to the east side of London, it is one of those days. Isle of Dogs; you will remember the station lies in the dock and the Marriott Hotel and the West India Quay apartments are in this

block here on the north side of the dock in this tower here.²⁸ I do not know the disposition between the hotel and the apartments, but I do know they are all in the same building.

20817. Very briefly, Sir, I understand the Marriot's concern is that the Committee may remember, and I am afraid I have not checked who was here when, for the construction of the Isle of Dog station, there are

²⁸ Crossrail Ref: P152, West India Dock North—Aerial view (TOWHLB-AP3-45—04-007).

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two potential construction scenarios and that was explained to you by Mr Berryman two or three weeks ago. Under Scenario Two the proposal is to place the cut-off wall from roughly outside the Marriott across to a little insert here which is known as Wren Landing and the proposal is that the cut-off wall there, and Mr Berryman will explain it to you in far more detail, the silt from the east side of the dock is brought over and deposited at the west side of the dock under water and on the east side of the cut-off wall the dock is drained in order for the construction to go ahead and the Marriott's concern is that they are not very happy about the loss of the water view in front of the hotel through the period of the works and they would like us to move the cut-off wall further to the east and Mr Berryman will explain to you in technical engineering, and I will not attempt to pre-empt him on that, why moving it east is really not a feasible or sensible alternative so that gives you a very brief overview of where we are. As I say, the station itself lies in here and ultimately will be under the water and you will remember there are two station entrances that pop up out of the dock.

20818. **Mr Leddton:** Sir, if I can briefly explain why we are here. The Marriott Hotel is owned by West India Quay Development Ltd which is the second largest freeholder in the Canary Wharf area. The hotel itself is operated by Marriott Hotels Ltd and there is a management contract between the two whereby the freeholders, West India Quay Development, have an interest in how well the hotel is doing and operating. To that end, it is our intention to address both the petitions before you today. I am calling one witness who is Paul Downing who is the General Manager of the hotel and who is the person, if you will pardon me saying so, at the sharp end of the receipt of these proposed works by Crossrail. I think I can do no more than ask Mr Downing to address the Committee and tell them a little bit about himself and the operation that goes on onsite and perhaps I can ask him to do that, Sir.

Mr Paul Downing, examined

Examined by **Mr Leddton**

20819. **Mr Leddton:** Mr Downing?
(Mr Downing) Good afternoon. I have been in the hotel business for 25 years and I have been with Marriot International for that length of time, and I was with other companies ten years previous to that. I have opened and operated in eight different countries. Marriot International has 2,700 properties worldwide and operates in 63 countries. Marriott has a management contract, as we have just heard, with the West India Quay Development company who is owned by the Yianis Group. I have worked at the London Marriott West India Quay Hotel and Executive Apartments since June 2003, one year before it opened and in June of this year the property will be open three years. The hotel is positioned as a fresh take on London and it is a five star property. The annual occupancy for the hotel last year was 78 per cent and for the serviced apartments 86 per cent. Our

main source of business is from the international business guests, Sunday through Thursday. We sell out most nights. On the weekends the customer profile changes totally as it is the leisure customer, mostly from the UK and Europe. Canary Wharf and West India Quay is one of the largest areas for al fresco dining in London and our customers love relaxing outside by the water for both business and pleasure. We have spent thousands of man hours and advertising pounds letting people know that there is an alternative to West London, that our property represents a fresh take on London and our point of difference is being on the water. We also recommend that our guests use water commuter boats to experience the river and the different perspective it gives to our great city. The Quayside and Canary Wharf area is growing steadily to becoming viewed as a brilliant destination for the leisure traveller.

20820. **Mr Leddton:** Mr Downing, I wonder if I could stop you there for a moment. We produced some photographs for the Committee and I was wondering if you could put up the waterside view.²⁹ Can I ask you to proceed from there, Mr Downing.

(Mr Downing) If we lose our water view for five and a half years this will have a major impact on our business and all businesses around us. Looking at mud and silt and potential odour issues during the summer will affect our business in a dramatic way as our customers do have a choice of alternative facilities in the local area. It will directly impact the views of 131 hotel rooms and service departments which currently face south and overlook the water which is a popular request. This does not include 32 rooms and apartments facing east which will overlook the construction of the Crossrail station. In the Canary Wharf area we have other hotels, the Four Seasons, two Hiltons, the Britannia, the Radisson which is opening in August this year and ten minutes away we have a Holiday Inn, Crowne Plaza, Novotel and Ramada all with water views. For service departments we have Fraser, Circus and 60 new apartments next to the Hilton Canary Wharf all with water views. I have serious concerns that if the water is drained in front of our hotel, apartments and restaurant, it will affect our business dramatically in all areas including banqueting and groups. The hotel currently employs around 240 people and with a sustained decline in business, the possibility of the need to forcibly reduce staffing levels is increased which is highly alarming. We have a £22 million business and if this is impacted, for example, of 50 per cent over a five to six year period the potential loss would be around £70 million and that is for our business alone. This does not take into account loss of business before and after the works and the advertising costs we will have to re-establish our business. If the plan to drain the dock goes ahead, we will have to inform our customers in advance and this will affect future bookings.

²⁹ Committee Ref: A238, London Marriott West India Quay Hotel (TOWHLB-AP3-8—05-005).

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20821. **Chairman:** Just before you move on, we have not got a copy of the photograph which is on the screens at the moment.

20822. **Mr Leddon:** Sir, we have brought 16 copies of the advertising brochure within which that photograph occurs.

20823. **Chairman:** We have received three which we can list as 238 a, b and c, but if you could get us a copy of this one at some point.

20824. **Mr Leddon:** Sir, I have handed them to your Committee clerk and I understand that they are available for circulation.

20825. **Chairman:** We will list them as 238 a, b, c and d.

20826. **Mr Leddon:** I am grateful to you, Sir. I was wondering if we could now put the scenario two drawing, which I think is 11—04-003 on the inquiry documents, up which shows the dock as drained.³⁰ Mr Downing, you can continue.

(Mr Downing) Group and catering bookings are often done one or two years out and there is no guarantee of the completion date, it will affect our business in future for several years, even when the works are completed. Guests who chose to stay in other hotels may not return, even once the construction is completed. We do support Crossrail, as we know it will benefit the area and we feel the impact to our business and the surrounding businesses will be less only if the Select Committee supports my plea not to drain the dock immediately in front of the hotel. If I may suggest the dam be built directly beneath the DLR track which is about 80 meters from the current planned dam on Wrens Landing. The proposed Crossrail station is further towards Billingsgate Market allowing construction to take place and leaving water in front of our property. We know that even with this solution we may still be impacted through the construction noise, dust and possible odour issues, but it is a much more workable solution. I thank you for listening to my concerns today and behalf of Marriott International and the Yianis Group this is very much appreciated. Thank you.

The witness withdrew

20827. **Mr Leddon:** Thank you, Sir. That is the evidence.

20828. **Chairman:** Ms Lieven?

20829. **Ms Lieven:** Sir, I am not going to cross-examine because the answers are all engineering ones and I will call Mr Berryman to deal with them.

Mr Keith Berryman, recalled

Examined by **Ms Lieven**

20830. **Ms Lieven:** Mr Berryman, you are very well known to the Committee but these petitioners have not been here before so perhaps you could explain your position on this project for them.

(Mr Berryman) I am the Managing Director of CLRL which is responsible for assisting the promoter in the promotion of this Bill. My specific responsibilities relate to the prosecution of the Bill.

20831. **Ms Lieven:** I would like to go straight to the heart of this matter. First of all, why are we supporting Scenario Two as one of the proposed methods for constructing the Isle of Dogs station? What are the advantages of Scenario Two?

(Mr Berryman) There are a number of advantages with Scenario Two. One of the main ones is that it does not require offsite disposal of the dock silt. In the bottom of the dock there is a layer of silt and we are not quite sure how thick it is at the moment, but we know it is there. If we go for the other scenario, Scenario One, which is building an island in the middle of the dock, we will have to dredge that out and move it off-site and it is extremely difficult to find disposal sites for silt around the London area. The advantage of this is that we know as long as we keep the silt within the dock area, it is acceptable to the Environment Agency and the authorities who have responsibility for it. There is already a case in point where this area here which is known as Adam's Place has been used as a silt store for some time. The idea would be to put the silt in here, cover it with water and then, in due course, when the construction stage has been finished re-distribute it back over the bottom of the dock. That is one of the main advantages, the other advantages are that we would need to import less fill, Scenario One involves building an island and that would involve bringing more material in. It has got a larger work site and easier access and it should lead to overall shorter construction time and better services of the programme. It also means that the walls and so on that we have to build are shorter because we are starting from the bottom rather than at a point six meters above. It should help reduce noise, particularly for Canary Wharf people, but also hopefully for the hotel as well simply because equipment would be lower down and it should generally help with the reduction of noise.

20832. **Ms Lieven:** Thank you. Can you explain why the cut-off wall needs to be in this location? To orientate us here is the Marriott.

(Mr Berryman) There is a particular problem at the south side of the dock. There is a large building on piles which is built out over the water so the dock edge is here.

20833. **Ms Lieven:** That is the Banana Wall?

(Mr Berryman) That is the so-called Banana Wall and there is another building here which is also on dense piles. This is the area where the density of piles is less and therefore there is more room for us to get in.

³⁰ Committee Ref: A239, Isle of Dogs Stations Site Plan (Scenario 2) (LONDLB-AP3-11—04-003).

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The other location which was mentioned by the petitioner is here and there is also a very dense network of piles underneath here because this supports the Docklands Light Railway. The location that is really optimum for the south end of this wall is here and then having selected that as pretty well the only viable option for that south end, we are then looking for where to put the north end. There is a corner here of the Marriott basement which is a diaphragm wall just at the back of that Banana Wall which is there and that is a good position for us to connect to.

20834. Thank you. If you could just give us a little bit more detail, if we were to go under, first of all, to connecting under FC2, which I think is a large office block occupied by a legal firm, what would be the problems with connecting in there?

(Mr Berryman): Well, the difficulty is that there is a very dense network of piles into the bottom of the dock which supports this building, and the way that we will have to do this by going under the building involves us getting in there with floating plant and so on, and it is impossible to get in effectively under this building in—well, it is not even in a cost effective way. It is impossible for us to get in.

20835. This is possibly the first time on the route where you have used that word. This really is more than normally difficult, is it?

(Mr Berryman): This is more than normally difficult. I have often said that anything in engineering is possible if you throw enough money at it. Moving Clifford Chance out of here probably exceeds the bounds of throwing enough money at anything!

20836. You said I think that it would be under the DLR bridge. What kind of specific problems would arise if you try to go in under there?

(Mr Berryman): It is exactly the same problem as under Clifford Chance. There is a very dense network of piles. You can see even from this drawing that the structure is quite complicated with crossovers on the rail tracks and the like. As I think you know I actually worked on the DLR and I am aware that there are many piles under that area.

20837. **Chairman:** You were the engineer on that?

(Mr Berryman): Actually on that one, sir, I was not the engineer. I was the engineer on the extension eastwards from there.

20838. **Ms Lieven:** One issue on which perhaps we can put the Marriott at rest a little bit is odour from the silt and the works in the dock. Can you explain to what degree there is likely to be an odour problem and the relevance of this letter?³¹

(Mr Berryman): Yes. Canary Wharf Group, who are the big land owners in the area, have on a number of occasions drained the bottom of the dock usually by putting a cofferdam around it first and then pumping the water out, and they have told us on several

occasions that they have not experienced odour problems, and I think that is probably the best guide that we have here. We have not been able to identify a scientific way of knowing whether there will be odour problems but experience tells us that there will not be any problems with that.

20839. **Ms Lieven:** Thank you very much, Mr Berryman. That is all.

20840. **Chairman:** Thank you. Mr Leddon?

Cross-examined by **Mr Leddon**

20841. **Mr Leddon:** Can I, first of all, try and understand how we got here? As I understand it these proposals form part of the Third Amendments to the Bill?

(Mr Berryman): That is correct.

20842. So originally you were going to have a different method of construction of the stations?

(Mr Berryman): That is correct.

20843. What did that entail?

(Mr Berryman): That entailed driving two rows of sheet piles in the form of a cofferdam around the whole of the station site. The two rows would then be tied together with cross ties and filled with soil or granular material to form a cofferdam around the site. The reason that was rejected was because it would have been a very, very noisy method of construction. It is the way that Canary Wharf have constructed a number of buildings in the past, but as their estate has become more occupied it has become more and more difficult for contractors to get permission to drive the piles in that way, and the number of piles involved in that would have been very substantial.

20844. But in terms of it being an optimal engineering solution to the problem, is it one that Crossrail still stands by?

(Mr Berryman): What, the original scheme?

20845. Yes.

(Mr Berryman): No. We have dropped that scheme in response to Petitions by almost all the owners around the edge of the dock, and I think your own hotel would have been very severely impacted in terms of noise impact by that scheme.

20846. I suppose what I am trying to get at, Mr Berryman, is whether or not Crossrail got the original engineering wrong, or they have changed their mind in view of the level of compensation claims that may be made against them?

(Mr Berryman): No, compensation is not really an issue. There is nothing wrong with the engineering and, as I said, many of the buildings around Canary Wharf have been built in that manner, but with more recent experience—since we deposited the Bill, in fact—Canary Wharf have been building buildings considerably to the east of where your hotel is and on the south side of the docks, but they have only been

³¹ Crossrail Ref: P152, Correspondence from Canary Wharf Group plc to CLRL, Crossrail Isle of Dogs Station—Odour Issues, 16 February 2007 (TOWHLB-AP3-8—04-007).

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allowed to pile for two hours a day, and with the immense amount of sheet piling that would have been involved in the original scheme we would have been there for years just to get the sheet piles in.

20847. You can imagine the comfort my client takes from the fact you have changed your mind once about the engineering solution because of Petitions received in respect of it, and this is what we are asking you to do again, to re-look at your engineering solutions, but can we go back and look at the two engineering solutions that you have actually proposed in this particular matter, the first being Scenario One, AP3-11—³²04-001. This is the construction of the sand bund, is it?

(Mr Berryman): Basically, to simplify, what this involves is lowering the water to about half the current level, building a kind of island in the middle of the dock where the station will be, and then constructing the station from the top of that island. That is Scenario One, yes.

20848. Is that a scenario which Crossrail still intends to have as one of its two options?

(Mr Berryman): It is. We would be perfectly happy with that option.

20849. But strong preferences have been made for option 2, have they not?

(Mr Berryman): We would be perfectly happy with option 2. Option 2 does have a number of advantages over option 1, in particular in reducing the amount of fill that we would need to bring in. As I just remarked, with option 1 we have to build an island in the middle of the dock and that requires an immense amount of material. Option 2 would probably let us get out of the way quicker. We are thinking in terms of a period of about three and a half years between when we pump the water out of the dock and when we let the water back in, so it will be significantly quicker than option 1, because when we have finished option 1 and have built the station we have to dredge out the island and take the island away, so it is quite a heavy task. If there are reservations about option 2, they are more to do with the stability of the Banana Wall and such like than anything else, and that may be the tipping factor, but if we can solve that problem, which we are confident we can, option 2 is a preferable option.

20850. But, so far as Scenario One is concerned, it retains half the level of the water directly in front of the Marriott Hotel throughout the construction period?

(Mr Berryman): That is correct.

20851. Is that something that you would take into account at all in coming to your decision about which of the two options you wish to pursue?

(Mr Berryman): Certainly that would be a factor that would be taken into account. The interest of all the riparian owners is significant. You are not the only

people who are affected. The Museum of Docklands and all the other people have views on these matters as well, of course.

20852. Yes. And so in coming up with Scenarios One and Two, and in particular Scenario Two, what consideration, if any, has been paid to the visual impact of the proposed works of draining the dock for five and a half years?

(Mr Berryman): Well, as I just said a moment ago, it probably would not be five and a half years but I suppose that is slightly academic. We do take into account visual impact, as you will see from the Environmental Impact Statement, but obviously it is only one factor amongst many that have to be taken on board.

20853. Yes, but if we actually look at the Environmental Statement and in particular the impact on visual amenity, there is no reference in there to the impact it will have on the hotel guests at the Marriott Hotel, is there?

(Mr Berryman): Obviously there is no permanent impact, as you know, because the water comes back again afterwards.

20854. But even when it lists the temporary impact that is not one of the temporary impacts that is listed?

(Mr Berryman): It is not listed as significant, no.

20855. And in terms of retention of existing water courses, the retaining of the water there, I think your Environmental Impact Statement says: "Whenever reasonably practicable interference of surface water features will be avoided". Is that something you have taken into account in coming to these two scenarios?

(Mr Berryman): Yes, but it hinges on the definition of what is reasonably practicable.

20856. But you have already indicated there are three, or have at least to date been three, possible different ways of carrying out this method of construction, so the range of what is reasonably practicable here seems fairly wide, does it not, Mr Berryman?

(Mr Berryman): There are many things which are practical in engineering. A lot of it is about finding the best balance between the different options which are available.

20857. And in terms of considering what the impact may be of carrying out Scenario Two, what account will Crossrail take of the possible financial impacts on the businesses in that area, and on my client's hotel in particular?

(Mr Berryman): Well, there are financial impacts on some other Petitioners who we will hear shortly, the commercial boat owners, which we have taken into account, of course. I feel bound to say that my view of the impact on your client's business is very much less pessimistic than theirs. Having stayed in many hotels around the world, the quality of the view is far less important than the quality of the service, and I know that the service in this hotel is very, very good.

³² Committee Ref: A239, Isle of Dogs Stations Site Plan (Scenario 1) (LONDLB-AP3-11—04-001).

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20858. I hear what you say, Mr Berryman, but have Crossrail undertaken any kind of cost benefit analysis to analyse what the impact of the proposed works under Scenario Two might be to my client's business, and other businesses in the area?

(Mr Berryman): No, we have not done that.

20859. So, as it stands before this Committee, the only evidence that we have is from the general manager of the hotel, which seems to be unchallenged?

(Mr Berryman): Yes. I would not put it quite like that myself.

20860. Well, unfortunately nobody seems to have asked him any questions in cross-examination.

(Mr Berryman): I think the question of what makes a hotel successful or not is a very complex one which I am not competent to answer, but I would just say that the view out of the window is in my experience rarely the deciding factor.

20861. You appreciate that this building is a purpose-designed and built building for hotel use, taking into account the water views?

(Mr Berryman): Yes, I do.

20862. And removing those for five and a half years do you think might have an impact on that?

(Mr Berryman): Well, three and a half years. Frankly, I doubt it. I am not the right person to ask about the impact on hotels but the Marriott Hotel there is situated in an area where heavy construction has been going on for a number of years and will continue for a further number of years, and I do not imagine that is something which really deters potential customers very much.

20863. But unfortunately is it not true to say that none of those other construction projects are proposing to remove the water view from the site?

(Mr Berryman): Yes. Of course it is true.

20864. Of course it is, yes. Can I move quickly to the issue of the storage of the silt? I think you indicated in your examination-in-chief that you are not too sure exactly how deep the silt is in the dock area, is that correct?

(Mr Berryman): That is correct, yes. As I mentioned last week, we have a further programme of site investigation for this area to be carried out.

20865. So you have no real idea of the volume of silt you are going to have to move and store?

(Mr Berryman): Well, it is not as if we have done no work on this. We have a number of discrete locations where we have established the thickness of the silt, and we have interpolated from that and we have allowed quite a significant margin of error in calculating the volume that we need to retain, so insofar as it is possible to be confident at this stage of design I am reasonably confident that we can achieve that.

20866. But you have no idea exactly what the material will be made up of, or how much, for example, gaseous releases may be released in the event of the silt being moved, have you?

(Mr Berryman): We have obviously ideas of what is in the silt in the areas which we have sampled, which I will be happy to concede are very few sites, but we do have the experience of the Canary Wharf Group to rely on who have given us valuable advice in this matter, and you saw the letter which Jim Berry wrote to us based on their very substantial experience of dewatering parts of these docks.

20867. But the Canary Wharf letter relates to their experience of storing silt elsewhere under a covering of water, is that correct?

(Mr Berryman): No, it is more than that, is it not? Can we pull it back up again?³³

20868. **Kelvin Hopkins:** Just to confirm, is the base of the dock concrete?

(Mr Berryman): It is not concrete, no.

20869. It is just clay, is it?

(Mr Berryman): Yes. There you see it says: "Subsequently Canary Wharf has constructed cofferdams around . . . Barclays, . . . State Street and . . . Heron Quays. In all cases, water was removed from inside the cofferdam and the silt was exposed, and thereafter removed both from the body of the cofferdam . . ."—which is exactly what we are proposing to do here. "On carrying out the work, odour was not raised as a significant issue". Of course on an issue like this there can be no guarantee because you can always find something, but there is no guarantee if we do Scenario One that there will not be silt disturbed and gas released.

20870. **Mr Leddon:** But leaving aside the issue of the silt to be stored when removed from the dock, what about the bottom of the dock itself? Once that is exposed to the elements for, I do not know, three and a half to five and a half years, what effect will that have on odours or smells coming out of the dock over that period, or do you not know?

(Mr Berryman): Well, based on experience with other projects in the docks there will not be any odours. The bottom of the dock is, generally speaking, puddle clay, which was a Victorian or Georgian technique for waterproofing structures of this sort, and it is a material which we are very familiar with. It is used on all the canals and things round the UK.

20871. Finally, going back to 11-04-003, Scenario Two, which is a point my clients have put on a number of occasions of moving the dam further down, you have explained that there are problems with piles

³³ Crossrail Ref: P152, Correspondence from Canary Wharf Group plc to CLRL, Crossrail Isle of Dogs Station—Odour Issues, 16 February 2007 (TOWHLB-AP3-8—04-007).

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under Messrs Clifford Chance's building.³⁴ Would it make any difference if it was not occupied by a firm of solicitors, Mr Berryman?

(Mr Berryman): We always try to disturb the members of the legal profession as much as we possibly can, of course!

20872. I think my client's request was to move the dam further down towards the DLR bridge. Is there any particular reason why the dam has to be amongst the piles of the bridge? Could it not be put either side and, therefore, avoid the problem with the piles?

(Mr Berryman): The buildings there come very close to the edge of the DLR viaduct structure, very close indeed. I believe we have got the piling drawings for this building although I do not have them to hand, but I believe there is a row of piles along the edge, and then the next piles for the viaduct are only just outside that row.

20873. So is there any reason why the dam could not be put the other side of the DLR bridge, which avoids the piles?

(Mr Berryman): Well, you have another building there, and, again, we do not have a drawing of the piles there at all but we do know they will be very similar to all the other buildings in that area. These three buildings are all suspended over the dock.

20874. And going back to your earlier comment, Mr Berryman, that in terms of engineering solutions usually there is one if you throw enough money at it, surely it is physically possible to put the dam in a different location taking into account the existing piling, if you throw enough money at it?

(Mr Berryman): Yes, it would be but I think the kind of money you would have to throw at it would be very, very substantial.

20875. Would that be a matter that you would have to balance against the cost of any compensation claim being brought against the company as a result of damage to my client's business?

(Mr Berryman): Well, it would. You are asking me quite a detailed question off the top of my head. As Ms Lieven said I do not actually often use the word "impossible", but you are getting very close to the impossible in trying to get something under here.

20876. Impossible without throwing enough money at it?

(Mr Berryman): Well, yes, and I do mean enormous sums.

20877. **Mr Leddon:** Thank you.

20878. **Chairman:** Ms Lieven?

20879. **Ms Lieven:** Just a couple of points, sir.

Re-examined by **Ms Lieven**

20880. **Ms Lieven:** Looking at the aerial view again so we can see the buildings that Mr Berryman is talking about. At 10 Cabot Square Wren's Landing comes in so the cut-off wall would be coming across North Dock, is that right?³⁵

(Mr Berryman): That is right.

20881. And I am told by a thoroughly reliable source, Mr Berryman, that it is not in fact Clifford Chance; it is an advertising firm, a financial firm?

(Mr Berryman): That is all right then!

20882. But one can see, is that right, the substantial building with the piles you are concerned about underneath?

(Mr Berryman): Yes.

20883. And the Financial Services Authority building is the building on the other side of the Great Wharf Bridge, is it?

(Mr Berryman): No. On the other side of the DLR bridge.

20884. Asking you about odour, it was suggested to you that there might be odour from the silt. First, have we carried out any sampling, to your knowledge, of the silt in order to discover whether it is contaminated or not?

(Mr Berryman): Very, very limited.

20885. And, so far as the management of the silt is concerned, and if there are odour problems, is that a matter which is covered by the Environmental Minimum Requirements?

(Mr Berryman): Yes, it is.

20886. And I know this is not really your area of expertise but I do not desperately want to call another witness to deal with this specifically: if the silt does have more contamination than we anticipate and than Canary Wharf have found elsewhere and there are odour problems, what kind of steps can the project take to minimise odour?

(Mr Berryman): The main thing to minimise odour is to keep the silt under water, so the more quickly you can get it covered over by water the better it is in terms of minimising any odour that might arise. The other thing we can do is stabilise it by soil mixing and mixing with cement.

20887. And would it be right that, to the degree you have to take it out of the water for any period of time, you can spray it with water to keep it wet?

³⁴ Committee Ref: A239, Isle of Dogs Stations Site Plan (Scenario 2) (LONDLB-AP3-11—04-003).

³⁵ Crossrail Ref: P152, West India Dock North—Aerial view (TOWHLB-AP3-45—04-007).

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(Mr Berryman): Yes, indeed. It is very similar in a way to dealing with a dust problem. You just keep it wet, keep it under water as far as possible, and just keep it moist.

20888. **Ms Lieven:** Thank you very much, Mr Berryman.

20889. **Chairman:** Thank you very much, Mr Berryman.

The witness withdrew

20890. **Ms Lieven:** Just to close briefly, sir, in my submission where the evidence gets us is that under Scenario Two there is no realistic alternative but to put the cut-off dam where we are proposing, diagonally across the North Dock. Of course, there is always an alternative, sir; one could knock down 10 Cabot Square or the Financial Services Authority building and do it that way, there is virtually always in life an alternative, but in terms of balancing the inconvenience to residents of the hotel looking out of their window on a drained dock for something between three and a half and five and a half years or knocking down one or two massive office blocks, I would suggest the choice is pretty straightforward. So, sir, the only issue is should Scenario Two be there at all?

20891. Now, Mr Berryman took you through the advantages of Scenario Two, and I suspect that those from Canary Wharf might well wish to reiterate them as they are strong supporters, as I understand it, of Scenario Two. The advantages are that we do not have to take silt out of the dock, which itself has major both carriage and potentially odour advantages; we do not have to find another home for the silt, which is by no means straightforward given the landfill constraints which exist in south east England; and we do not have to bring in anywhere near so much fill in order to fill in to build the island and construct the station under Scenario One; there is the strong potential for short construction time and a benefit in terms of noise because we are working on the bottom of the dock and not halfway up. So, sir, those benefits will be balanced against disadvantages.

20892. Sir, I did not cross-examine the witness from the Marriott Hotel because there probably will be residents and guests of the hotel who will be less enthusiastic about looking out over a work site than about looking out over the water. The degree to which that will impact on revenue is so difficult to predict that there is really little benefit in the Committee wasting its afternoon debating it, although there probably will be such impact and we will take that impact into account. Ultimately, sir, this is a bit of hard capitalism. We will weigh up the various financial consequences of the different choices and the various environmental consequences and come to a conclusion, but, in my submission, it would be completely wrong for the Committee at this stage to rule out a scenario which has the potential to be of significant benefit to a number of interests in the

vicinity. There is a difficult balance to be undertaken, and the other material consideration which Mr Berryman brought in was of course, which one always forgets, the Grade I Listed Banana Wall which is going underneath all of these buildings, which also has to be put into the balance, so there is a difficult balance to be made. It is one that you, in my submission, can have complete faith in the Secretary of State and CLRL doing appropriately and taking into account all the different interests and considerations, but it would be quite wrong, as I have said, for the Committee at this stage, having heard one Petitioner with one set of interests, to rule out an option now. Thank you, sir.

20893. **Mr Leddon:** Sir, as you will have heard from my cross-examination of Mr Berryman, there are three potential solutions to the engineering problem here. In the first instance, it would appear that, bowing to pressure from third parties, Scenarios One and Two are now to be put forward as being the ones that they wish to pursue. Sir, it is for that reason and that reason alone that my clients find themselves before you today making these representations as there appears to have been little or no consultation with them at the time that these two different scenarios were put forward.

20894. Sir, Mr Berryman indicated that, so far as he was concerned, he was happy to go with either Scenario One or Scenario Two. There may be some advantages to Scenario Two, but they would have to be balanced by the disbenefits that we have identified. It is clear that there has been no cost:benefit analysis of the impact of the removal of the water from the North Dock in front of this purpose-built, five-star hotel built, for between three and a half to five and a half years ago or the impact it may have on other businesses in and around the area, a number of whom I understand are going to come and address you separately on these matters.

20895. Sir, the other point that came out of Mr Berryman's cross-examination is that it is quite clear that there are a number of different, alternative engineering solutions that are possible here so long as enough money is thrown at it. There could be a different position for the cofferdam, for the dam to keep the water in the dock throughout the construction process, either going one side or the other of the DLR bridge.

20896. Sir, it is these sorts of matters that we would ask you to comment on and to give your direction on when you write your report and for it not to be left in Crossrail's hands as to who they believe wields the most influence in the Canary Wharf area. My clients' interests and those of the other businesses in the area will be very materially affected and that is the unchallenged evidence of Mr Downing before you today and we ask you to make sure that those matters are properly taken into account and that you recommend they do not pursue option two. There is another option they can follow and that is the one that they should pursue in these circumstances.

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20897. So far as the odour problem is concerned, it was nice to hear it acknowledged that there may be an odour problem that comes up. Where that quite takes my client with up to 80 clients sitting on the terrace outside, having to put up with an empty dock and smells coming from it is a completely different matter. At the end of the day, I suppose we would have to pull back with our public nuisance or private nuisance obligations, but that is a very unsatisfactory position for a world-class development, such as this, to have to

fall back on in these circumstances. It seems a very high-handed and cavalier attitude for someone like Crossrail to take in these circumstances. Sir, unless there are any other matters on which I can assist you, that is all I have to say. Thank you, sir.

20898. **Chairman:** Thank you very much. That concludes that Petition and we now move on to the final Petition of the day which is Canary Wharf Group plc, represented by Sharpe Pritchard.

The Petition of the Canary Wharf Group plc.

Sharpe Pritchard appeared as Agents.

Mr Alastair Lewis appeared on behalf of the Petitioners.

20899. **Ms Lieven:** Sir, I shall do a short introduction. Sir, as I think the Committee have probably gathered by now, if they did not know already, Canary Wharf Group are very significant landholders in the vicinity of the North Dock and the Isle of Dogs generally. The particular concern they have come to talk to you about today is North Quay, which I will show you on a photo and then I will show you on a plan.³⁶ It is the site between the Marriott Hotel and Billingsgate Market, so you can just see it here. At the moment, it is largely used as a car park, and the witness will tell you more about it, and it is intended for a very large development at some point in the future. If we can put up the plan, the Scenario One plan, here is the DLR bridge you have just been hearing all about and here is the Marriott Hotel, here is Billingsgate Market which you have heard about a couple of weeks ago and here is North Quay.³⁷ It is needed by the Crossrail project under both Scenario One and Scenario Two, so you do not need to worry about the scenarios, as a worksite for the construction of the Isle of Dogs Station in the dock. I do not believe that the witness is going to argue or that the Canary Wharf Group are going to argue that it is not needed, so I am hoping at this stage not to need to call Mr Berryman on this one.

extremely rigorous parliamentary procedure, and I will tell you far more about it in closing, but it involves both a public inquiry and a special parliamentary procedure which involves a joint committee of both Houses, so it is a very difficult thing to do. The Secretary of State cannot just say, "Oh, I'd like to keep the powers going for longer".

20902. It is also important to stress at the outset that, under Schedule 6, paragraphs 18 and 19 of the Bill, it gives any affected landowner or lessee the power to require the Secretary of State to acquire their land if the Secretary of State chooses to use the power to extend. In other words, we cannot extend and continue to sterilise the land. If we choose to extend, then Canary Wharf Group have the right to say to us, "Okay, buy North Quay now", so they can get their compensation at that stage if we go down the extension route.

20903. Sir, I think there are two points I want to make in opening. First of all, this power to extend, which Canary Wharf Group will ultimately ask you to excise from the Bill certainly in respect of their land, is only exercisable after a very rigorous parliamentary procedure and scrutiny.

20900. The issue between us is that the Canary Wharf Group are concerned about the time that North Quay will be needed for the Isle of Dogs for our works. Their concern really turns on the detail of the Bill powers, so I think this is probably the first time in this Committee I am actually going to take the Committee to the Bill powers.

20904. The second point I would like to emphasise very strongly in opening is that I understand that the Canary Wharf Group and the witness are going to ask you to get into the details of the funding of Crossrail and the negotiations that are going on between the Secretary of State and Canary Wharf Group about how Crossrail is funded, which is partly tied up with issues around this site, the value of this site and whether or not some deal could be struck, but the Committee will know, not from anything that has been said here because funding is nothing to do with the Committee, but from its general knowledge of this project that funding is a huge issue and is subject to a great many discussions and negotiations outside this Committee. I would very, very strongly urge this Committee not to start trying to get involved at Canary Wharf Group's behest in one particular aspect of that because one can see that it would be easy to see one little part of what is a much bigger and

20901. Under clause 6 of the Bill, the CPO powers last for five years from Royal Assent, but there is in clause 6(7) and 6(8) of the Bill a power to extend that time by the Secretary of State. Such a power is well precedented. It existed in the CTRL Act and it has existed in other Bills. It is important to stress, indeed very important to stress, that, in order to use that power, the Secretary of State has to go through an

³⁶ Crossrail Ref: P152, West India Dock North—Aerial view (TOWHLB-AP3-45—04-007).

³⁷ Crossrail Ref: P152, Isle of Dogs Station Construction Scenario 1—Sheet Pile Walling (SCN-20070314-004).

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much more complicated jigsaw. Sir, I will leave it there and obviously say more in closing, if that is appropriate. Thank you.

20905. **Chairman:** Before we continue, Mr Anderson, can we just put on record our gratitude to you for the time you afforded to us last week on our site visit. We are most grateful and it was very informative. Mr Lewis?

20906. **Mr Lewis:** Sir, what I am going to do is simply introduce Mr Anderson who will give you his evidence.

Mr Peter Anderson, Sworn

Examined by **Mr Lewis**

20907. **Mr Lewis:** Mr Anderson?

(Mr Anderson) Good afternoon. My name is Peter Anderson, the Managing Director of Finance at Canary Wharf Group plc. I understand that it might have been expected in these proceedings that counsel represent us, but I would prefer to make my remarks by myself, if that is acceptable to you. I also have some pictures to accompany my remarks. Canary Wharf Group is a very strong supporter of Crossrail and I would not want any of the issues that we raise today to be misconstrued as a lack of support for Crossrail; quite the contrary. Crossrail is vital for London, vital for its future growth and vital to ensure its continued competitiveness globally. As counsel for the Secretary of State said, the reason I am here is the impact of the construction of Crossrail, or rather the potential for its delay, on our North Quay development, and I want to illustrate the impact of transport improvements on the Canary Wharf district. This first picture is a picture of Canary Wharf in 1987 before any such work started, and you can see the docks, you can see the water on either side of the central spine, and the building on the central spine is the Limehouse Film Studios.³⁸

20908. **Chairman:** Could we list all these photographs in a group as A240.

(Mr Anderson) If we look at the second photograph, this is a photograph in 1991 showing the first phase of Canary Wharf.³⁹ This phase was supported by the Docklands Light Railway and, as you can see, it is a grouping of seven buildings surrounded by Cabot Square and, as I said, it was supported by the DLR station. The next diagram shows Canary Wharf pretty much as it stands today.⁴⁰ What it shows is around 15 million square feet in ten different ownerships, as Canary Wharf is not the sole owner of Canary Wharf district, and with a working population of 90,000 people. This level of development was supported by the Jubilee Line. We

can build another five to seven million square feet with the upgraded Jubilee Line capacity coming on line which will occur in 2009. If we can put up the next diagram, this picture shows the potential for the future post-2014 which dramatically expands the Isle of Dogs business district in and around Canary Wharf, including the build-out of Wood Wharf, which is majority owned by the British Waterways Board, the Billingsgate Fish Market, which would be the area here, Wood Wharf is over here, Billingsgate Fish Market there, and the Millennium Quarter to the south of Canary Wharf, which is that area there, all in different ownerships, including such developers as Ballymore, Hammerson and Fidelity.⁴¹ Without Canary Wharf London would not have been as successful a financial centre as it is today. I say that for two reasons. First, Canary Wharf provided large floor plate buildings required to house large financial services firms. We provided a large quantity of the type of space these firms needed to operate efficiently. Secondly, the supply we created and the price at which we created it was a moderating influence on rents across London, making London an affordable place in which to do business. Without Canary Wharf it would have been very difficult for London to provide the quantum space demanded and rents that would have very likely become uncompetitive globally. Crossrail is vital because it will enable a continued supply of space to be created and enable a workforce from a very wide catchment area to work in the three financial centres in the City, the West End and Canary Wharf. In fact, it will increase the catchment area for these districts by one million people. Canary Wharf has strong credentials in supporting transport improvements. To date Canary Wharf has contributed £369 million to the construction and subsequent improvements to the Jubilee Line and Docklands Light Railway.

20909. **Chairman:** Mr Anderson, could I ask one question. You said it employs 90,000. If this futuristic plan occurs how many people will it then employ?

(Mr Anderson) Two hundred thousand and that statistic, or that number, comes from the Mayor's Transport Plan and has also been reiterated recently by Ruth Kelly and the Thames Gateway plan. What I would like to show is the area of North Quay.⁴² This is a similar diagram to which you were shown earlier and the site is right here. This is a picture of the site itself and the intention here is to use this as a worksite for Crossrail, as counsel mentioned earlier. I would like to move on to the next picture. This is a picture on the left and we put in in red where the Crossrail station will be and the buildings we are talking about are this development here on the diagram.⁴³ If you could go to the next photograph, this shows in schematic what

³⁸ Committee Ref: A240, Canary Wharf—1987 (TOWHLB-94—AP3-35—05-001).

³⁹ Committee Ref: A240, Canary Wharf—1991 (Phase 1) (TOWHLB-94—AP3-35—05-002).

⁴⁰ Committee Ref: A240, Canary Wharf—2004 (TOWHLB-94—AP3-35—05-003).

⁴¹ Committee Ref: A240, Canary Wharf—Post 2014 (TOWHLB-94—AP3-35—05-004).

⁴² Committee Ref: A240, Canary Wharf—North Quay (TOWHLB-94—AP3-35—05-007).

⁴³ Committee Ref: A240, Canary Wharf—Crossrail Station Location (TOWHLB-94—AP3-35—05-008).

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the development is.⁴⁴ We have planning permission for this development and the market is currently very strong for these types of buildings. We want to be in a position to develop these buildings as soon as possible and were it not for the Bill we could start tomorrow. Our issue, and the reason we wanted to address this Committee, is that because of the Bill we may not be able to develop this site for ten years or even longer. The time limit on compulsory acquisition under the Bill is five years from Royal Assent but that is extendable theoretically to an unlimited degree. Similarly, the planning consent enjoyed by Crossrail under the Bill is subject to a time line of ten years, again extendable by statutory instrument. If Crossrail is delayed and extensions to these time limits are secured we could be excluded from the site for many years, and even then there is no assurance that Crossrail will be built. The only way that is provided in the Bill for Crossrail to acquire the site is through compulsory purchase. Given the planning permission and value of the site, this would be a costly and unnecessary expense to the taxpayer for the project. Because of our strong support for Crossrail and our desire that it should be built, and built expeditiously, we have made an offer to the Department for Transport that we will give Crossrail a licence to use the North Quay's site for free with no compensation, provided the work begins within five years of Royal Assent and that the site is returned to us within five years after commencement of the works subject to *force majeure*. We think this is a very fair offer. It would mean that potentially we would be agreeing to the sterilisation of our site for ten years with no compensation. It will also save the public purse in excess of £300 million of compensation for the compulsory purchase of the site or for lease payments. Our principal concern is to get the site back to develop it and we believe that ten years is a sufficiently long period for a site of this magnitude and value to be blighted. Given that the Secretary of State is unwilling to agree our proposal for a compensation-free licence, we would like to see the Bill amended to provide that the compulsory powers of acquisition over North Quay will expire five years from the date of Royal Assent and that there will be no possibility that the period be extended under the Bill. I confirm to you now that our side of the bargain is that we would enter into a licence arrangement of the type just described, saving the project, we say, hundreds of millions of pounds. If, once the Bill has attained Royal Assent, the Department considers that to be an unreasonable offer, then they could still acquire the site compulsorily under the Act, but only in the first five years. Obviously we do not want that to happen, and I am sure the Secretary of State does not either, given the vast expense in doing so, but at least it would give us some certainty. Our lawyers have prepared amendments for your consideration, which is document six. Chairman, when you and the Committee visited Canary Wharf last week I made some comments on how Crossrail might be funded. I

would be happy to repeat those comments and let others on the Committee hear what I said and put it on the record.

20910. **Chairman:** We would be happy to hear that. *(Mr Anderson)* On Crossrail we began our thinking on how private sources of funding might be raised in 2002 when we produced this document with CBRE and it is entitled "*Funding Crossrail: Could Property Help?*" In this study we advocated two ideas. First was an increase of two to three per cent in the business rates hypothecated and specifically directed to funding Crossrail. This idea has developed support in the business community in the form of a three per cent increase and we believe that the concept has also gained traction in the Treasury and the DfT. We are also waiting imminent publication of the Lyons Review that will hopefully offer some ideas and support along these lines. The second idea we advocated is that office developers should contribute as well. Put simply, for every new building started, once the decision is made to proceed to build Crossrail, we have suggested that office developers should contribute £30 per square foot of net lettable space via a hypothecated section 106-type payment directly to Crossrail. Our thinking on this is as follows. The entire existing public transport system is at or beyond capacity. At some point, and we believe we are very close to that point, the lack of growth in the public transport infrastructure is going to limit the growth of London. Once that occurs, incremental development cannot be supported by the current infrastructure. London needs to grow and London needs to continue to be competitive globally. To do that, we will need to constantly upgrade and expand its office stock and transport infrastructure to accommodate that growth. All development in central London will benefit from Crossrail. Based on office development economics developers in the Isle of Dogs and Canary Wharf districts could afford a £30 per square foot payment. Rents and building values per square foot are higher in the City and even higher in the West End and so developers in those areas could even more easily afford such a levy. Developers are used to section 106 negotiations and they occur at the point in time when the developer has a strong incentive to successfully obtain planning permission. Under this scheme they would pay once the project is started and at the time the funding is being put in place for their project. We believe that such a funding mechanism has the virtue of simplicity and a very high likelihood of raising substantial sums for Crossrail. I would like to illustrate why we would want to create a system that requires contributions from all developers. Put up the next slide.⁴⁵ Even in an area as concentrated as the Isle of Dogs and surrounding business district you have multiple ownerships. This is a diagram I showed you earlier, but this time it is colour-coded to show the Canary Wharf Group ownership in grey and other owners in colour. Go to the next diagram. Here is another

⁴⁴ Committee Ref: A240, Canary Wharf—schematic diagram of future development (TOWHLB-94—AP3-35—05-009).

⁴⁵ Committee Ref: A240, Canary Wharf (Multiple Ownership)—2004 (TOWHLB-94—AP3-35—05-005).

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diagram I showed you earlier, the post-2014 scenario, again with Canary Wharf Group ownership in grey and other owners in colour.⁴⁶ As you can see, the vast majority of new development will be done by others and all developers will benefit from the provision of Crossrail. Of the total potential developments on the Isle of Dogs, Canary Wharf represents approximately a third of that development. The Mayor's plan, Transport 2025, projects employment growth across London will increase by 360,000 jobs in central London and 565,000 jobs outside the central area for a total of 925,000 jobs by 2026. Based on an average of 172 square feet for every person, this could generate a demand for new office space across London in the order of 159 million square feet. At £30 per square foot this could generate a contribution of up to £4.7 billion. We believe this type of mechanism could be extended to residential developers as well because they benefit significantly from additions to public transport. The Jubilee Line and the residential development that has occurred along that corridor is a clear example of public transport benefit. We are mindful that residential developers must also make significant contributions for affordable housing. The Mayor's plan projects a population increase of some 800,000 people by 2026. This could generate 550,000 to 720,000 households. Conservatively, assuming an average unit size of 400 square feet, this generates between 220 and 288 million square feet of new residential development. For example, taking the conservative end of the range, a £5 per square foot of contribution would generate up to £1.1 billion of developer contributions over time, and at £10 per square foot it could generate contributions of £2.2 billion. We provide this background because we want to make clear that we want Crossrail to happen, we are trying to contribute to the debate as to how it can happen and mechanisms to capture significant private sector contributions that are fair and equitable for all stakeholders. Thank you very much.

20911. **Chairman:** For the record, could we list the two documents described here as A241 and A240. Ms Lieven?

20912. **Ms Lieven:** No, sir, I do not want to ask any questions. I said a number of the points in opening, but if I could encapsulate them in different words in closing. It is very interesting to hear Mr Anderson's thoughts on funding and those of Canary Wharf Group. I am sure that those behind me will have listened with great interest but, sir, what Canary Wharf Group is seeking to do here is to get the Committee involved in funding negotiations which are going on with the Secretary of State at the present time and, in my submission, that would be quite inappropriate for the Committee.

20913. **Chairman:** We well understand the boundaries. What members who attended the site visit thought was that it was important to place on the

record, because it was an interesting scenario and that is what we have made sure of today and we are very grateful for that.

20914. **Ms Lieven:** We are very grateful for Canary Wharf Group having attended, made their support for Crossrail very clear and shown so clearly how important Crossrail is both to the Isle of Dogs but also to London more generally; all sentiments that we wholly agree with, of course, but so far as the issue about funding is concerned, as I have said, those sitting behind me will have listened carefully—I suspect much of it they will have heard before in other forums—but in terms of asking the Committee to get involved, which is ultimately what Canary Wharf Group is doing, I would very strongly urge you not to do so because the issues around North Quay and how that fits into a deal with Canary Wharf as to funding and how that fits into a much, much bigger funding package as a whole, are ones not for this Committee but also have some very sensitive negotiations which are going on at the present time.

20915. So far as the specific issue about the extension of time for Crossrail in Clause 6, and whether that should be excluded in respect of North Quay, first of all, as I said, such an extension is clearly precedent; it existed on the CTRL Bill and it existed on other Bills. In my submission, it is wholly appropriate for Crossrail, which is an exceedingly complicated project for a whole variety of reasons, and having such a power is quite right and proper.

20916. Then, sir, in terms of how that power will be exercised, there are a number of safeguards. The first one is that of general public law. The Secretary of State has to act reasonably and he has to take into account material considerations in deciding whether or not to seek such an order under Clause 6 in any event. Then, if he does seek the order, as I said, there is a two-stage process by which, first of all, if there are objections, the Secretary of State has to appoint an Inspector to hear a public inquiry and objectors can attend and make representations and call evidence before that Inspector. The Inspector then reports and if the Secretary of State decides to proceed to seek an order he then has to go to Parliament and there is then a process, not wholly dissimilar from this Committee, by which if there are petitions to the extension of powers then a joint committee is set up of three Members of Parliament and three peers and they hear petitions, rather like this Committee, and then they produce a report.

20917. So, sir, in terms of protecting Canary Wharf Group's interest that the Secretary of State will not simply sit around, do nothing for five years and then seek an extension of power, this Parliament has every power and control to ensure that the Secretary of State acts properly and with proper justification in those circumstances.

⁴⁶ Committee Ref: A240, Canary Wharf (Multiple Ownership)—Post 2014 (TOWHLB-94—AP3-35—05-006).

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20918. Can I say, finally, sir, that so far as the arguments about deleting Clauses 6(7) and (8) are concerned, it is difficult to see why, if the Committee went down that line, a very large number of other landowners along the route would not pose similar arguments. They may not have developments quite as big as North Quay but they are likely to have developments which are just as close to their heart as North Quay and which may be just as important to their finances. So it is important to see that this is not specifically just about North Quay. In my submission, sir, this is territory which it would be a major mistake for the Committee to get involved in, because of the links then to other issues which, really, nobody in this room is fully appraised of and are better left with the Secretary of State.

20919. **Mr Lewis:** Sir, if I could just clarify one issue, going slightly off my prepared script, in relation to the finance, I just want to make it quite clear that I think you summed up the position correctly in terms of why we mention finance today. It is not because we want the Committee to get involved, it is because Mr Anderson made some points to you when you made a visit and here we are to explain them and put them on the record.

20920. **Chairman:** I am grateful, Mr Lewis, but we do not need protection.

20921. **Mr Lewis:** Of course.

20922. **Chairman:** The reason why we accepted Mr Anderson coming along to actually put this on the record is because Members did find it interesting and it was a new concept. We realise where our boundaries lie and I think it is important to put it on the record because other people who read our evidence are people actually affected by the line and we thought it appropriate that they should have the benefit of that.

20923. **Mr Lewis:** Thank you, sir. You have heard evidence from Mr Anderson and there is nothing which I can usefully add to that as regards the detail of what Canary Wharf Group is offering. I do, however, want to say a few words about what it is they want in return, namely the amendments to the Bill that we have put forward today. I want to demonstrate to you that what we are asking you to do is not unusual, by any means. In fact, I want to leave you with the impression that it is what the Promoters are asking you to do under this Bill that is unusual, and I will do that with a short history lesson, if I may.

20924. I want to take you back to the 19th Century when private railway acts were coming out of this place's ears. Sir, by way of example, and examples do not get much better, the Great Western Railway was authorised by an Act of Parliament in 1835. As you would expect, the Act contained powers of compulsory acquisition of land from Paddington to Bristol. There was a time limit on the exercise of those powers; it was two years with no powers to extend.

Never mind that, it took Brunel less than three years from Royal Assent to complete the line to Maidenhead, and another three to finish the job. The Act gave the Great Western Railway seven years to finish the construction of the whole railway. The Crossrail Bill gives deemed planning permission for the works if they are started within ten years, and even then there is a power to extend the limit.

20925. Sir, it would be wrong for me to suggest that things are the same now as they were in Victorian or pre-Victorian times, so I move on to more modern examples to illustrate what the normal practice is nowadays. I have looked through every railway and tram Act and Transport and Works Order since 1980. It was an interesting job, sir. These included 21 promoted by British Rail and Network Rail, 15 by London Transport, eight for the London Docklands Railway, 15 for the Greater Manchester Tram, seven for Midland Metro, three for the Channel Tunnel Rail Link and 16 others, making a total of 84. All of them contained powers of compulsory acquisition but not one of them allowed compulsory acquisition to take place later than five years after enactment, and certainly none of them allowed the Secretary of State to make an order extending the period allowed. They did not, of course, all authorise projects of such scale as Crossrail, but they do include some substantial projects such as the whole of the DLR, the Jubilee Line extension, both of which, of course, go to Canary Wharf, Thameslink 2000, the whole of the Manchester Tram system, and the West Coast Mainline upgrade.

20926. Ms Lieven mentioned that the extension provision in this Bill is well-precedented. I have not mentioned Hybrid Acts yet, and there you will find the precedents for the extendable period. I found two. The first was the Channel Tunnel Act and the second the Channel Tunnel Rail Link Act. They both contain a five-year period extendable by order of the Secretary of State. As far as I am aware, the powers to extend under those two Acts were not exercised. One asks why they were needed. Other Hybrid acts, such as Cardiff Bay Barrage, the QE2 Bridge and Severn Bridges did not allow an extension to the five-year period.

20927. I would like to just mention, if I can, briefly, sir, as well, Special Parliamentary Procedure. Please do forgive me if I have got this wrong but I think you have got some experience yourself of an SPP joint committee; an order that my firm promoted for Barnsley. I am sure that you may well have been on the joint committee which heard that, and if I have got that wrong I am sorry.

20928. **Chairman:** I think you might be wrong.

20929. **Mr Lewis:** Okay, I am sorry. I have you mixed up with someone else. In any event, it goes to demonstrate on that particular committee that, yes, I agree with Ms Lieven this place does have power to knock out orders made which are subject to Special

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Parliamentary Procedure, because in that case the joint committee did. I would like to take it one step further because I know that there is a case, and I am afraid I do not know the detail, which involved a bypass at Okehampton in Devon, which was a compulsory purchase order for a highway which was subject to Special Parliamentary Procedure, presumably because public open space was taken. I believe the facts to be that the compulsory purchase order came before the House, a joint committee considered it and the joint committee decided that the order should not be confirmed. So joy all round, presumably, for those who supported the open space. I believe that despite that and because the Secretary of State wanted the road to be built so badly he then promoted an Act of Parliament, which basically overrode the decision of the joint committee.

20930. So, sir, it is not necessarily the end of the road, I believe, if Special Parliamentary proceedings are used. I must admit that particular case was pre-Human Rights Act, so whether that particular Act would receive the approbation of the Joint Committee on Human Rights now, I do not know, but I just wanted to make clear that insofar as I am aware it is not necessarily the end of the road, and if the Secretary of State wants to have his way then he could promote another Bill.

20931. There is one more part to the history tour, if I may, sir, and it is perhaps the most important one. As you know, sir, this is not the first Crossrail Bill to come before the House. The Private Bill promoted by British Rail and London Regional Transport, which was thrown out in the early-1990s by a Select Committee in the House of Commons, contained a time limit of five years, and there was no power to extend. Sir, the current scheme is not so dissimilar from the old one, so as to bring it into some

exceptional, new category, and all we are asking you to do is to alter the Bill so that it is in line with nearly every recent precedent. We would ask you to support these new provisions and make the amendments requested.

20932. **Ms Lieven:** Sir, given that Mr Lewis raised legal points in closing, can I claim a very short right to reply? Three points, sir: first of all, he is quite right to say that precedents are in Hybrid Bills, but the two Hybrid Bills where the precedent arises, the Channel Tunnel Act and the Channel Tunnel Rail Link Act, are the only railway Hybrid Bills in anything like the recent past. So those are the two precedents we rely on because those are the two that apply here.

20933. Secondly, I am instructed by Mr Irving, our Parliamentary Agent, that it is standard in Scottish Bills now to have a power to extend up to ten years. What weight the Committee gives to that is up to the Committee, but there we have a similar form of legislation and a standard provision of up to ten years.

20934. Finally, Mr Lewis is quite right to say that the Secretary of State can go through a Special Parliamentary Procedure and then ultimately not accept the joint committee's recommendations. However, if he chooses not to do so then he has to promote a Bill to achieve the same end result. Self-evidently, that has to itself be subject to Parliamentary scrutiny, or it does not get past. So the point comes back to the same place, which is that for any extension of these powers to take place this House has control over what can and cannot happen. Thank you, sir.

20935. **Chairman:** Thank you. That concludes today's hearings. The Committee will next meet on Tuesday 20 March at 10 am.

Tuesday 20 March 2007

Before:

Mr Alan Meale, in the Chair

Mr Brian Binley
Ms Katy Clark

Mr Philip Hollobone
Kelvin Hopkins

Ordered: That Counsel and Parties be called in.

The Petition of the West India Dock Commercial Ship Owners.

Mr Julian Cartwright appeared for the Petitioners.

20936. **Chairman:** The hearing today will be with the West India Dock Commercial Ship Owners.

20937. **Ms Lieven:** Sir, perhaps I can just make a quick opening, explaining where we are. I have put up the aerial view of North Dock, which the Committee have seen a number of times so as to orientate themselves. What we are dealing with today is the five commercial boats that lie at the west end of the North Dock, and one can see three of them here. Sir, if you remember, this is the Marriott Hotel and the station is going in in this location.¹

20938. If we can go to the next aerial shot, here are the boats, five commercial boats with a variety of uses, and Mr Cartwright will explain the uses to you, I am sure.² The difficulty we are in, sir, is that under both scenario one and scenario two of the construction works in West India North Dock, these boats have to be moved. Under scenario one, the dock is partially drained and under scenario two, this area is cut off with silt being put under the water and there simply is not any possibility of the boats remaining there under either construction scenario, so the issue is what happens to them.

20939. Now, we have been in extensive discussions already with the Canary Wharf Group and British Waterways, trying to find an alternative home for these boats, and perhaps I can have a plan put up.³ This is the dock complex, and I will just take a moment to orientate the Committee, but obviously we are in the Isle of Dogs, so the Thames is looping round here. North Dock is right up at the top, and I am indicating the position of the boats at the moment which we are concerned with. This is Belmouth Passage where one gets exit and entry into North Dock at the moment, and this is the rest of the dock complex, stretching down here. We will see this in a little more detail on Thursday with the Poplar Dock boats.

20940. The preferred location for these five boats is to put them into Middle Branch Dock or Middle Dock, which lies just to the south of the main Canary Wharf buildings. There are difficulties with that and we have discussed it with Canary Wharf. They were initially not enthusiastic because of construction work. They are now, after a meeting yesterday, slightly more inclined to think that that might be a possibility, but we have not got to the stage where any fixed commitments have been made.

20941. The next best option is to put them in South Dock in a location somewhere around here and the third option, which I appreciate the commercial boat owners are not keen on because it is somewhat out of the way, is to put them in the north section of Millwall Dock in this kind of location.

20942. Sir, we are wholly committed to relocation and we are totally committed to talking to British Waterways and Canary Wharf Group and any other landowner whom we may need to gain agreement from in order to find the best possible alternative location for them, so, in truth, there is no dispute with this Petitioner. We are very happy to continue those discussions, we have every intention of doing so, and we are very happy for the Committee to record its desire for Canary Wharf and British Waterways to work with us because the Committee will understand that, to a large degree, the relocation is out of our hands; it depends on the co-operation of third parties and, in particular, British Waterways and Canary Wharf Group, so anything that the Committee can do in terms of asking those third parties to work with us co-operatively will be of assistance to all concerned.

20943. **Chairman:** On that point, we are in the process of trying to bring together British Waterways to have an open session where we discuss some of the problems which are clearly to the fore in respect of this site, and we will be doing that very, very soon.

20944. **Ms Lieven:** Sir, perhaps I can just touch on that because it may be helpful for later in the week. Those behind me will tell me if I have got this wrong,

¹ Crossrail Ref: P153, West India Dock North—Aerial view (TOWHLB-AP3-30—04-001).

² Crossrail Ref: P153, West India Dock North—Location of boats belonging to Petitioners (TOWHLB-AP3-24—04-001).

³ Crossrail Ref: P153, Isle of Dogs Station in context of surrounding area (TOWHLB-AP3-24—04-002).

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but in respect of Poplar Dock, which the Committee saw when they went on a site visit, there is a major problem with relocating all those boats together. We have been in discussions with British Waterways and we did suggest to them that they might like to attend the Committee in order to explain in particular their problems with relocating the residential boats to Millwall Dock. I do understand from a conversation that was had yesterday and I think perhaps an email, although I have not seen it yet, that British Waterways are not willing to attend because, to be fair to them, they are concerned that it might prejudice their position, depending on what happens next.

20945. The present position is that I believe they are going to write to the Committee, but they are not going to attend with a witness. That is just a matter of record, sir. We have no power to compel them obviously, nor would we wish to do so because we wish to have a co-operative relationship with them. Indeed, their co-operation is absolutely essential for relocating all of these boats, so the last thing we want to do is upset them by being, as it were, too heavy-handed. Sir, that is where we are with them at the moment, but I understand that by Thursday morning the Committee will have a document setting out British Waterways' position on relocating the residential boats.

20946. **Chairman:** We will see what they send us and we will make a decision then, but I am still willing to press for a meeting with them and for them to come to the Committee and I will pursue that.

20947. **Ms Lieven:** Sir, as I say, we are very keen to maintain a good working relationship with them. We are, to some degree, and I am perhaps going off Mr Cartwright's Petition on to the Poplar Dock Petition, but we are conscious, having had detailed discussions with them, that, in their view, there are very significant problems in relocating the Poplar boats together into Millwall Dock. Ultimately, sir, it is quite a difficult position for the Promoter. If the landowner in question and the water owner, British Waterways, say adamantly that they cannot do it, that there is no space, then we have to accept what they say, so that is rather where we had got to on that problem, and we will obviously come back to it in a lot more detail on Thursday. If there are any ways in which the Committee feel we should be acting which could assist, we are more than happy to do what we can.

20948. Sir, that is the position on the commercial boat owners, hopefully a more straightforward one than on the Poplar Dock boats, and I will hand over to Mr Cartwright who, I think, has a short statement. Sir, I have Mr Berryman here and he can explain the position in more detail if the Committee wants to hear it, but, on the face of it, we are agreeing with Mr Cartwright, so it may not be necessary to hear Mr Berryman.

20949. **Chairman:** Mr Cartwright?

20950. **Mr Cartwright:** Good morning. I am Julian Cartwright, the Chairman of the West India Commercial Ship Owners Association, and I am grateful for this opportunity to colour in some of the detail relating to our Petition. I have prepared some initial notes and what I would like to do is just cover a few key points for the Committee and perhaps I might then show you some photographs of the area in some detail rather than looking at it from above to give you a better understanding of the vessels involved, the businesses and the concerns that relate to the relocation of those businesses.

20951. My initial thoughts are that we were very surprised, as a very prominent and clearly very visible group of craft, that we had no formal communication from Crossrail at all prior to the presentation of our Petition. It seemed that it was expected that British Waterways, who had no mandate to do this, would communicate with us and tell us what we should do. I did manage to get the necessary paperwork together myself on behalf of some of my members, so initially I would just register surprise that, when other people could be consulted and spoken to in the preparation of all of this, we were ignored and I felt that that was less than fair.

20952. My second point is that I am very much aware of the plight of the other boat owners, the residential users and the leisure boat owners in the docks and I do share their concerns and understand the difficulties, as a boat owner myself. However, in the case of the West India Dock Commercial Ship Owners, our craft are not only our homes, but they are also our businesses, and this relocation places particular pressures on our livelihoods and the difficulties that that brings upon us. I would, therefore, suggest that our need of support from the Select Committee is of the very highest nature because, as things stand, the impact of these changes and the disruption that relocation of the businesses will cause blights the sale of our businesses at this time. Many of our owners have invested heavily in their barges and at some point, myself included, they would rather like to retire, and we regard our craft and the businesses we have created on those craft as being our pension fund. At this time they are totally unsaleable because there is no forward business plan for them and we are really blighted, and I wish to draw that key fact to the attention of the Select Committee.

20953. I do believe that we have worked hard to create commercial agreements with British Waterways which did everything possible to ensure that we had prepared ourselves properly and were on a proper financial footing, and Crossrail coming over the hill at us has rather knocked us sideways, so I really do need your support.

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20954. I would like now just to dwell on the two families who actually live on two of the barges as well as conducting businesses on them. One of the families has young children and, if the barges are relocated, they could find themselves in a different school catchment area, needing to go to a different doctor, and the whole business and umbilicus of life which relates to where a family and a business is located is a very great concern and worry to my members.

20955. We do agree entirely with the Promoter, Crossrail, that they are working hard to work with Canary Wharf and British Waterways, but neither of those bodies, as we heard this morning, has any specific duty to find us somewhere and we can only work on their good offices. I would assure you that we, with our own contacts within both of those organisations, will also be working alongside Crossrail to try to reach a satisfactory conclusion, but we are far from happy with what is being proposed at this time.

20956. Perhaps I might just refer to the plan which is 04-002, and I just refer to the two suggested sites for the present time.⁴ On this one here, you will notice that there is a bridge. The bridge actually swings and, therefore, half of the shaded site is completely unusable because it will be swept over by the bridge every time it opens, so the shaded area should be half the size it is. In respect of the area which could be used, which is on the south side of the dock, that is Admirals Quay and the area there is populated by some low-rise buildings which were early Docklands developments. A visit to that area would show that every window of those buildings is fitted with sliding steel shutters. The area is prone to break-ins and vandalism and is, under the shadow of the buildings, provided no light directly, so there is no direct sunlight on to that mooring. The quayside is in fact owned by the property company and not by British Waterways and is in a poor state of repair. That would be our very least favourable mooring for a relocation. It really is most unsuitable and there is absolutely no car parking, which we have at this time, even though a ventilation shaft will be dropped into the car park we currently occupy.

20957. The second mooring is adjacent to one of the largest skyscrapers being built in the Docklands at this time and further works, in fact that whole area is a vast building site. This is the Millwall Inner Dock. I am intimately familiar with it because I relocated from that area, after a visitation from the IRA, to West India Quay, and I am aware that British Waterways have concerns that there will continue to be a lot of barge traffic through that area which again makes it less attractive for moorings.

20958. If we could look now at the photographs which I have prepared, I am sorry that they are not of the best quality, but the weather yesterday failed to oblige, although there is no snow visible. This is a

view of the residential craft from across the dock.⁵ If we can move on to the next one, you see clearly the barges are moored adjacent to West India Quay which is the historic quayside and home of the Museum of the Docklands and Port East Apartments.⁶ The quayside is rather like a small version of Covent Garden with a whole series of restaurants and cafes which generate a lot of activity. It is a very pleasant place to be, and a very good advertisement for our craft and it provides us with a lot of visibility for our businesses.

20959. The next one is just a general view, not very clear, so we can move on and we can now start to pick up the craft in question. The first two craft belong to me.⁷ The smaller of the two, the *Leven*, is a restaurant barge and private function suite which has been operating in the Docklands for some 23 years, and we have seen all of Canary Wharf come to this area. The vessel next door, *Dana*, is the offices for our business and also my home. It is worth noting that in the case of the *Leven*, the barge which operates for functions of all types, our clients include Canary Wharf themselves, British Waterways, Ogilvy & May, Credit Suisse, Chevron Texaco, Morgan Stanley, Barclays Capital, the London Boroughs of Tower Hamlets and Newham, Mersk Line, Clifford Chance and HSBC, among others. Therefore, we perform our business and we need to be very closely located to Canary Wharf in order for us to continue, and the distance from the key customers is very important because they will not walk very far, I fear.

20960. If we could move to the next photograph, this is another general arrangement which just shows the craft.⁸ Again that is a client view of my own particular vessel, which could be a bit more photogenic!

20961. Another important element of what we have at West India Quay, and which obviously I think we are keen to preserve, is that part of the licensed area of the vessel is the pontoon area which has chairs and tables on it, which during the summer, with the spectacular background of Canary Wharf, provides us with a very attractive venue. The loss of that would significantly impact upon our income.

20962. This vessel is the Purnell Gallery on the *Prins*.⁹ A young couple with two small children live aboard the craft. The craft is engaged in providing facilities for art exhibitions and also provides some function facilities as well within Docklands.

⁵ Committee Ref: A242, View of residential craft at West India Dock North (SCN-20070320-001).

⁶ Committee Ref: A242, View of barges at West India Quay (SCN-20070320-002).

⁷ Committee Ref: A242, View of *Dana* and *Leven is Strijd* (SCN-20070320-004).

⁸ Committee Ref: A242, Views of *Leven is Strijd* from West India Quay (SCN-20070320-005 to -007).

⁹ Committee Ref: A242, View of *Prins* at West India Dock North (SCN-20070320-008).

⁴ Crossrail Ref: P153, Isle of Dogs Station in context of surrounding area (TOWHLB-AP3-24—04-002).

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20963. This is the barge *Maria* which is owned by Mr Roderick James who runs a company called Green Oak Barns.¹⁰ He has equipped the interior of the barge to reflect the designs and possibilities that he can create within a green oak barn, and therefore it is both a showroom and business meeting site for his business, and is located at Canary Wharf because that is very close to where he hopes to find his customers.

20964. Lastly, the *St Peters* barge.¹¹ Members of the Committee, this is a particular concern to me. This barge is a floating church and is so popular that it has not one meeting a day but has two sittings for each occasion, and people have to be shuffled out for the second prayer meeting etc to go on. It is very busy indeed and I believe somewhere for the people from Canary Wharf to come and confess their sins!

20965. We can move quickly on and say the concern we have with the *St Peters* is that it must remain within its own parish. Therefore, if it is located in certain parts of the dock, which are suggested as possible mooring, it would be outside its parish and, therefore, outside its remit. Therefore it needs particular care and attention in find it somewhere within its parish, and where its parishioners can beat a path to its door.

20966. Thank you for giving me the opportunity to share with you some pictures of the craft, which I hope give you a better understanding of the little community that we have.

20967. **Chairman:** Could we list those photographs as A242.

20968. **Mr Cartwright:** Thank you. I would ask that if it were at all possible, and I know that the construction methods which are being proposed for the construction of the Crossrail Station seem to change on a fairly regular basis, if there was a construction method which would allow us to remain our far and away preferred to solution to our situation would be to remain where we are—always providing we were able to exit the dock in order to carry out maintenance and repairs.

20969. There was a brief suggestion that some sort of dry dock could be created for the craft within the area. This really is not workable, I have to tell you, from many years of experience with ships. A dry dock would not work. It would have to be a wet dock, which would need to submerge and to lift craft.

20970. The largest craft are 130 feet long and carry about 90 tonnes of ballast, so it would have to be something fairly substantial to lift them. Once you start carrying out repairs, with welding equipment,

generators, shock-blasting, paint machinery etc, I do believe the residents and our good friends on Canary Wharf and Port East Apartments would be less than impressed with the noise, smell etc. This is commercial activity which needs to be carried out in a shipyard and would not realistically be possible within the areas available, sadly.

20971. In conclusion, I would just like to say that the Petitioners are *not* anti-Crossrail at all, and we fully appreciate the long-term benefits that Crossrail will bring to the area and to the wider community, of which we are but a small part. However, we would seek to be left unharmed by the required activity as the Act demands, and would reserve our right to appear before any further select committee in another place. Thank you very much.

20972. **Ms Lieven:** Sir, as I said in opening, we are wholly committed to finding the most beneficial possible alternative location for the boats—wholly committed. We are in discussions with Canary Wharf and British Waterways, but Mr Cartwright is quite right, obviously there are other landowners around so some of the alternative locations involve talking to other parties as well.

20973. Can I say, sir, just to emphasise just how committed we are to trying to find a solution to this that apparently our chairman's daughter is one of the leaders of the church community; so Mr Berryman is getting considerable pressure back at the office to find a solution to this problem. Can I also say, sir, that the chances of finding—

20974. **Chairman:** In engineering terms, everything is possible!

20975. **Ms Lieven:** That is right! I was about to say even Mr Berryman would say that we will of course explore all options and continue to work very hard on all options. We touched on this last week, and indeed a couple of weeks before that, that there were a lot of issues around this station; but the chances of being able to keep those boats in the dock and get access out, which they must have for repair purposes, is I understand from Mr Berryman very slight. I would not want the Committee to think there was likely to be a magic solution to that one.

20976. **Chairman:** In any of the options which were shown earlier, are any in the church parish?

20977. **Ms Lieven:** Certainly Middle Branch is, I believe.¹² I am not sure about the other two; I do not know where the parish boundary is. That is an issue which has been raised with us before that we are extremely conscious of. Obviously Mr Oakby's(?) interest makes us all the more knowledgeable about it, but the Committee can see that there are not a lot

¹⁰ Committee Ref: A242, View of *Maria* at West India Dock North (SCN-20070320-009).

¹¹ Committee Ref: A242, View of *St Peter's Barge*, London's Floating Church at West India Dock North (SCN-20070320-010 and -011).

¹² Crossrail Ref: P153, Isle of Dogs Station in context of surrounding area (TOWHLB-AP3-24—04-002).

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of options. After yesterday's meeting with Canary Wharf, where they were more hopeful about the possibility of getting the boats into Middle Branch Dock, we very much hope that is a way forward; because I think that is one which is in the right location for the commercial boats, because they do not want to be down in Millwall because it is too far way from their customers ultimately; it is the right location for the church; and it is in a convenient location. From the boat owners' point of view that we understand to be clearly the best option; but it is ultimately at the behest of Canary Wharf.

20978. **Mr Binley:** I am slightly concerned about what appears to me (and I may have the wrong impression) to be not the most positive reaction from British Waterways. I do not wish to put words into your mouth, Ms Lieven, in any sense at all but would my impression be correct, or am I mistaken?

20979. **Ms Lieven:** Those behind me will correct me if I have got this wrong, but I think so far as these Petitioners are concerned, the principal third party who may hold the solution is Canary Wharf and Middle Branch Dock.

20980. So far as Popular is concerned, certainly any solution for the Popular boat owners staying in the West India Quay complex as a whole turns on British Waterways. I cannot speak as to how completely robust their position on Millwall Dock is, we just cannot tell; but if there is going to be a solution for Popular it totally depends on British Waterways.

20981. Sir, that is not an absolutely straight answer to the question but I hope you get the general impression of it.

20982. **Mr Binley:** Yes, I have read between the lines. My second question is, I am really concerned about the people involved here, it seems to me that time is beginning to be of the essence, and I just want to be assured that these good people can come back to us if things do not work out as you intimate you hope they will do. How can that fit in with this process?

20983. **Ms Lieven:** Sir, obviously we hope we are beginning to draw to a close the committee hearings in this House.

20984. **Mr Binley:** We hope so too!

20985. **Ms Lieven:** There is no question whatsoever that these Petitioners can come back in another place and raise the concerns. I think I should say, sir, and again Mr Berryman or somebody else will tug my gown if I have got this wrong, part of the difficulty we have here is timing. We all know, it is not a secret, that there is not a fixed date for Crossrail works to begin. Around Canary Wharf the

Committee will know from their site visit, but also from their knowledge, there are a lot of building works going ahead at different times. There is the North Quay development; there are things happening at Heron Quay; you will hear on Thursday or next week about things happening at Wood Walk. Opportunities open up and then they close down again if something changes. It may well be that one absolutely fixed solution is not decided on by the time we leave Parliament altogether; but we are hoping to narrow down the options and to tie the third parties, in particular Canary Wharf and British Waterways, to some clear commitment.

20986. Sir, in terms of coming back, obviously until this Committee is finally closed they can come back here; but, probably more importantly, they can come back in another place if the boat owners feel that we have not done all that we should.

20987. **Mr Binley:** I am concerned about the vagueness of their recourse to action by the boat owners. That does concern me. My view of this whole thing has been that the Promoters are the interlopers into existing sites, existing businesses and existing homes. Consequently the Promoters need to go way out of their way to ensure that the people disaffected by the project (which is supposedly for the good of the people of this country, locals specifically) should not be so disaffected. I have not heard from you how we might guarantee that for these people?

20988. **Ms Lieven:** Sir, it is a difficult one here. We absolutely accept the need to do what can be done for these people. There is no equivocation on this. I put this one into Mr Mould's famous speech about the Stepney Green church. We will do everything we can but unfortunately in this one, unlike some where it is simply a question of handing over some cash or digging a bigger hole, we are ultimately at the say-so of other parties; because we cannot simply say, "We'll solve your problem and we'll move you to Middle Branch". We will commit to doing everything we can in terms of talking to third parties. It is very helpful if the Committee makes its view very clear because that helps us with third parties.

20989. **Mr Binley:** Just one more question I do apologise but I am concerned. I recognise the ever-changing nature of this whole development site, because that is what it is, and the development is only part completed. I recognise there are opportunities open which are closed within a very short time; and I recognise that big, great tower blocks often take precedence over what are very small people in little boats—and I do not mean that in any rude sense at all.

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20990. Is there not a way, at the very end of the day, within a given timeframe, that Crossrail will need to fully and properly compensate these people if that becomes necessary and that that compensation sits way outside the code? Is there an undertaking that can deal with that?

20991. **Ms Lieven:** Sir, there is an entitlement to compensation in the Act under the Bill for interference with private rights of navigation. There is no possible question that these people's private rights of navigation—

20992. **Mr Binley:** I think you misunderstood my question. I want you to tell me something different and something special. Are you people going to do that?

20993. **Ms Lieven:** Sir, I can tell you the something special, because there is a specific clause in the Bill about private rights of navigation which is specific to Crossrail, so there will be compensation available. The precise extent of that compensation very much depends on exactly what is claimed, and on the legal basis of what is claimed. Sir, that is as far as I can go. Obviously if the Committee wants us to go further then the Committee can say so.

20994. Can I say, sir, I do not understand. In all our discussions with the commercial ship owners I do not think their primary concern is compensation.

20995. **Mr Binley:** I recognise that.

20996. **Ms Lieven:** They want a good alternative mooring, and we are doing everything we can to achieve good alternative mooring; but behind that there is the safety net of their right to compensation.

20997. **Chairman:** I really need your advice here. I am a great believer in the fact that commonsense usually prevails at the end of the day. Taking you back to your statement a little bit earlier about the position of British Waterways being helpful in this matter, it is true to say that this Committee does not have the powers to order them to come before the Committee. Can you advise me, what if this Committee were minded (and I am saying this because I want it on the record) to recommend that the Promoters compulsorily acquire the dock or have reason to? Would that be possible within the remit of the powers of the Committee?

20998. **Ms Lieven:** Sir, there are two different docks which we are talking about. So far as Middle Branch Dock is concerned, I do not know the detail of where is being proposed—I know it is Middle Branch Dock but I do not know exactly where and I do not know exactly how it interfaces with Canary Wharf Group's development aspiration—but I think both us and Canary Wharf Group would be very, very unhappy with some kind of blanket recommendation that we promote an additional

provision to compulsorily purchase land there, because it could have truly knock-on effects on development rights there.

20999. Sir, what I know of the discussion yesterday, I think with a fair wind and a bit of assistance from the Committee in terms of talking—

21000. **Chairman:** That is what I am trying to get to now. As I understand it, it is possible the Committee could put some kind of decision like that albeit difficult to pick up after the event. If we are not being given the help, the guidance and the participation that we seek, could we not then in return say, "We would have little other option but to look at both these scenarios"?

21001. **Ms Lieven:** Sir, I would strongly urge, as far as *this* Petition is concerned and Middle Branch Dock, that would be the wrong way to go. Cooperation with Canary Wharf Group will be much more productive. I am speculating because I do not claim to have full knowledge of the detail of Middle Branch, but what would happen is we would promote an additional provision potentially in the light of your request, and then that would be bitterly opposed by Canary Wharf Group and potentially by other occupiers around Middle Branch Dock.

21002. **Chairman:** Having heard your remit and response to that, what about Poplar Dock?

21003. **Ms Lieven:** Can I just make one final word on Middle Branch, sir. We understand from the discussions we have had with Canary Wharf Group that they see these commercial boats as being an asset to Middle Branch Dock. They are not opposed to having them in principle. It is a question of getting them to fit in with their timetable. If we put that one to one side.

21004. Sir, the position with Poplar is significantly more complicated. If we could just put up the plan, please. Obviously to some degree I am adlibbing because we were going to deal with this on Thursday. The Committee will remember Poplar Docks up here, and we also have the Blackwall Basin boats here. Between the two there are over one hundred boats. You will hear on Thursday, or whenever we hear their petition, there are question marks over how many of those boats leave the dock regularly anyway. There is a division between the ones that are used residentially primarily and some that are used mainly for leisure purposes. The leisure ones obviously leave a lot; the residential ones, some leave but some do not leave so much. There are issues there.

21005. If the Committee is minded to try to find a home for all of them for three and a half to five years, which is the time we are talking about, which gives them access out into the Thames then there are

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effectively two options: there is the Royal Docks, which are way off over here somewhere, which have various problems, including the fact they have to go through the Thames Barrier to get to them, but where there is space for the whole lot potentially to go together; and then there is the West India Dock complex of which we have Millwall Inner Dock here and Millwall Outer Dock here.

21006. What BWB are saying to us is that as far as Millwall Outer Dock is concerned there is a sailing club going on there and I think there are certain other activities which are planned there but, as far as both are concerned, there are residential blocks and houses round the dock. It is British Waterways' case, as I understand it and I have not seen their detailed submission, that there is neither space in these docks for all these boats but nor is it at all feasible to put in the pontoons and the associated infrastructure that would allow all hundred-odd boats to go into either Millwall Inner Dock or Millwall Outer Dock, so that is their position. What they have said to us, and I think this will probably be in the letter that they will write to the Committee, is that if we do promote an additional provision in either Millwall Inner or Outer Dock, they will fight it tooth and nail and they expect adjoining occupiers to fight it as well. It is really for them to explain why, but my understanding is it is a combination of the uses that they already have in the dock, the impact on the residential properties around, the infrastructure concerns and their development plans for the docks in any event. Sir, as a matter of law, there would be difficulties with an additional provision because we would be seeking only temporary powers and we would probably have to take the land permanently but those problems are probably superable, I am not suggesting they are not, but it is important that the Committee understands we had lots of discussions with British Waterways about this and they are absolutely adamant in their opposition. To some degree, I stand here as a middleperson because it is British Waterways which is saying all of this to us. Could I put it colloquially, sir: there is nothing in what British Waterways is saying to us which is so obviously wrong that we can say, "That is rubbish, we are not going to pay any attention to you". We are faced with a statutory undertaker and a landowner who is saying, "Absolutely no way" to us and we are slightly caught in the middle here. I hope that explains the situation. We certainly are not keen, to put it mildly, to promote an additional provision which we know will be bitterly opposed. Where we have promoted additional provisions so far has been in circumstances where we are seeking to make as many people as possible happy and where we know there is going to be relatively little opposition, certainly compared with the original proposal; here, we are caught between two forces.

21007. **Chairman:** Could I say that is helpful, albeit

not the fullest reply. What I have to say is that, for the record, British Waterways have been asked to come along and help the Committee in its endeavours and they are refusing to do that. It is true to say that we cannot force them to attend, but if common sense is to prevail—bear in mind what I have put on the record today, an option which may cause them difficulty in which they may or may not have to petition against in the future—I hope that they take a common sense attitude. They might have a look at those words, then reflect on them and see if they can come back and talk to us and answer the queries we have put before them, because one of the main considerations that members had after the visit to Poplar was to see how we could try and get this family of people and keep them together. It is a serious consideration because it is their petition to us and we would have to look on their petition fairly, so we cannot really do that if all the options are closed down. It was made perfectly clear to us by them that for them to go there was not an option in their respect. British Waterways is not normally an antagonistic organisation and it is not known to be and I hope they will be sensible and agree to come to us if requested in the next day or so.

21008. **Ms Lieven:** Sir, I am very content to leave the matter there and we will ensure—I am sure you will as well—that those words are brought to the attention of the British Waterways' agent after this hearing.

21009. **Chairman:** Mr Cartwright, you wanted a moment.

21010. **Mr Cartwright:** Thank you. The first point I would make is perhaps something I should have mentioned earlier and I am sure it is something that has been raised by the Poplar Dock owners, that there is no Landlord and Tenant Act or any similar legislation which protects people living on boats, you do not have any rights in that regard. I believe that some submissions were submitted to the Office of the Deputy Prime Minister, but I have not seen anything come out the other side yet. That obviously places them in a particularly vulnerable position and your protection is of great value to us.

21011. In the submission that we made, we made three suggestions. Our obvious preferred and desirable solution is to find something within the West India Dock complex. We realise, because we know the dock well and the difficulties that all parties face in trying to resolve this issue, that it may not be possible to put everybody together and it may be possible that some people decide where they are offered is not where they want to be. Therefore, as a second proposition, we propose that Crossrail assists in relocation and compensation for those people who have to go away to find something else in the London area which would be suitable for them for the period. The third solution, if they decide that the whole thing is just getting too awful and too tremendous and they have to stop, is that they are

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compensated and go away and cease to be a problem at all for Crossrail. I put those together as propositions, understanding the sheer enormity of the problem and so splitting us up—the church may need to go within its parish; other people may need to go somewhere else—is not what we want but are not so critical as the Poplar Dock boaters who are more residential and a family community. We are a business community but very small and we could be split up if we had to.

21012. With regard to the Middle Branch Dock option, which I am pleased to see is moving back into interest, the area to the east of the Docklands Light Railway on the plan is, in fact, completely developed and that area, whilst not wonderful, would provide a viable alternative and I believe is one that Canary Wharf and British Waterways are looking at. Certainly, some of the barges could be accommodated there, providing parking and access for business purposes are available. The only problem with the Middle Branch Dock is, because it is not part of the main dock complex, the water became quite stagnant and, therefore, is heavily oxygenated and there is, in fact, an oxygenation system that bubbles water into this. I am not a great scientist, but I do know that if you put a tin box in highly oxygenated water it will rust quite quickly despite your best endeavours. Therefore, I think it may be necessary—and I have not gone into this in any great depth, I have only become aware of it this morning—for any craft that go in there to be specially coated to protect them from this highly oxygenated water. Certainly, the craft that is already moored in there I know came out of the water not long ago and has already started to rust through in quite a remarkable way and the owner was only showing it to me last week. That is a small consideration, which I would obviously look to Crossrail to assist us with should that become an issue and I would need to know more on the science of that. Thank you, sir.

21013. **Mr Binley:** I am still concerned about the limited time resource, quite frankly. I am not happy that I understand how that is going to work to ensure that these good people can fully claim the rights which they need to claim.

21014. **Ms Lieven:** I may have misunderstood your question, sir, but could I answer a question anyway. So far as the bit of Middle Branch Dock that Mr Cartwright was pointing to, which I think is this area here, the east side, that is where Mr Berryman has been talking to Mr Berry of Canary Wharf about and that area is separated from the area where development is likely to be going ahead over here, so we are hopeful that we will be able to reach agreement with Canary Wharf with a bit of assistance from this Committee before we finish the parliamentary process. Hopefully, on timing there is a good window there.

21015. Sir, could I make two other points as I am on my feet. As far as the issue of water quality in Middle Branch is concerned, Mr Berryman is happy to say that we will look into it. He instructs me that he does not think there is likely to be too much of a problem and it should be sortable, so it looks like one that could be overcome with proper treatment if there is a problem at all. So far as compensation is concerned, sir, what I would like to do with the allowance of the Committee is to write to Mr Cartwright and the Committee in the next 48 hours setting out our understanding of their compensation rights. Sir, I would like to do it that way because I have not Mr Smith here today and because Mr Cartwright is absolutely right that boat owners are in a different position to commercial occupiers on the land because they do not have the protection of the Landlord and Tenant Act 1954, that is why I referred in answer to a question from Mr Binley earlier to the interruption of private rights of navigation. That is precisely in order to ensure that these people are entitled to compensation because it is not something that is covered standardly under the Compensation Code but as far as the precise perimeters of that compensation are concerned, sir, I do not feel myself qualified to give chapter and verse on it. I think it is important we take instructions from our property advisers and check with Mr Smith. The last thing I want to do is to say anything that is incorrect, to give Mr Cartwright the wrong impression and then cause trouble, so if we can deal with it that way. We will write to Mr Cartwright and the Committee in the next 48 hours setting out our understanding of the compensation rights that arise here so then everybody understands. Mr Smith is attending to give evidence on Poplar Dock and if the Committee wants to ask any questions of him then that might be an appropriate moment.

21016. **Chairman:** Both of those are helpful: first, the letter, which we will look forward to receiving, and, secondly, the matter that negotiations will continue to see if you can find a solution to this.

21017. **Mr Binley:** You clearly are mindful of our concerns of timing, you will take that into account and make sure that you do come back to us. If the hopes you have do not come to fruition, we still have to solve this problem if that is the case. As long as there is an undertaking from you to come back to us within the time frame, I am happy.

21018. **Ms Lieven:** Thank you, sir.

21019. **Chairman:** That concludes this morning's hearing. The Committee will next meet at six pm this evening.

Adjourned until 6 pm

The Petition of Woodseer and Hanbury Street Residents Association

Ordered: That Counsel and Parties be called in.

The Petition of Woodseer and Hanbury Residents Association

Mr Stephen Whale appeared on behalf of the Petitioners

21020. **Chairman:** We will return now to the next petition, which is a return to the petition of Woodseer and Hanbury Residents Association. Mr Whale, can I just say at the beginning I realise that you were not aware that gowns and wigs were worn. I just put it on the record that it is for you to check that. We are not going to stop you from proceeding today but you are a lawyer and it is one of the oldest professions in the world, so to speak, and I think you appreciate that your colleagues in your industry are having to wear these gowns you have omitted to do that on this occasion and I think you should feel a little bit guilty about that fact.

21021. **Mr Whale:** I do, and I apologise. No discourtesy is meant. I am afraid it was neither checked nor communicated to me. I am about as formal as I could be without gowns.

21022. **Chairman:** I think it is pretty clear that you are still a lawyer without the gown.

21023. **Mr Whale:** Indeed, I am.

21024. **Chairman:** Anyway, that point has been made. Before we proceed I would like Mr Elvin to remind the Committee.

21025. **Mr Elvin:** Sir, you will recall that this petition last came before the Committee on Day 68 on 31 January when the Committee adjourned the matter just after it had begun on the basis that certain matters were raised in the evidence of Mr Schabas. You asked for the matter to be dealt with by correspondence. That, in fact, occurred. Letters were received on behalf of the Woodseer and Hanbury Residents Association with material from Mr Schabas, Mr Carpenter and some other material. That was followed shortly by a letter from the Spitalfields Small Business Association. I wrote to you on behalf of the Promoter on 1 March comprehensively responding to the matters raised in both sets of correspondence.

21026. Sir, so far as this evening is concerned you will have it on the record, because I raised this last time and, indeed, so far as the letter is concerned of 1 March, the major concern that is being raised with the Committee by this Residents Association is not an AP3 matter, which is the question of the alternative tunnel alignments. That is a matter which was ventilated on the main Bill petitions last summer. It is a matter which does not arise, as I informed the Committee last time, as a result of AP3. I have set out a number of matters which are pertinent to that in the letter which, unless you want

me to read them into the record, I will not, they are set out in some detail as to where, in fact, alignments can be seen to have been considered.

21027. That being so, you wrote to the Association yourself making it clear that although the Association could come back on AP3 matters they did not have locus to raise other matters not relevant to AP3. I am sure your clerk will have advised you on the locus provisions and the provisions in *Erskine May*. The interest in the petition has got to arise in relation to the matter which is being petitioned, which is AP3. Thank you, sir.

21028. **Chairman:** Thank you. Mr Whale?

21029. **Mr Whale:** Sir, matters seem to have taken another curious turn. Those behind me I could hear express some surprise at the reference to my learned friend's 1 March letter which I have never seen and I am told that they have never seen. Quite how that has come about I know not but it is the first that they and I have ever heard of it. I do not know if Mr Elvin can help the Committee and myself on how it was communicated or by what method.

21030. **Chairman:** It is a surprise to me, Mr Whale, because it was my understanding that it was copied to the Petitioner.

21031. **Mr Elvin:** Sir, the position as I understand it from Mr Walker is it is a letter to you and we left it to the Committee to decide whether or not the Committee thought it appropriate to copy it. I can certainly let Mr Whale have a copy.

21032. **Chairman:** Mr Whale, you have got a copy now. Do you want a short adjournment to read it?

21033. **Mr Whale:** I would be very grateful for that, sir.

21034. **Chairman:** We will adjourn for ten or 15 minutes.

After a short break

21035. **Chairman:** Mr Whale, can I first of all apologise. It is not normal that such things as this happen; we try for it not to happen at all, and all I can do is apologise in that respect.

21036. **Mr Whale:** I am very grateful for that. It does confirm that we have not had sight of this letter before. Obviously I have had a brief chance to look at it and to take some instructions. With your leave, I have got some observations on it and then what I

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would regard as more substantive reasons as to why you ought to hear the Association this evening. Are you content for me to proceed in that fashion?

21037. **Chairman:** I would just like to point out to you what we have already communicated to you, which is about AP3 and the southern alignment and all the debate which we have had about that. You will appreciate that we, as a Committee, have been assigned a job by Parliament and within that they have already decided on the alignment and where stations should be.

21038. **Mr Whale:** If you are referring to your own recent letter to the Association, I have that well in mind, indeed I think it is in the bundle that we have provided for you. It is my job, as it were, to try to persuade you that the evidence that we would like to adduce tonight is referable to AP3, and that is what I would like to do.

21039. **Chairman:** You do it for a living, you have got to try and put it in that context.

21040. **Mr Whale:** Yes. All I would ask at the moment is for me to explain to you why it is referable to AP3. Mr Elvin may say he is not persuaded and then it will obviously be a matter for you and your Members.

21041. So far as the letter goes, I have just one or two introductory observations. The letter seeks, in a sense, to respond to representations both of my Association and the SSBA who obviously are formerly separate formerly separate Petitioners. I can understand why the letter seeks to address both the representations but that distinction ought not to be lost on you.

21042. At the foot of the third page there is a reference to an allegation by Mr Schabas as against Mr Berryman and the letter goes on to conclude at the foot of that page that you have already heard Mr Berryman's evidence and rejected Mr Schabas' assertion. For my own part, I cannot see how that conclusion has been reached. Yes, you have heard from Mr Berryman but where the rejection comes from, I know not. Be that as it may, on the last occasion Mr Schabas was in the middle of his evidence when proceedings when suspended. You invited him to write to the Committee, which he has done. To my mind that does not sit well with a submission that his evidence has already been rejected.

21043. What I had in mind this evening was for Mr Schabas, in a sense, to try and make good his allegation. He can be cross-examined by my learned friend, Mr Elvin, and can be asked questions by Members.

21044. There is a presumption at the top of the fourth page as to advice that may or may not have been given by previous counsel for the Association. The Association are content for me to say to you that that presumption is misplaced.

21045. Can I then turn to why, in the Association's view, its petition is directly referable to AP3? Those are the matters of substance that I alluded to a moment ago. The first point is that there is, as a result of very recently disclosed material, that is to say, and you have it in your bundle, a map. This might be an opportune time to have a look at that.

21046. **Chairman:** We will list this as A243.

21047. **Mr Whale:** For the moment I do not think we need to put the map on the screen, I just simply want to advert to it and the date of its production. This is drawing A00/4 revision A which shows a number of alignments for the track. This was supplied to the Association on 24 January of this year. Their position is that this goes to the adequacy of both the Supplementary Environmental Statement and Crossrail's consideration of other routes. It is really two points: firstly the adequacy but, secondly, the fact that it has only been disclosed so very recently. The Promoter had promised to consider the southern route. The Association's position is that has not been done adequately or at all and this map is referable to that.

21048. The next point is that the Pedley Street tunnel worksite has been excluded and the Association's position is that has major implications for two things: firstly, the case for going through Spitalfields at all and, secondly, the need for a shaft in Hanbury Street.

21049. In your letter of 14 March 2007, Sir, if we might take that up, and again that is in the bundle, you very correctly reminded the Association on the purpose of the proceedings and you said that the general alignment of the tunnel and stations are part of the principle of the Bill and in my submission that reference to a general alignment does not preclude some consideration of other alignments.¹³ Limits of deviation have not been identified. I understand there has been an interim finding on the Hanbury Street site but no report to the House as such on that.

21050. The remit of this Committee is to consider petitions, which obviously plainly you are doing, and to report recommendations including as to compromise, and the Association's case on the alternative routes or the adequacy of the exercise to discount them, goes to the subject of compromise.

21051. Just as a matter of procedure and fairness, in my submission the House and this Committee ought to be concerned to ensure that the Environmental Statement of the Promoter complies with the

¹³ Committee Ref: A243, Correspondence from the Chairman to Woodseer and Hanbury Residents Association, 14 March 2007 (SCN-20070320-012).

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relevant regulations and does what it is supposed to do. There is in the bundle for tonight advice from other counsel which says it is not adequate and this is an issue that the Committee ought to countenance.

21052. I understand, and I have seen the transcript of it, that on Day 74 of this Bill on 21 February 2007 the Promoter sought to submit that the petition of the Residents' Society of Mayfair and St James ought not to be considered for very similar reasons to those that had been advanced today. Mr McCracken QC, who was representing the Petitioners, put forward a number of points and I would like to adopt those. The first is that this is a petition by a group of residents whose homes and area are affected. Mr McCracken submitted, and again I adopt, that you should be very cautious, very cautious indeed, before refusing to hear the Petitioners. You have afforded them the chance to return, they are grateful for that, there are witnesses here, and they say their evidence is directly referable to AP3 and you ought to at least give them the chance to put that case before you.

21053. As I have already said, you suspended the hearing on 31 January because of, on the face of it, a serious allegation. Mr Schabas is here and, as I have said, he can be questioned by you under oath and by the Promoter; that has not happened before.

21054. The Association already nurses a sense of grievance as to the consultation exercise by the London borough of Tower Hamlets; that I know is not the responsibility of the Committee. That grievance would be compounded if they were to be shut out and, if I may say so, particularly in circumstances where, on my feet so to speak, I on their behalf am having to address a letter that was not forwarded to them and was apparently sent some two weeks or so ago. Those factors all militate in favour of giving them this opportunity to say to you why AP3 is directly an issue.

21055. **Chairman:** Can I respond, before you go on further? In relation to the letter I accept that and I have already issued apologies on behalf of the Committee.

21056. **Mr Whale:** I am grateful for that.

21057. **Chairman:** I think we can deal with it in that respect. What I am going to do is, at the end of this hearing, if you want to write a letter to this Committee in response to that letter, then we will take that as evidence. I think that is reasonable.

21058. **Mr Whale:** Would that be instead of evidence tonight or as well as?

21059. **Chairman:** No. You can go away from here and write a letter in response to the Committee. That is not instead of.

21060. But can I deal with one or two other matters? You referred to Mr McCracken and you intimated that perhaps we should not exclude Petitioners. That is why we are here tonight—we have not. This Committee has the power to exclude anybody, really, if they think it is irrelevant to hear, or indeed to invite other people, as we did this morning, who perhaps do not wish to come to this Committee and we have tried to put pressure on them. So we are not trying to exclude people; we will, wherever possible, hear them.

21061. Can I refer to the question of whether or not this has been fully examined? The Association did have the opportunity last summer in respect of raising issues on this, and in fact as I read through from the letter which you are going to deal with on Days 39-42 there was debate on the site of Hanbury Street and the alignment, so we have heard the arguments. You appreciate you do this for a living; what we have here is a number of provisions which are coming in at various stages and we do get in this place some degree of repetition, and if we do not draw a line on it, particularly when we move into the new areas of consideration, we will be here for ever, and we cannot do that. It might be very good for people who earn a living at such things but it does not move things forward where decisions have to be made.

21062. **Mr Whale:** I have impressed upon Mr Schabas the terms of your letter and the need to avoid repetition and irrelevance at all costs, and I have prepared a few questions, and they are only a few, again because I am mindful of the terms of your letter.

21063. So far as the debate about last year is concerned, the problem with that, so far as the Association is concerned is that it is only in January of this year that they have had disclosure of these additional documents so they did not have the chance to debate and air that last summer. So there has been a change since last summer.

21064. **Chairman:** Can I deal with Mr Schabas? I wrote to Mr Schabas and asked him to elaborate on the matters and he did not do that. He just referred to the transcripts and came back to us in respect of that, and that was not what we were asking for. So there was another opportunity there and he did not actually take it up.

21065. Would you like to respond to that?

21066. **Mr Whale:** Perhaps I can speak for Mr Schabas, I do not know, but I suppose if and when he gives his evidence today you would be able to explore that with him and seek his explanation. I do not think I can properly give an explanation for the terms of his letter, and it could be put to him by Mr Elvin that for whatever reason he chose not to respond directly to your letter, and you can see if you are impressed with his explanation or not. That is the way I would suggest you proceed.

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21067. **Chairman:** What I want to avoid is a situation where this Committee is used as a battle of ideas between individuals. Mr Schabas has not appeared in front of this Committee once, he has appeared in front of this Committee more than once, and made accusations in that visit also. There was nothing new in what he was saying but it was a repeat of last time, and we were not really interested in taking that forward without any fuller evidence to the fact. That is why I wrote and said: "Look, will you elaborate?" I do not want to be either misused or abused as a Committee; we cannot proceed like that.

21068. Just to put on record one fact, whilst Members are protected in this place members of the public are not, and whatever they are saying is up for challenge in the normal way, so we are trying to protect the individuals.

21069. **Mr Whale:** If I might respond on that, I do want to reiterate that the planned questions I have are very much mindful of your letter of 14 March.

21070. So far as protecting others are concerned, I would have thought that for the Promoter's benefit the better outcome would not be to leave on the record the terms of the aborted hearing but rather to give the Promoter the chance to test Mr Schabas' allegations today.

21071. **Chairman:** But why did he not put it in writing?

21072. **Mr Whale:** I cannot properly give an explanation for that, as I say.

21073. **Chairman:** He has come to the Committee and said various things—

21074. **Mr Whale:** With your leave that would be the first question I could ask him.

21075. **Chairman:** Let me just go back to Mr Schabas. Mr Schabas has been before the Committee a first time and we questioned Mr Schabas during the course of that and he presented his arguments. He then came back in for a little bit, he repeated some of his allegations but went down the same course. The hearing was then suspended and we wrote to him asking him to elaborate, which he has not done. I do not think we are agreeable to go down the path of Mr Schabas appearing again.

21076. **Mr Whale:** He is the Association's only planned witness for this evening.

21077. **Chairman:** What I am saying is we have heard him before; there was nothing substantively different in what he brought up last time; we have written to him asking him to fill out what he has previously alleged and there has been nothing new. He declined to do that. We cannot go on and on. The matter about which we are here today is AP3 and how it is affecting the Petitioners. It is the narrow area in the Additional Provisions 3.

21078. **Mr Whale:** If you are effectively saying that you are not prepared or you simply do not want to have Mr Schabas repeat any allegations, or even mention any allegations, you could simply exclude that topic and I could simply invite him to answer questions which I say are directly referable to AP3.

21079. **Chairman:** I will agree to that, but if it comes back to AP3 I will rule it out again.

21080. **Mr Whale:** I appreciate that.

21081. **Mr Elvin:** Can I raise a couple of points, sir?

21082. **Chairman:** Yes.

21083. **Mr Elvin:** Mr Whale simply fails to understand what the position is here, with respect. Clearly the Committee will judge for itself in a moment with Mr Schabas, but can I just make three short points and ask the Committee to keep these in mind?

21084. Firstly, Mr Whale simply has not grappled with the point you made very clear in your letter, that the issue of the alignments is part of the principle of the Bill and Mr Schabas is only being called to deal with the alignments issue. If that is what he is doing he is asking him to go against the Committee's view that this is a Bill principle issue approved on Second Reading.

21085. **Chairman:** Can I respond? What has just been said to the Committee is that he is not going to talk about the alignment and not going to repeat the allegations.

21086. **Mr Elvin:** He has not told you he is not going to talk about the alignment. Mr Whale has failed to understand your first point in your letter about the principle of the Bill. Clearly we ought to try and see what happens but I am just asking you to bear that in mind.

21087. The other point I would like you to bear in mind, and clearly you will reach your own view on this, sir, is that Pedley Street is not part of AP3. It was a non-hybridising amendment. The removal of Pedley Street did not require an AP; it is not dealt with in the AP3; it is a non-hybridising amendment made in the context of the third supplementary Environmental Statement; therefore issues arising from Pedley street do not come into AP3 and the issue of the alignment and the location of Hanbury Street has nothing to do with AP3. The alignment is fixed to other factors and, as the Committee well knows, the Hanbury Street shaft was selected for reasons which are gone through in detail in the ES, and you made your decision.

21088. **Chairman:** We are not going to revisit Hanbury Street; we have taken evidence and a decision on that.

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21089. **Mr Elvin:** Absolutely. Thank you, sir.

21090. **Chairman:** Mr Whale?

21091. **Mr Whale:** Thank you, sir. I do think it is proper for me to say to you that I cannot pretend that if I call Mr Schabas he is not going to talk about alignments. Mr Elvin, in fairness to him, is entitled to have me say that. It is not a case of me not grappling with your letter. As I explained in my submissions a moment ago, I submit that this Committee in this House would want to be satisfied that, whatever alignment might have been chosen or whatever terms might have been provided to you, that had been done in a way that was both adequate and lawful and, secondly, the Association is responding directly to an undertaking that the Promoter gave that it would look at a southern alignment.

21092. **Mr Elvin:** Just to help you, what we said we would do is we would issue further environmental information on the alignments. That is nothing to do with AP3—

21093. **Chairman:** I understand.

21094. **Mr Elvin:** —it is in SES3.

21095. **Chairman:** Yes. Mr Whale, we have dealt with the alignment issue; it is not within AP3 and we are not going down that route today. It is not within the provisions we are asking for and which your clients have petitioned on. It is only matters within AP3 that they have asked to come to this hearing on, so let us hear their case. Changing the alignment is not in the provision.

21096. **Mr Whale:** Could I beg your indulgence further with two minutes' adjournment so that my client can just take stock of what has been said about Mr Schabas and what he may or may not say, and what you have just said?

21097. **Chairman:** Yes. Two minutes.

After a short break

21098. **Chairman:** Mr Whale?

21099. **Mr Whale:** If I may call Mr Schabas, please.

Mr Michael Schabas, recalled

Examined by **Mr Whale**

21100. **Mr Whale:** He has been sworn before, I do not think he needs to be re-sworn.

21101. **Chairman:** No, we remember.

21102. **Mr Whale:** The swearing itself! The transcript of the suspended hearing records Mr Schabas' expertise. That in itself was not the first time he

appeared but the Committee still wanted him to go over that again. Would you like him to do that again?

21103. **Chairman:** No.

21104. **Mr Whale:** Mr Schabas, do you have a bundle? Yes, you do. If Members could please go into the bundle that has been supplied by the Association this evening, you should find in there an advice dated 29 January 2007 written by Richard Harwood of counsel.¹⁴ It is paragraph ten of that advice where the conclusion is reached that: "The Environmental Statements and its supplements are therefore deficient in failing to explain the main alternatives considered and providing insufficient comparison of the Crossrail proposal with the alternative they describe to understand what their reasoning is and to evaluate its correctness." Mr Schabas, you are not a lawyer but you are an expert, do you have any comment or observation or any evidence on the Environmental Statement and its adequacy?

(Mr Schabas) Yes. I have to be careful, I do not want to say what I am not supposed to say. Having read the Environmental Statement, to me everything in it and everything subsequent to it continues to be deficient in methodology. There is no systematic analysis of alternatives. There is no attempt to trade-off costs between different alternatives and where costs cannot be estimated use pairwise comparisons, which is a methodology that we used on the Channel Tunnel Rail Link and on other projects I have been involved in. I do not see tables listing the alternatives and listing the trade-offs between the choices. I do not see an effort made to identify whether there really are fatal flaws. Frankly, I do not see an effort by the Promoter to try very hard to come up with alternatives that might work. That is just lacking through everything I see. It is the easiest thing in the world to say something is wrong with one route or another, there is no such thing as a perfect route, and the analysis—I can go into more detail—shows a clear bias to trying to always justify the route that they have previously picked. The alternatives analysis has been done after the fact to justify their choice.

21105. Can I now invite you and the Committee to go to the plan I mentioned earlier this evening.¹⁵ It is plan A00/4 revision A. There is a full-size colour plan. As I have explained, this plan was disclosed to the Association I represent on 24 January this year. Mr Schabas, my question for you is what if any are the implications of this plan and its disclosure?

(Mr Schabas) Okay. This shows that there was briefly a consideration of alternative routes between Liverpool Street and Whitechapel, either of which, I think, complies with the Second Reading direction.

¹⁴ Committee Ref: A243, Correspondence from Woodseer and Hanbury Residents Association to the Chairman, 29 January 2007 (SCN-20070320-013).

¹⁵ Committee Ref: A243, Liverpool Street to Burdett Road—Alignment Options A, B and C (A and B under Ansell House) (SCN-20070320-014).

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The Whitechapel Station they have got is not directly under the existing Whitechapel Station but it connects with it. Alternative B also connects with Whitechapel Station very correctly. Alternative B clearly is a better alignment in railway operational terms. It may or may not be more difficult and more expensive in terms of construction and environmental impacts. This drawing was withheld, I believe, and has only now been released and I do not see any supporting analysis of any detail. There is, I believe, a one page note with a few, “Well, it’s not so good for this” and “it might not be so good for that”, sort of thing. I have seen no analysis to show that they seriously looked at alternative B and I think they should have and they should have then; I do not know why they did not actually.

21106. Do you know if the routes on this map are the same routes as were subsequently considered as alternatives?

(Mr Schabas) No. In 2004 just before the Hybrid Bill went in they commissioned Mott MacDonald to do a more detailed analysis. I can only speculate but I think somebody thought, “We need something more substantial to show that we have done our homework”. Having gone through this report, which is dated 21 June 2004, it has the same flaws although in greater length as the previous analysis, it is not systematic, there is no real attempt to quantify most of the impacts, it is bias and prejudiced. I would like to go through some of the points in it and explain, if I can.

21107. Can I just stop you there because you have prepared, and everyone here should have received, an analysis. You referred earlier to a table and you have effectively done a table with on the left-hand side—Sir, it looks like that.¹⁶

(Mr Schabas) Yes. This is not what they should have done. The table that they should have done would have had many more columns and rows and real numbers in there, and obviously I am not equipped to produce that.

21108. Before you get into the detail can you first of all explain to the Chairman and honourable Members what this document is, when did you produce it and what is its purpose.

(Mr Schabas) I produced it this afternoon.

21109. **Mr Elvin:** Sir, I have not seen this.

(Mr Schabas) The left-hand side is actually straight out of the text of the—

21110. **Chairman:** I have just been reminded that both sides can make mistakes.

21111. **Mr Whale:** Sir, if I may, there was in fact no mistake on our side. It was sent to Mr Walker this afternoon.

21112. **Chairman:** Mr Elvin said he has not seen it. It is normal to see documents a little in advance of the afternoon. I apologise for it being even later than that. It is usually more than 24 hours before.

(Mr Schabas) I apologise for not doing it sooner.

21113. **Chairman:** I am responding to Mr Elvin’s protestation that he was not aware of it.

21114. **Mr Whale:** I honestly do not know why Mr Walker did not pass it on. The timing of it was today.

21115. **Chairman:** Can I just say we have dealt with it now.

21116. **Mr Whale:** Mr Schabas, please tell the Committee what this document’s purpose is?

(Mr Schabas) I just thought it would be easier to understand the points with a note for people to understand because there are quite a few. In the Mott MacDonald report for the base scheme, which is the Crossrail Bill scheme, they identify 11 bullet points which are called advantages and three which are called disadvantages. On Option D, which misses Spitalfields entirely, does not go through or under a listed area, historic preservation area, in the same way. It goes under a developed area, you cannot go from Whitechapel to Liverpool Street without going under something, but Option D is identified as having only one advantage and ten disadvantages, which is very impressive if you are counting advantages and disadvantages. This is a pretty superficial way to make choices and you would like to think there was some more analysis behind that. When you just read the words behind these bullet points it gets even more disturbing. The first point CLRL cite for why they prefer their scheme is that: “The shaft is located within a position that is favourable in terms of railway alignment and journey times, intervention and ventilation requirement.” To me that is a general and meaningless statement that could be applied to any option actually. It is not factual evidence, it is not specific as to why it is a better or worse one. They could put that down as an advantage or a disadvantage on any line. I guess you could say a railway through the Sahara Desert on a nice flat plain is probably more advantageous for operation and ventilation. Most of the next points are points basically saying, “We have worked hard on this and we have done our best to make it as good as we can”, and, again, it is not surprising given this is the one they have been working on for the better part of a decade. Any of these reasons could apply to any of the options as well, we just do not know. It says it has been designed to construct it wholly within London Clay and to avoid aquifers. We do not know whether any of the others do or do not do the same, and there should be a table and a matrix with at least a “yes” or a “no”. The third one is that it is well suited for a construction adit to the Pedley Street shaft. I know that is a legal and technical issue but it seems to me being near the Pedley Street shaft is not important any more, so that is one less so-called advantage of this scheme. The fourth is that it has been developed

¹⁶ Committee Ref: A243, Michael Schabas Evidence to Crossrail Bill AP3—Alignment comparison from CLRL technical note 1D0300-C1N00-00805 prepared by Mott MacDonald, 21 June 2004 (SCN-20070320-015).

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to minimise impact on the buildings on Princelet Street and Hanbury Street. That is hardly an advantage of this scheme, the other routes do not go under Princelet and Hanbury Street so they avoid it entirely. It is a bit like saying, "I didn't shoot your mother last week". It does not require demolition of buildings 61-67 Princelet Street; again, none of the other options do that, so it is a kind of negative thing. The base scheme has no major conflicts with known building foundations. There are two important qualifiers: no major conflicts, we would like to know what a minor one is; and no known building foundations, and again I think they are accepting they do not know. Again, they do not provide this for all of the other options, they do not know for any of them. They know that some have got likely conflicts but they have not quantified that. "The shaft head building has been designed to accommodate over site development", again that applies to all of the options, they can all have the shaft head building designed to have over site development. No road closures required, again none of the other options require road closures that I am aware of. That ground borne noise and vibration is minimised due to increased depth, again these are enhancements to the scheme but basically everything they cite as an advantage frankly is not an advantage. There are no advantages that they have cited here to this scheme that could not equally apply to the other options. In terms of disadvantages they correctly state that it goes under Grade I and Grade II listed buildings, which seems to me to be actually quite important, and buildings 68-80 Hanbury Street will be demolished, which is pretty serious. This is one of the largest environmental historical impacts on the route. There is no mention in the disadvantages of the speed restricting curve coming out of Liverpool Street which to me is actually quite an important disadvantage looking at the drawing, and I will come back to that. They turned it around on Option D. Option D is a different one from this map that was shown, but it is one that does go south from Liverpool Street and swings around and goes into Whitechapel Station on the Bill alignment. They cite as one of the advantages of Option D that it avoids the tight alignment at the eastern end of Liverpool Street but then goes on to say that: "...this will not reduce the journey time as the affected length is within the deceleration zones into and out of the station." I have not seen any calculations and I have not done any calculations, but I suspect that statement is not true. Crossrail trains are very long, they are ten and eventually will be 12 cars long. One of the problems with designing a railway is the front and the back of the trains have to go at the same speed and that means when you go through a speed restricting curve, and this is a speed restricting curve, you cannot speed up above the maximum speed of that curve until the entire train is off that curve. So although having the curve near a station is less bad than having it in the middle, midway between stations, it is still not a good thing to have a sharp curve like that.

21117. **Chairman:** Can you remind me how this applies to AP3 provisions?

(Mr Schabas): Yes, because AP3 relates to the shaft at Hanbury Street and the alignment through Hanbury Street, I believe, and the argument they have used for why that is the preferred route specifically is the alternative analysis they have chosen, and why they picked that route, and I go through these reasons and I say the whole methodology is grossly inadequate. The other barrister who was here last time, Ms Lieven, put it quite well actually in shooting down one of the other Petitioners. She said you have to systematically and carefully look at all these alternatives, and that to me is exactly what has not been done in going through these points, and when I read this not only has it not been done but it is laughable. The analysis is so inadequate for a scheme of this size. Maybe if you are doing a garden shed, yes, but you are not supposed to do it this way. You are supposed to go through them systematically and have a matrix and a table and try to assign costs to these, and to say that it has no impact on journey times in this case is nonsense. It almost certainly will have an impact on journey times and on operational costs, and they should have calculated that and that should be in the table added up. Instead they go on and refer to the difficulties of the shaft at Pedley Street and give ten disadvantages, and I think three or four of them relate specifically to Pedley Street. Number 4, additional length of tunnel added to Pedley Street; number 5, increase in quantity of spoil; number 6, increase in spoil from the tunnelling operations, and they total £620,000 and £450,000. I am not sure if the person who wrote that had a sense of humour but in a project the size of Crossrail those numbers are not usually decisive in the choice of an alignment. You can get a flat probably in Hanbury Street for that if you are lucky now, but they are using Pedley Street as the justification for this alignment, and, again, I would like to see the table putting out the matrix saying that if you still had the shaft, and it is not relevant now because you do not have the shaft but the analysis should be weighing off the additional costs of a longer shaft, if you had to have it, against the cost and the operational implications of the curve at Liverpool Street. If you do option D you avoid that curve near Liverpool Street station. You have other impacts; you go near and under the foundations of some buildings and there will be costs associated with that, but they do not tell us those, they do not try to weigh them out, and there is no evidence that they have actually done any evaluation. The whole approach is, I have suggested before, not to look at alternatives and that is evident here.

21118. **Mr Whale:** And what about the route map and the Supplementary Environmental Statement? Is that an approach that is different there, or is the same kind of approach repeated?

(Mr Schabas): Reading this, and it is half a page—

21119. Just tell the Committee what you are looking at.

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(Mr Schabas): I am looking at the Supplemental Environmental Statement, SES3, page 43, 3.5.9 through 3.5.12.¹⁷ It is four paragraphs and maybe I misread it but I thought that it said that the Promoter did say they would undertake to look at the relative merits of a tunnel alignment south of Hanbury Street. On the map that is attached they have not looked at the alignment B we spoke about before to Whitechapel but only looked at an alignment that swings down and then back into the existing Whitechapel station, so they have first of all constrained themselves.¹⁸ That may be fair enough in that they do not want to unstick the whole alignment; they are trying to get on the right angle to go into Whitechapel station that is in the Bill and not change that. They do not mention that they did that and they probably should have. They constrained themselves. Maybe they were not aware of it or maybe they did not want to mention it. They then say, "Of course you cannot really closely follow roads because you would not be able to stay within Crossrail design standards". That is true but previously they have admitted that the scheme they have does not follow Crossrail design standards. The curve into Liverpool Street is substandard. They then say that if they do something with a minimum radius of curvature there is an increase in the degree to which it passes between relatively modern buildings with deep foundations --

21120. **Chairman:** We are back into the southern alignment. The earlier points were dealing with the Environmental Statement, and we are now back into where I did not hope to be.

21121. **Mr Whale:** We are on the Environmental Statement, sir.

21122. **Chairman:** Yes, we are, but we are also on the southern alignment. Would you try and keep your witness to the areas where he can go?

(Mr Schabas): I understand. The conclusion of this, having cited the various disadvantages in the same way that they had in the Mott MacDonald report, is the same kind of approach. There is no system to it, it is just: There is this good thing and this one, and there is this bad one and this bad one about the alternative. The concluding paragraph says, "Although some of the alternative sites provide some slight improvements in terms of issues such as visual amenity and socio-economic impact, these are outweighed by the overall adverse impact associated with each." Well, there is nothing to support that conclusion here. They have cited some positive things and some negative, but there is nowhere anything showing that they have tried to add them up to see whether, in fact, they do add up the way they would like them to.

¹⁷ Crossrail Supplementary Environmental Statement 3, Southern Alignments, [billdocuments.crossrail.co.uk \(LINEWD-SES303-029\)](http://billdocuments.crossrail.co.uk/LINEWD-SES303-029).

¹⁸ Committee Ref: A243, Liverpool Street to Burdett Road—Alignment Options A, B and C (A and B under Ansell House) (SCN-20070320-014).

21123. **Mr Whale:** Shall we move on, sir?

21124. **Chairman:** Yes.

21125. **Mr Whale:** Mr Schabas, I was going to ask you for the implications, in your own view, of the exclusion of the Pedley Street worksite for (a) going through Spitalfields at all and, (b), a Hanbury Street shaft and the need for it. I hope I make myself clear?

(Mr Schabas): Sure. I think the drawing from six years ago that was withheld shows that, if you were going to go from Liverpool Street to Whitechapel with a high speed modern railway you would have to have a good reason to swing up with a sharp curve up and through and under Spitalfields. The only reasons that I can see for doing that are historical. One, that they were originally going to go directly to Stratford in the 1994 Bill, and then when they came to deposit the Bill this time they wanted to have a tunnel worksite near to the Great Eastern Railway and the shaft at Pedley Street, and when those two reasons go away anybody building a modern high speed railway would not run the route that way. You would go to Whitechapel if you have to go to Whitechapel but you would do it more directly, or you would at least try to and you would look at it and they have not done that. To be honest, and this is nothing to do with Petitioners, if you are trying to fund this scheme I would think you would look at ways to make this scheme better and more direct.

21126. **Chairman:** Mr Whale, just to repeat, we have dealt with the alignment and we have dealt with the Hanbury shaft. These are decisions that have been made and we are caught by.

21127. **Mr Whale:** You will be content to hear I have no more questions, I hope and think, that have any bearing on that subject at all. I only have two questions but if I tell you what they are then you can tell me if you are interested in the answers.

21128. **Chairman:** Yes.

21129. **Mr Whale:** The penultimate question was to ask the extent to which the Promoter has, in fact, adopted the same methodology as was adopted for the Channel Tunnel Rail Link, and that goes to, you can see, the adequacy of the assessment and all the rest of it, and the final question I was proposing to ask Mr Schabas was whether he was in a sense a lone expert in the wilderness or whether there were any other experts that subscribe to his point of view. Are you happy for him to answer those two questions?

21130. **Chairman:** Yes.

21131. **Mr Whale:** Mr Schabas, the first was about CTRL, you recall.

(Mr Schabas): I do not see any evidence—in fact I see evidence to the contrary—that they fall into anything like the analysis that was done on CTRL, where we exhaustively tested alternatives; we did not drop an alternative unless we were absolutely certain that it was inferior to something else that worked;

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and we got it just about right. There were one or two places where even in the Hybrid Bill changes had to be made but we tested it to distraction. We did not come in with prejudices saying: “This is the one we have drawn; let’s fight to keep it, we don’t want to have the trouble to change this.” We took the other approach and said: “Look, we are not going to get this Bill if we do not do our job right.” We actually paid people to come up with whacky alternatives. “We are going round this side of the village, what if we went round the other side of the village?” I think it was proven in the success of the CTRL project, and I do not see that here.

21132. What was the approach to residential areas in the CTRL?

(Mr Schabas): We had a rule of thumb that we should never take more than four or five residential properties in one place or we might have a residents’ association fighting us. We tried very hard to do that and I think, with a couple of exceptions, we did succeed in doing that.

21133. Thank you. Finally --

21134. **Chairman:** Just before you move on, Mr Whale, Mr Hopkins has a question.

21135. **Kelvin Hopkins:** On CTRL, I think it was the case that a fairly substantial proportion of the line is tunnelled underneath the existing railway line, and therefore it did not have the problems that would necessarily arise with Crossrail.

(Mr Schabas): Well, it is 99 kilometres and it generally falls within existing transportation corridors, but that does not mean it is directly underneath the railway lines. Even when it runs into St Pancras under the North London Line it swings out under people’s homes. It has to. It even goes under the homes of some members of the House. So if it got through Parliament more easily I think it was because of hard work, not because it had an easier route. Indeed, the first time I met Mr Berryman on the subject in 1999/2000 it was because I said: “If you are going to build a railway from Paddington to Canary Wharf”—at the time he did not think he was going to Canary Wharf—“why go under central London? Why not go under the river? You won’t have any Petitioners if you go under the river”.

21136. **Chairman:** We have dealt with that option also. I understand.

21137. **Mr Whale:** Thank you, sir. Mr Schabas, there is then my question about whether there is any common ground between you and any other experts, or whether you were on your own on this one?

(Mr Schabas): There are not many experts who have taken the time to look at the specific details of the alignment through Spitalfields, but two have and they are notable, Whitby Bird and Ove Arup, both noted engineering firms, and they have basically come to the same conclusion: that there is not

enough evidence here to show that the southern alignments do not work and that they might not be better than Crossrail’s chosen route.

21138. **Mr Whale:** Sir, what I propose before I tender Mr Schabas for any questions in cross-examination, if there are any, is just to make a couple of points to you if I may. Firstly, I would like to reiterate again the terms of the written advice which was alluded to and which was in your bundle from Mr Harwood on which the Committee might feel it wants to seek another opinion to see if that opinion is shared by other learned counsel. So I commend that to you.

21139. The second document I want to remind you of or draw your attention to is the list of undertakings that were presented to this Committee on the last occasion, which are also in your bundle headed “Spitalfields Undertakings—Presented to the Select Committee on January 31 2007”.¹⁹ Those are undertakings with which the Promoter has been familiar for many weeks, and through their counsel or outside this hearing the Association invites the Promoter to provide essentially these or some of these undertakings so you have that for your benefit. The Promoter might not see it for its benefit but it is there anyway, and that invitation is provided to them.

21140. That, I think, is the end of my role, at least for the moment. I am going to invite Mr Elvin to ask questions of Mr Schabas if he so wishes.

21141. **Mr Elvin:** I would have thought it was for the Committee to invite me rather than Mr Whale. Sir, since Mr Schabas has merely gone over old ground I see no point in prolonging the matter by cross-examination. I will make some short submissions. Thank you.

21142. **Chairman:** Thank you, Mr Schabas.

The witness withdrew

21143. **Chairman:** Would you like to sum up, Mr Elvin?

21144. **Mr Elvin:** Yes. I have answered all the points already, they are in my letter of 1 March.

21145. Sir, Mr Schabas is quite clearly a man who has no difficulty in making accusations about lack of care and lack of reasons in consideration. Can I just ask you when you are considering this matter just to look at Mr Harwood’s opinion. You will recall Mr Schabas was telling you that for alignment B no reasons were given, but Mr Harwood actually sets out the reason why Option B was rejected in paragraph five of his opinion. The Heron Tower was the reason Option B was rejected. Mr Schabas has

¹⁹ Committee Ref: A243, Spitalfields Undertakings—Presented to the Select Committee on January 31 2007 (SCN-20070320-020).

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not even noticed that, so great is his zeal for saying that we have somehow tried to look at the alternatives in an appropriate way.

21146. We come down to this, Sir: the issue of alignment is a matter of Bill principle; the issue of the Environmental Statements are a matter upon which representations can and have been made. I have set out the relevant position to the extent that the Committee wants assistance in my letter of 1 March. The fact is the obligation is to give an account of the main alternatives study in outline. We have done that in Chapter 6. It is not a duty, as Mr Schabas thinks, to provide vast amounts of detail for every small section of the track. Can you imagine, sir, what would have happened if we had produced an Environmental Statement which had looked at all the possible alternatives, which is what Mr Schabas seems to think, and analysed them for each square mile affected by the scheme. You would have had an Environmental Statement which would have made a mockery of public consultation because no-one would have seen the wood for the trees. That is why the European obligation is simply to give an outline of the main alternatives study. We are dealing with one of the biggest rail projects in the last 150 years. It has looked at alternatives, the alternatives were progressively refined, as I have said on a number of occasions to the Committee now, to the Business Case which was published in July 2003. That was then examined and the main alternatives then at that stage were looked at by Mr Montague in providing the Montague report and that fed into the Bill. The Environmental Statement does that and I have set out the various references in our letter of 1 March. This is, I repeat, going over old ground and I have made a number of submissions on this already.

21147. I reject the suggestion that there is a breach of the environmental assessment requirements and I certainly reject the unsupported and wilfully perverse allegations by Mr Schabas, even contrary to the advice which he relies upon, which says that reasons have not been given in outline in accordance with the directive. Sir, I ask you to reject this matter.

21148. **Chairman:** Mr Whale?

21149. **Mr Whale:** Briefly, if I may. I am bound to say I would have thought that if insinuations were going to be made about Mr Schabas in closing submissions my learned friend might at least have put to Mr Schabas in cross-examination some of the matters on which he now relies.

21150. The next point is that if this is—to adopt Mr Elvin's words—the biggest rail project for 150 years, one might have thought that the Promoter would do all it could to assess these alternatives to satisfy you and the House and those I represent that that had been done. The recent disclosure of material drawings and material reports and the shortcomings that Mr Schabas identifies clearly suggests that analysis has not been undertaken. This is a situation where during the course of this long project matters have been excluded, such as Pedley Street, which have major implications for the case for going through Spitalfields. This is not an objection that can simply be dismissed out of hand as going over new ground in circumstances where very new and relevant material has only recently come to light.

21151. That is all I would like to say in closing. I thank you again for allowing the Association to return.

21152. **Chairman:** Just to be clear in what I said a little bit earlier, Mr Whale. Today you have received a copy of the letter.

21153. **Mr Whale:** Yes.

21154. **Chairman:** I am going to give you time to respond to that in writing. When your reply is received I am also going to do the same with the Promoter and give a copy of your reply to them so they can respond to the Committee also.

21155. **Mr Whale:** That seems perfectly fair and reasonable to me.

21156. **Chairman:** Thank you for saying that. That concludes today's evidence. The Committee will next meet absolutely certainly next Wednesday. It may be that the Committee will have to reconvene before then. If it does then members of the public and everybody else, the Promoter and representatives, will also be informed.

Thursday 22 March 2007

Before:

Mr Alan Meale, in the Chair

Sir Peter Soulsby

Mr Philip Hollobone

Ordered: Counsel and Parties be called in:

21157. **Chairman:** As everybody is aware the Committee asked the Government last summer to amend the Bill to include a station at Woolwich which Crossrail turned down. The Committee then made a special report to the House highlighting the importance of this issue and Mr Elvin I understand you have some information for us this morning.

21158. **Mr Elvin:** Yes, sir. The Secretary of State a few minutes ago made a statement before the House and I will read the statement to the Committee.

21159. “The House will recall the extensive discussion in the Crossrail instruction debate on 31 October about a station at Woolwich, adding £186 million to the cost of the scheme. This could simply not be afforded given the scale of the overall funding challenge. I said then, however, that I was willing to give Cross London Rail Links Ltd, the Crossrail company, the time needed to explore with others, including the London Borough of Greenwich, whether there was a way of significantly reducing that cost.

21160. I am pleased today to inform the House of important developments that point a way forward.

21161. The key to this has been Greenwich Council’s recent proposal for a major revision to its spatial plan to allow a significantly higher density of development at Woolwich. This, in turn, has prompted Berkeley Homes to offer a means of enabling a station to be built at Woolwich but, crucially, without adding to the current cost of Crossrail.

21162. In the light of this, agreement has been reached in principle with Berkeley Homes under which they will build the basic box structure of a station at Woolwich and then construct their own development overhead. This will all be done at their own risk using their own money to the specification laid down by CLRL with a payment back to Berkeley Homes of the savings CLRL will make through avoiding other works at Woolwich when it constructs the line there.

21163. In due course, Berkeley Homes would then arrange for the completion of the station box to full operational status. Both they and Greenwich Council recognise that the completion of the station would be conditional on receiving sufficient funding contributions from those developers and businesses that stand to benefit from a Crossrail station at Woolwich. The contributions would be in addition to any London-wide Crossrail funding arrangements that may be agreed and no additional public sector debt capacity would be made available. Fit-out of the station could take place only once sufficient private sector contributions had been received.

21164. More work needs to be done to flesh out this deal but the House can now have sufficient confidence that Berkeley and Greenwich Council have the commitment and the right incentives to do that. This is a very significant change from the position last October as there is now a clear way forward that can deliver a station at Woolwich without adding to the costs which Crossrail has already identified.

21165. On this basis I am now able to bring forward an amendment to the Bill to provide powers for the station. In due course, the House will be invited to agree a further instruction to the Committee in respect of Woolwich”. That concludes the Secretary of State’s statement.

21166. **Chairman:** Thank you very much, Mr Elvin. Clearly, it is good news. For the record, I would like to thank the Secretary of State for considering the special report of Woolwich and for finding the way forward. He is clearly a man of great vision. We look forward to seeing the amendments in more detail. The Committee will reconvene on these matters later in the year to ensure that in the meantime all of those who are affected by the new amendments have the opportunity to come to the Committee and set out their concerns. We want to make certain that a new station at Woolwich will be of benefit to the local community so I would like to stress that all those who wish to petition against the new amendments will have their chance to do so. The Committee will now stand adjourned until Wednesday 28 March at 10am.

Wednesday 28 March 2007

Before:

Mr Alan Meale, in the Chair

Mr Brian Binley
Kelvin Hopkins

Mr Ian Liddell-Grainger
Mrs Linda Riordan

Ordered: That Counsel and Parties be called in.

21167. **Chairman:** Just before I bring you in, Ms Lieven, could I remind people who are here that at 11:30, or thereabouts, I will be suspending the Committee so people might have a drink of coffee or tea along the corridor. Also could I apologise because it seems that our input to the new technology has gone astray today, so we will try and get it back online, if not we will have to operate without it. Could I offer an apology from the Committee to Lucie Stephens because you have been messed around somewhat and this is about the fifth or sixth occasion when it has had to be re-arranged, so we apologise for that. Before you come in, Ms Lieven?

21168. **Ms Lieven:** Yes, sir, could I start by explaining the position of where we are with these Petitioners who are, of course, the Poplar Dock and Blackwall Basin boat owners. I am going to take a little bit of time to explain it because it is not a wholly straightforward history, it would be fair to say, and it is not going to be made any easier with the lack of technology, but I will do my best. As the Committee knows, this Petition concerns the boats which are presently moored in Poplar and Blackwall Basins, approximately 80 boats in Poplar and 20 boats in Blackwall. I am sure Ms Stephens will give you more detail on that and their uses, some are used for residential and some for leisure. I am not sure whether all the members who are here today went on the site visit, so if I will try to briefly explain the factual position. It is not one of the plans that has just been handed to you because it was going to go on the screen and it is very small but I will do my best. Poplar and Blackwall have effectively only one access out into the wider watery world and that is via a short canal—I am not sure if that is the right technical word—into North Dock and then down what is called Bellmouth Passage which takes them out into South Dock, which is the large dock, and then out through a lock into the Thames. The Committee will remember that it is in North Dock we are constructing our station, so there used to be a way out from Blackwall directly to the Thames, but that is now blocked and there is effectively no prospect of re-opening that way. The consequence of our works for the Poplar and Blackwall residents has been assumed to be, until very recently which I will come to in a moment, to require that a cut-off will be built in Bellmouth Passage which will prevent them being able to get out of Poplar and Blackwall into the wider world for the duration of our works, which was something between three and a half and five

years. That is the situation they found themselves in because of the very extensive works we are doing in North Dock.

21169. Quite understandably, the boat owners were not happy with being stuck for three and a half to five years and we have been working extremely hard, it would be fair to say, to try and find a solution to the problem. What I would like to do is briefly go through the solutions we have considered and where we are with them.

21170. The first possibility, we believe, was for the boats to stay in the existing dock and we are prepared to cover the reasonable costs of them staying because that would be costs such as increased insurance and, potentially, increased maintenance. However, it is quite apparent from their Petition and from long discussions we have had that the boat owners are very unhappy about that proposal, partly because they want to be able to take their boats out—many of them use them for leisure purposes—and partly because of the various practical problems of being stuck within the dock in the boat for three and a half to five years in terms of maintenance and so on. That is the first option we have considered.

21171. The second is to use reasonable endeavours to try to find them another location and preferably, because we understand it is their strong preference, with all of them staying together, or all the ones who want to stay together can stay together. It is not possible at this stage to know exactly how many of them want to stay together because, of course, things may change, but we do understand that the majority want to stay together. We have looked at other locations within what I call—I hope it is the right term—“the West India Dock complex”, that is South Dock and then Millwall Inner and Millwall Outer Docks. Millwall Outer is the most southerly dock where the sailing club exists, but it would be fair to say and, as the Committee is well aware, and British Waterways are here today and so can speak for themselves, that trying to find an alternative location within the West India Dock complex has proven to be a very fraught process.¹ British Waterways are here to give evidence to the Committee as to the problems with finding a location. The only two areas which are in any terms big enough are Millwall Inner and Outer Docks. It is

¹ Crossrail Ref: P155, Isle of Dogs Station—Millwall Docks (Plan 1) (TOWHLB-325—04-005).

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fair to say that British Waterways are very strongly opposed to that and have set out in a document we have seen, and they will give evidence on later, a series of reasons why they think that is not a sensible solution.

21172. The other thing that we looked at was whether they could all be relocated to the Royal Docks. The Committee may have a picture of this but it probably does not matter very much. The Royal Docks are a separate set of docks. You might find it, sir, at 003.² Sorry, I have almost no idea what you have got and I have got only marginally an idea of what I have got. The Royals are the dock complex further east which some of the Committee may be familiar with because it is where City Airport is and next to the Excel Centre, which the Committee may remember from previous hearings. It is a very large dock complex. We have been in preliminary discussions with the owners. There probably would be space but it would be fair to say that the boat owners are very, very far from enthusiastic about going there for a number of reasons, one of which is that access involves going through the Thames Barrier, it lies to the east of the Thames Barrier, and my understanding is that some of their boats, I do not know what proportion, would not have insurance to go east of the Thames Barrier. I understand there is an issue about training for—I am going to get the term wrong—drivers, or whatever one has for these types of boats, and there is also an issue about seaworthiness once one goes east of the Barrier. That does not appear to be a very attractive option at the present time. Where we have got to is that we have also considered very, very hard the engineering solutions to try to allow them to remain in Poplar and Blackwall Basins. Although, I think it would be fair to say that various ideas have been around for some time, it really has been in the light of the very strong opposition from the boat owners to the Royal Docks and to be being split up and equally strong opposition from British Waterways to using Millwall Dock that we have gone back and looked again very hard at whether we could manage to keep them in the dock and keep waterborne access.

21173. The Committee will be pleased to know that Mr Berryman and his team think that they have come up with a solution, but I should stress it is early days and the solution involves quite significant problems that Mr Berryman can explain to you, but we think we can make it work. I am going to explain very briefly two sub-options at this stage and then Mr Berryman can deal with it in detail.

21174. The Committee should have two plans which both say “Isle of Dogs Scenario 1”, but in the bottom right-hand corner of the first one I would like you to look at, says “Figure 4A”. They are the ones that were handed in this morning, I think, and they are on an A4 bit of paper. Figure 4A, what is happening there is that a cofferdam is built across at the eastern

point of the station in a location that allows Bellmouth Passage to be kept open. On the plan it looks like an easier solution, but the complexity of it, which Mr Berryman will explain, is, as the Committee will remember, that on the north side of North Dock there is a false quay and immediately on that and to the north is the Billingsgate Market and, therefore, building a cofferdam there is an extremely complex business because one has to get under the false quay. I am not going to stray into the engineering; Mr Berryman believes that it can be done, but there is no getting away from the fact it is complicated. The other issue with both this and the other sub-option is that it is going back to building a sheet piled cofferdam in North Dock, which the Committee might remember, although you were never told about it in any detail at all, was the original scheme for the entire construction of the station and was bitterly opposed by, in particular, the Canary Wharf Group because of the noise impact of sheet piling in the dock. Although this is much less sheet piling than the original scheme, because it is only one wall as opposed to an entire whole circuit, it will have noise implications and there may be issues, although we have not got to the stage of discussing this with Canary Wharf and the London Borough of Tower Hamlets, which is, of course, the planning authority.

21175. There may be issues about how many hours a day we can do it which has the knock-on effect that in order to build this proposal there still have to be two cut-off dams to lower the water in this part of the dock. Under this scenario, there would still have to be a period in which the boats are locked in. Mr Berryman will say that the maximum is eight months, but he hopes very much he could make it a good deal shorter but we do not want to give false hope to the boat owners. That is option one.

21176. Option two is a nuance of that and you should have plan one in the bottom right-hand corner. Sub-option two is again to build a cofferdam, but this time it is a dog-leg and so one does not have to go under the false quay, but the cofferdam is much longer so that has two significant disadvantages. One is there would be a good deal more noise because there is more sheet piling and the other is it is likely to be a good deal more expensive, so those are the two possibilities.

21177. As I say, they are at an early stage but Mr Berryman believes they should be feasible. Sir, if the Committee is minded to think that is a course worth taking, then I need to explain how the powers in the Bill work. These are construction proposals that have not been assessed in any of the environmental statements we have done so far and because they are likely to have materially different, significant environmental impacts, primarily the noise but also potentially, I am told, the lobster in the Billingsgate Market which apparently are not going to like the vibration very much, all these things

² Crossrail Ref: P155, Isle of Dogs Station—Poplar/Blackwall Berth Location Alternative Sites (TOWHLB-325—04-003).

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will have to be assessed in a further Supplementary Environmental Statement. The work falls within our limits of deviation so we do not need an additional provision for the work, but in accordance with the Environmental Impact Regulations we do need to be environmentally assessed in order to gain the benefit of planning permission under the Bill. The Committee may recall that each time we produce a new Supplementary Environmental Statement there has to be an amendment to Clause 10 of the Bill, so technically there is an additional provision but it is merely to refer to this further Supplementary Environmental Statement, so that is that option, which Mr Berryman will explain he believes has considerable advantages.

21178. I should say, sir, finally, on this issue of the Supplementary ES, the intention is to do that in parallel with the Woolwich additional provision which we are already working on, so the idea is that the two documents could be produced at the same time and any petitioning to the SES, which I can deal with in more detail if the Committee wants me to, would be considered at the same time as the hearings on the Woolwich AP. Therefore, it will have to be done quickly, but Mr Berryman believes that is possible.

21179. There is one final option which I should deal with because it has been mooted and it is important the Committee understands our position, that is the issue of the Wood Wharf canal. Sir, I was going to refer to a plan which I have no idea whether you have, 015, I hope, in the blue file.³ That is a drawing which says in the bottom right-hand corner: "Proposed New Canal and Basin Alignment Development Phasing". This is quite a complicated topic. The area to the south of Blackwall Basin is an area known as Wood Wharf. There are significant development proposals in that area being brought forward by the Wood Wharf Partnership, which is a partnership of British Waterways Board, Canary Wharf Group and a property developer. They are promoting a major re-development in this area consisting of offices and residential. It is a very large project, as the Committee can see from the area in question, but it has not yet, as I understand it, got to the planning application stage. As part of the overall scheme, the Wood Wharf Partnership intend to fill in Bellmouth Passage and to build a new canal from Blackwall Basin out into South Dock, and I hope the Committee can see that marked on the plan. It is not really a matter for the Committee, but there are very significant financial advantages for the Wood Wharf Partnership which, of course, includes Canary Wharf and British Waterways in doing that work because of the development land that it frees up, but, unsurprisingly, it is an extremely costly project, something in the region of £20 million.

21180. It goes up and down like all these things fairly regularly. It may be that the canal offers a good solution to the Poplar boat residents because it is a direct way out and it is a scheme which has the potential to be going ahead in any event, but that entirely depends on two things. One, whether the timing of the canal can be made to work with the Crossrail project because it has not even got to the planning application stage and we are just not in a position to know whether there are likely to be difficulties with planning permission or not but then it is not even in phase one of the Wood Wharf scheme, as we currently understand it. It may be that the canal gets built, but it gets built far too late to be of any assistance to Poplar dock owners or users or Crossrail. The other one is simply a financial one which is that Crossrail has indicated that we are happy to discuss making a contribution to the canal which is commensurate with the benefit to the Crossrail project, ie roughly commensurate to the costs of relocating the boat owners, but we are firmly opposed to being required to build a canal as part of the project. That would effectively be a massive windfall to the Wood Wharf Partnership and would entail a cost to the public purse that is completely out of proportion to the benefit of the canal to Crossrail. £20 million is an awful lot of money in order to assist something like 100 boat users. Sir, we are very happy to go on discussing the matter with the Wood Wharf Partnership and British Waterways and it may be that is a solution but there are no guarantees of that at this stage.

21181. I should also say, sir, that quite apart from the fact an AP would not be justified by the project, it would also necessarily involve a considerable delay because to bring forward an AP for the canal would be a very major operation. The boat owners have suggested—I will just touch on this because it is in the correspondence—constructing a shorter canal which, if the Committee goes back to 015, would go across on the left-hand side close to the roundabout and go roughly through what is on the plan as Fulton House. There are all sorts of problems with that one, it involves impacts on the Grade I listed Banana Wall and impacts on existing buildings which are in use, some of which are doing rather important functions and it will also make absolutely no sense because it does not fit in with the Wood Wharf development proposals, so the canal would have to be built and filled in again and then another canal built for Wood Wharf so that is not an attractive option.

21182. Where we end up, sir, is that we believe we can achieve waterborne access for the Poplar Dock owners save for a period of between four to eight months when we would have to construct these cut-off, these dams and work would have to be going on in the cofferdam. If the Committee wishes to do so, then we can seek powers to do that through the Bill by producing a Supplementary Environmental

³ Crossrail Ref: P155, Proposed New Canal and Basin Alignment Development Phasing (TOWHLB-325—04-015).

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Statement. We will also continue to talk to the Wood Wharf Partnership about the canal and how that can be brought forward, so the two are not conflicting, they can go along in parallel. I am sorry for having taken a bit of time, but it is not, as I say, a straightforward story. I do not know if the

Committee wants now to hear from British Waterways, the Wood Wharf dock or Ms Stephens. I am really in the Committee's hands.

21183. Chairman: We will hear from Ms Stephens, she has waited long enough.

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Ms Lucie Stephens appeared on behalf of the Petitioners

21184. **Ms Stephens:** I have prepared some notes so if you do not mind I will read the notes.

21185. **Chairman:** I wonder if at the end you could give the notes to the stenographers, that would be very helpful.

21186. **Ms Stephens:** Given the changes we have heard this morning, there might be some edit to what I have originally prepared. My name is Lucie Stephens and I am appearing before the Committee to represent the Poplar Dock Boat Owners Association. We are pleased to be here today but would like to note our surprise and disappointment that, as a well-established and visible dock full of boats, we had no formal communication from Crossrail at all prior to the presentation of our Petition. We hope it was just an unfortunate oversight but we would like to make it clear for the record and in case there is any misunderstanding that while our interest may be aligned to British Waterways, they do not represent the interests of the boating community moored in Poplar and Blackwall Basin.

21187. We are extremely grateful to the Committee for the time they are giving us to hear our evidence today and also for the time they spent with us on their site visit to Poplar Dock a couple of weeks ago.

21188. In my submission today I am going to show how the proposed Crossrail development will impact on our community and, in particular, I hope to explain in detail how Poplar Dock and Blackwall Basins are thriving and diverse communities which bring social and environmental benefits to a local area. Remaining in Poplar Dock and Blackwall Basin is only possible within navigable reach of the River Thames and it is the overwhelming desire of the communities to remain in Poplar Dock and Blackwall Basin during the building of the Crossrail Isle of Dogs station, but the current Crossrail plan will not allow for this. That is subject to the amendments we have heard this morning. As residents, we have submitted a number of possible alternatives that we believe would allow us to keep navigation open for the duration of the project and we are willing to work with Crossrail and others to come up with other acceptable alternatives. However, we believe these need to be properly worked through and Poplar Dock users wish to be fully engaged in that decision-making process.

21189. Firstly, I would like to explain why the residents of Poplar Dock felt the need to petition against the Crossrail Bill. Poplar Dock boat users are supportive of Crossrail and we do not want any of the issues we raise today to be misconstrued as a lack of support for Crossrail. We recognise that Crossrail is vital for London and the future growth of the Docklands areas. Our Petition concerns the method by which the proposed Crossrail Isle of Dogs Station would be constructed. We feel that, as it currently stands, it will have an unacceptable impact on our way of life and community.

21190. Before moving on I would like to make some clarifications about the current status of the Poplar Dock and Blackwall Basin communities.⁴ Within the Crossrail assessment of community impacts report, Appendix 1, the following wording was used and we heard it used again today: "Poplar Dock has 90 berths, mostly for recreational use. Blackwall Basin has 20 berths, for larger vessels. These are all residential." I have also seen these phrases used in previous submissions to the Committee suggesting perhaps that there is a division between the boats that are used residentially primarily and those that are used for leisure purposes and I wish to correct this terminology and explain to the Committee why the terms "recreational" and "residential" are unhelpful and can be misleading.

21191. For the vast majority of us, the boats are our only home and many owners have invested heavily in their vessels. The vast majority of boats in Poplar and Blackwall are moored for pleasure or leisure purposes throughout the year, particularly in the summer months and for many this is integral to our way of life. Those owners who may not move their boats frequently for pleasure purposes must still move their boats for maintenance and all of us require access to dry dock or hard standing, where a boat is propped up on the land, for health and safety purposes. Therefore, all of the boats within both basins are mobile. Further to that, we are a community and we feel that any relocation options must consider all of the boat owners from our community rather than discriminate against some boaters on the terms of greater or lesser frequency of use.

⁴ Committee Ref: A244, Aerial views of Poplar Dock and Blackwall Basin (TOWHLB-32505-101).

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21192. I would also like to clarify the importance of us having a permanent mooring site. A permanent mooring offers all the advantages of a fixed address along with the ability to unhitch and go cruising for a few days or months but always with the security of knowing you can return to the same place.

21193. A little bit about us as a community. Poplar Dock and Blackwall Basin are home to over 150 people. The marina is one of only two, the other being a sister marina at Limehouse, central London moorings that allows people to live aboard and that can accommodate such a wide variety of sizes, values and styles of boats. This variety of boats brings with it a diverse community spanning ages, backgrounds, income levels and experiences. We are proud that single people, married couples and same sex partners, disabled and able-bodied people, pensioners, expectant mothers and young children from the UK and internationally live together so cohesively. Our diversity is also apparent in the huge variety of occupations that people from within the community have, including many local key workers such as nurses, teachers and care workers, self-employed people, people in the creative industries, including journalists, actors, musicians, filmmakers, illustrators and photographers, lawyers and other professionals, including civil servants, students, skilled tradespeople and people involved in the voluntary and community sector. Our current location plays a large part in the success of this community and moving us would threaten our future. Within Poplar we form a bridge between the high-cost housing in Canary Wharf and the social housing in Poplar and we continue to play a role in the ongoing regeneration of the area. The assessments of Community Impacts Report prepared for Crossrail states that: “berths are well subscribed and there is a waiting list of users. [There are a few alternative moorings in Central London] Alternatives include South Dock, St Katherine’s Dock, Shadwell Basin and Limehouse Basin”. I would like to clarify that none of the mooring mentioned above would have the capacity to provide moorings for the Poplar Dock and Blackwall Basin communities over a period of ten years, let alone if the whole marina was evicted in one go. All of the moorings listed have specific qualifications for access which include regulations about the age, size or appearance of boat, meaning that the whole marina could not be moved together. Also, St Katherine’s Dock and South Dock, like many commercial marinas, do not allow people to live aboard their boats so would not provide an alternative for Poplar Dock community members. The Parliamentary Under-Secretary of State for Communities and Local Government, Angela E Smith MP, speaking in a debate on 27 June last year acknowledged that the demand for existing moorings is high and there needs to be an increase. This is particularly true for London and the south-east. Many community members have experienced waiting times of over three years to secure a place at Poplar of Blackwall. The Poplar Dock community is in total consensus that it wishes to remain in Poplar

Dock, however, we are clear that this would only be possible with a navigable route to the Thames. Within the Crossrail document it states that: “If a waterway is temporarily closed under paragraph 10 of Schedule 2 to the Bill, paragraph 10(3) requires that no more of it is closed to navigation at any time than is necessary”. As I outlined earlier, the current construction of the Isles of Dogs Station will result in the complete closure of the only navigating channel of vessels in Poplar and Blackwall docks for a minimum five year period, excluding the proposals we were just offered this morning. We dearly wish to be able to continue living as we do. There is a real fear of moving from our existing site as the community feels at risk of discrimination in any new site.

21194. Within Poplar Dock we are pleased to have achieved a positive relationship with local residents, a good level of support and understanding from the local authority and high engagement with local public services. Some residents do suffer from serious health complaints and movement of the community would force them to move to new practices and establish new relationships with health practitioners. Before any discussion about relocation or compensation of the Poplar community is pursued, we would want to be clear that absolutely every opportunity that would allow us to remain in our current site within the docks with a navigable channel has been explored.

21195. As a community we have identified four options, some of which were mentioned within our initial Petition that would allow us to remain as a community within Poplar Dock. A lot of those were covered earlier and I would like to go into detail of two of those: option A, which involves adjusting the sighting of the cofferdams to ensure maintenance of a navigable channel via Bellmouth Passage, and option B, which involves bringing forward the construction of the proposed Wood Wharf Canal to ensure a new navigable passage to South Dock is in place before commencement of the new Isle of Dogs Crossrail Station begins.

21196. Option A, which I said involves adjusting the sighting of the cofferdams to ensure maintenance of a navigable channel by Bellmouth; I would like to make it clear, we just heard this morning about the revised proposals. We are pleased to hear of them and we would like to look in more detail at what that involves. We understand this will entail strengthening the wall in front of Billingsgate Fish Market in order that the cofferdam is secure. Altering the sighting of these cofferdams will make it possible to maintain navigation throughout the period of construction and therefore allow the community to remain within Poplar Dock and Blackwall Basin. It would also allow more convenient access for barge traffic to carry materials to and from the Crossrail site. London Borough of Tower Hamlets has previously been supportive of our community in retaining navigable access to our current site, so we hope they will be supportive also

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of this option. We would like to make it clear that in remaining on these sites from the earlier discussion, it was made clear we would need the support of British Waterways also to enable us to get through that passage, so we would hope that they would show willing in regard to that.

21197. Option B was about bringing forward the construction of the proposed Wood Wharf Canal to ensure that a new navigable passage to South Dock is in place before the commencement of Crossrail station construction. We believe Crossrail has been in negotiations with the Wood Wharf group and they are seeking compensation from Crossrail in order to bring forward the start day of construction of the canal. However, at the moment we feel as a small group without influence we are caught between major vested interests, therefore we ask that the Committee urge the continued engagement of Crossrail with these negotiations and that we, as stakeholders, are kept adequately informed of these negotiations. We would wish that the financial impact of contributing to the cost of the construction of this canal are considered against the extremely serious impact that the loss of navigation would have on the communities of Poplar Dock and Blackwall Basin.

21198. I would like to make it clear, that is obviously reliant on the timings being agreed that enable us to maintain access throughout the period of construction. Again, for the purposes of clarity, we would like to make it clear that the Poplar Dock and Blackwall community would only seek a functional route through South Dock and from there to the Thames, so we would not be expecting the full construction of the canal with whistles and bells, as it were, simply an access route would be sufficient. The redesign of the cofferdams on Bellmouth Passage or a cut-through through Wood Wharf would allow us to remain on our current site, close to existing services and within a local community which we have developed a good level of integration with. Before going any further, I would like to state again, that we would wish to remain in place and would want all of the possible options for this to occur to be fully investigated, feasibility studies taken, costed and published before any relocation was considered. We feel Canary Wharf have spent 30 years building up an eco-system in the docks which we make an active contribution to and the two proposals outlined already would ensure that Poplar Dock and Blackwall Basin can remain intact and part of that eco-system.

21199. I would also like to comment on the option of relocating to Millwall Dock, as has been put before the Committee. This would sadly involve relocation of the community but we would hope essentially allow the community to remain together and it is in that way that we would want to consider this as an option. It was suggested within our original Petition and we believe it has been explored by the Crossrail team with British Waterways Docklands. To date it has been suggested that it

would only be possible to secure moorings for a maximum of 20 average size boats at this site or even fewer of the larger vessels. We would urge the Committee to ensure that Crossrail and British Waterways continue negotiations about the site with a view to expanding the scope of the solution to ensure that all boats from Poplar Dock and Blackwall Basin could be accommodated at this site and that this would be accessible to all of our community members.

21200. We would hope that British Waterways, a government-funded agency whose annual report includes the following statement: "Supporting the growth in boating means developing a strategy for creating new moorings and upgrading existing berth"—would work hard to ensure that the Poplar Dock and Blackwall Basin communities are supported to remain in Docklands. Popular Dock Marina, our current home, is described by British Waterways Marinas Limited as: "Designed to offer boaters the highest quality facilities available in terms of safety, security, comfort and style". Within the marina facilities available to every boater, we have water and electricity for every boat, gas and fuel deliveries, telephone and broadband, showers and toilets, including disabled access, a communal washing machine and dryer, rubbish disposal, security features, including a secure gate entry, security staff at night, secure car and bicycle parking and CCTV, pump out and Elsan disposal (chemical toilet) for sewage, recycling for household waste, a postal address and postal deliveries which community members took considerable time and effort to agree, plus a community communal public area. Within walking distance of the marina we also have easy access to medical health centres which the community are registered at, childcare facilities, such as crèche and day-care centres, local schools with one community member serving on the PTA, local shops and Crisp Street Market, post offices and banks, leisure centres and libraries which are well used by members, and the local dump for disposal of other boat waste, such as engine oil and lead acid batteries. We also have very good transport links with Blackwall DLR, Canary Wharf Underground et cetera, and a number of local bus stops which are key in preventing the total isolation of those members of the community with mobility problems. Therefore, if Poplar and Blackwall communities were to be moved from our current site to Millwall for the duration of the construction period, we would expect a like-for-like exchange and would need confirmation of a mooring that could accommodate the whole community facilities in place that would match those we currently have at Poplar and Blackwall, again, a guaranteed right of return to Poplar Dock and Blackwall Basin at the end of the construction and agreement that access to the Thames will not be impeded, despite access being reliant on the lifting of a very low swing bridge across Marsh Wall to allow access between Millwall and South Dock.

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21201. Currently, our concerns with this site are that we have been told by British Waterways' operatives that the extremely low bridge entrance can only be lifted very rarely which would constrain our activities. The current suggested site is not able to take the community as a whole and currently there are no facilities in place for residential moorings. I believe the Milwall option was talked about at previous submissions and we were alarmed to hear the phrase, "fighting tooth and nail to reject this proposal" was put forward, it does not make us feel particularly welcome.

21202. I would also like to touch briefly on the relocation to the Royal Docks. One of the suggestions offered by Crossrail recently has been that there has been up to four sites within the Royal Docks. We are not clear whether the whole marina could be accommodated on one site which is what we would want. The option is extremely unpopular with residents for a number of reasons, including the close proximity of the marina to London City Airport and the resulting noise pollution and related health problems. As was mentioned, many of the smaller boats would not be able to get insurance to sail beyond the Thames Barrier, meaning the solution excludes some of our community. Also, Crossrail have indicated in discussion that although all boats could be accommodated within the Royal Docks, it would not be possible to moor all boats on the same site. The sites as offered are presently extremely desolate and do not offer any of the infrastructure currently available at our Poplar site, such as health and social care practitioners, accessible transport opportunities and adequate security. The current management authority of the docks, the Royal Docks Management Authority, do not currently allow any residential boats to be moored within the docks, to our knowledge. At our last meeting with Crossrail they realised that they had not mentioned the fact that they would be relocating residential boats to RoDMA and, as yet, we have not heard back whether this would be acceptable to them. Either way we feel that as a primarily commercial real estate venture they might not be fully supportive of residential boat owners, even if they granted permission.

21203. There is a fear that local residents would be unfamiliar with residential boaters and the community may face discrimination, and key services may not be able to cope with 150 new residents arriving on mass. Also, the London Docklands Development Corporation did a feasibility study into developing the Royal Docks' areas as moorings and that report states that: "In extreme weather conditions, ie, winter storms, craft on fixed moorings and access pontoons could be severely damaged, particularly in the south west corner during easterly gales", which makes residents extremely concerned about the safety of their vessels.

21204. In summary, there is a great deal of concern within the Poplar Dock and Blackwall communities about the lack of concrete options and the level of development of the current options as suggested by Crossrail. For example, to our knowledge, no feasibility studies of any of the suggested solutions have been formally undertaken or published, we have not yet seen them. If they have been, we have not seen the results of these and we believe that the Promoters of Crossrail are working hard with the local necessary stakeholders but we have not been involved directly in these conversations ourselves. We would ask the Committee to ensure that we are offered a far greater level of engagement in any future negotiations that relate to the future of Poplar and Blackwall Dock communities. We are only a small collection of boats whose voice feels very small when pitched against the hugely well resourced interests representing their particular interest in relation to this project. This is coupled with a history of boat dwellers being under-valued, discriminated against and overlooked. Whilst these relative vested interests play out their compensation claims our lives are on hold and over 150 people are left in fear of their future. We hope the Committee would ensure a greater urgency in finding a workable solution which becomes apparent within those agencies involved. In summary, Chairman and Members of the Committee, we do not feel we are currently being offered any solution to which the impending crisis places us and, in truth, we are unclear of what happens next. We are conscious that these hearings are almost over and we would hope to see a greater sense of urgency from the bodies involved committing to a workable solution, and we trust that the Committee's influence would be helpful in achieving this. We ask that the parties involved are tied to achieving a clear commitment that is in place before this Committee closes and is rigorous enough to be enforced in the future if we feel these agencies are not actively engaging with us to find a solution. We do bring vital skills and an understanding about living on boats that nobody else has and we would wish to be actively involved in future negotiations regarding our future.

21205. In closing, all of us want to stay at Poplar Dock, provided that access to the Thames is possible. We wish to be involved in the investigation of every possible opportunity to remain in Poplar Dock before relocation is considered as an option. River access is not only central to the idea of living on the boat but in reality it is essential to health and safety and boat maintenance, therefore being locked in is not an acceptable option. Taking away boaters' rights of passage is clearly a compromise to our way of life and is not something we can simply be financially compensated for. We have chosen to live in Poplar for all kinds of reasons and it is not just a case of having somewhere to moor a vessel. We have established links with the area, local services and local community. Recent newcomers to the site have paid considerably for the privilege to moor here and many have invested heavily in their vessels.

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21206. Under the current circumstances, we are facing a significant loss in the value of our homes. Any solution must provide for the whole community as is currently situated within Poplar and Blackwall and so must be able to cater for the variety of personal, community and nautical needs that I have outlined. Any solution must protect the community against discrimination. Any alternative site must be within the Thames Barrier and provide the full level of services that we are currently provided with, as well as personal compensation for any displacement to a new relocation. The community does want to be part of the solution and we feel we have already committed over a thousand hours and considerable resource to this negotiation process. We would ask the Committee to ensure that we have access to all of the information required and are supported in order to continue to play a full part in this process

21207. **Chairman:** Thank you very much indeed. Ms Lieven?

21208. **Ms Lieven:** Sir, I am very much in the Committee's hands. I think we have Mr Fink from the British Waterways Board to explain their problems with the Milwall option, if the Committee want to here them. I obviously have Mr Berryman who can take you through more of the engineering on the proposals I have explained this morning in outline.

21209. **Chairman:** Perhaps we should deal with that now.

21210. **Ms Lieven:** Sir, that would seem sensible. If the Committee hears from British Waterways at least then I will call Mr Berryman to explain where we have got to.

21211. **Mr Brown:** My name is Nicholas Brown of Bircham Dyson Bell, and I represent British Waterways, and Mr Dennis Fink would like to read a short statement. I believe you have before you a document including some plans and photographs which were passed to your clerk yesterday? I do not know whether the Committee has had a chance to look at those?

21212. **Chairman:** For the record, can this be marked as A245.

21213. **Mr Brown:** I do not know whether the Committee has had an opportunity to consider the paper that Mr Fink put in yesterday. He could read it through if that would help the Committee or if they have not read it all in detail or would like him to do so, he points to some salient points in the paper, whichever would be your wish, Sir.

21214. **Chairman:** It is not for us, it is what your representative wants to do, I should put that on the record; either way we have received it.

Mr Dennis Fink, Sworn

Examined by **Mr Brown**

21215. **Mr Brown:** I think it would be sensible then if Mr Fink read out his short statement.

(Mr Fink) Good morning. I have a short statement which I would like to read to the Committee. My name is Dennis Fink, MBE, and I am appearing on behalf of British Waterways, as requested before the Committee and I am pleased to do so. I am the Docklands Manager for British Waterways and have held that position since 1998. My job is to oversee the safety, maintenance, operation, improvement and development of the Isle of Dogs dock estate for British Waterways. I started working in the docks in 1973 and have more than 34 years' experience working in the former docks and Docklands area. I was awarded an MBE for services to Docklands in 2000. I hope to be able to provide assistance to the Committee in relation to the possible relocation of boats from Poplar Dock Marina and Blackwall Basin in London Docklands and to answer, where I am able, questions that the Committee may have. A short paper with accompanying plans and photographs concerning this matter were sent to your clerk yesterday. I hope the Committee has had the opportunity to read the paper and they have found it helpful. I would also like to reassure the Members of the Committee that British Waterways has discussed at length these issues with Crossrail and also with representatives of boat owners at Poplar Dock and Blackwell Basin, and British Waterways is committed to continue to work with all the parties to find a solution where this is possible. My paper sets out the concerns which British Waterways has regarding the viability of relocating boats from Poplar Dock and Blackwell Basin to the Milwall Docks, and I do not propose to repeat these concerns, save to reiterate that the main points of concern include that there is insufficient space for all the displaced vessels whilst retaining a navigable route though the Milwall Inner Dock. The area has poor access from land for all the services that boaters require and increased vessel movement through the Milwall Cutting will require more bridge lifts causing undue disruption to pedestrian and road traffic in the surrounding area. I would like to conclude my brief introduction by informing the Committee that British Waterways does have a solution to this problem. If I could divert slightly from this, this has also been slightly changed from the points that Ms Lieven made earlier this morning. If the Committee could consider Map 1, which is the map you have already been shown, showing the proposed route of the canal through the Wood Wharf development.⁵ Currently the navigable route to the lock entrance for the boat owners is via the North Dock, then via Bellmouth Passage from the South Dock and then to the dock entrance. If I could now ask the Committee to consider the plan marked number three, which is a map of Wood Wharf, which is the area of land which separates the

⁵ Committee Ref: A245, Plan of West India and Millwall Docks (LINEWD-AP3-42—05-010).

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Blackwall Basin from the South Dock and is subject to redevelopment plans. Part of the redevelopment includes the construction of a new canal which will allow direct access for boats in the Blackwall Basin and Poplar Docks to South Dock and from there to the River Thames, and you can see the proposed canal on the map.⁶ I believe the new canal could be constructed before the main Crossrail construction works commence, thereby creating a navigable route to the lock entrance which would allow all of the boats in Poplar Dock and Blackwall Basin to remain where they are. This point is included in the Petition of British Waterways against AP3 and has been raised by British Waterways with Crossrail on a number of occasions. At a meeting on Monday 12 March attended by Crossrail, Wood Wharf Partnership, Canary Wharf and British Waterways on this subject it was generally agreed that the early construction of the canal may be feasible. The parties agreed to do more on the proposal to see how it might be taken forward. If the new canal was constructed there would therefore be no need to relocate any of the boat owners from Poplar Dock and Blackwall Basin, equally if the navigable route was maintained through the Bellmouth Passage, which is the route the boaters currently use and, as was outlined by the Promoters and representatives this morning, that would also enable them to stay where they are. Thank you. I would be happy to answer any questions that the Members of the Committee may have.

21216. Can I ask Mr Fink one question? You would welcome, would you not, the proposals put forward to you which you saw for the first time at half past nine this morning which Ms Lieven so clearly put to the Committee earlier this morning?

(Mr Fink) Yes, British Waterways would certainly welcome those proposals and be happy to work with the Promoter to see if we could bring those to fruition because as Ms Stephens has said to you this morning, their desire is to remain there and we want to do all we can to work with them to make sure they do remain there, so British Waterways would be very happy to engage with the Promoter to see if we could bring that to fruition.

21217. **Chairman:** That is most helpful. Ms Lieven, do you want to question Mr Fink?

21218. **Ms Lieven:** Sir, I was not intending to ask this witness any questions, he is really here to assist the Committee.

Cross-examined by the Committee

21219. **Kelvin Hopkins:** The question I have might be more for Mr Berryman rather than Mr Fink. We have been assured that there is no possibility of breaking through that former link to the Thames from Blackwall Basin, it has just now been blocked in, and given that all of the other solutions involve some difficulties, some expense, that solution is

being put out of court. It seems to me that given the expense of constructing this other canal, for example, that it might be no more expensive to reopen that link there and put a bridge rather than a blocked road across it?

(Mr Fink) There was a bridge over that old lock entrance originally but that was filled in many years during the times of the London Docklands Development Corporation. It is now a solid causeway all the way down to the bottom of the lock, so basically a solid concrete structure.⁷ It has a couple of very small pipes running through it to enable water from the dock to be passed into the remaining isolated end of the lock at the river end. The footways and road carry an enormous number of utility services, sewers, water mains, gas, electricity, high voltage power cables, telecommunications, all of which would need to be diverted. Clearly, it could be done. If somebody threw enough money at that, that could be done. The lock gates had no operating machinery; residential dwellings had been built over all the land which used to house the operating equipment there. The lock gates have been closed off and fully supported by concrete on the outer side because that forms part of the island walkway around the river edge. Obviously all of that would need to be taken account of and indeed a dual-carriageway bridge would need to be constructed over that because Prestons Road at that is a dual carriageway which would then isolate that section of the island community between that bridge and the Manchester Road Bridge over our lock entrance to the south. That would mean there would be operational issues to be taken into account to ensure that emergency vehicles, et cetera, could get to those areas. I would say to you, it is feasible but I have no idea how much cost it would be, but it has been looked at, I believe, by the Promoter, considered but discounted because of the issues it raises.

21220. **Ms Stephens:** Is it possible to ask a question?

21221. **Chairman:** It is not the norm, but, yes.

21222. **Ms Stephens:** I just wonder if you can explain why the 1882 cut through—

(Mr Fink) Underneath Cartier Circle?

21223. Yes.

(Mr Fink) The Petitioners from Poplar did send me an email of a small cut, which Ms Lieven mentioned, running underneath the roundabout at Cartier Circle. I think the points were answered by Ms Lieven in as much as it does need to cut through a Grade I listed wall and it would need to be a temporary structure. I do not know whether all the vessels would be able to get out through there and it does fall quite clearly within the Phase 1 construction of the Wood Wharf development and

⁶ Committee Ref: A245, Proposed New Canal and Basin Alignment Development (LINEWD-AP3-42—05-012).

⁷ Crossrail Ref: P155, Isle of Dog Enabling Works, Wood Wharf Canal, Blackwall Lock, Mott MacDonald report (TOWHLB-325—04-007 and -008).

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that is not a matter which is under my control. That would be for Wood Wharf to decide whether that was a feasible option or not.

The witness withdrew

21224. **Chairman:** Mr Fink, thank you very much indeed for coming along, we are most grateful. What I am going to do now is ask for the room to be cleared and give us five minutes and then we will recall the meeting.

After a short break

21225. **Chairman:** Can I just say at the outset that we want to thank both Petitioners who came here today and, also, British Waterways Board, which we found very helpful indeed. The Committee is sympathetic to the views expressed by all sides, including that of the Promoters. Therefore, what I am going to state is we welcome the engineering solution suggested this morning, and we can see that all parties would welcome being able to keep the Petitioners in Poplar Dock. We ask the Promoters to go away and promote the relevant additional provisions and the Supplementary Environmental Statement required. Well done, Ms Stephens.

21226. Can I also say that I have been asked by Members to commend you on your document, which was very good. Thank you very much. Well done.

21227. **Ms Lieven:** Thank you, sir.

21228. **Mr Brown:** Thank you, from British Waterways Board.

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Mr David Kampfner and Mrs Nishani Kampfner appeared on behalf of the Petitioner.

21229. **Mr Kampfner:** Good morning, sir. With your permission, my wife is co-founder of the charity and has managed to be here today. We had a busy day on board the ship but we have managed both to be here. With the Committee's permission, can we both say a little bit about the project?

21230. **Chairman:** Like most partnerships, there are two sides. Before you do, I would like to bring in Mr Mould to outline the issue.

21231. **Mr Mould:** Thank you, sir. Mr Kampfner and his wife appear for the *SS Robin*, which is a historic steam ship which is currently moored in West India Dock North. I believe you have been handed this little bundle of exhibits. Is that right? Pages 1 to 16. If I can ask the Committee to look at page 1 of 16, this is an aerial photograph of West India Dock North.⁸ You can see that the *SS Robin*

is presently moored towards the eastern end of West India Dock North, just to the west of the DLR railway bridge. You have found the location.

21232. Last week, on Day 79, you will recall the Committee heard from Mr Julian Cartwright, who appeared to present the Petition of other commercial boat owners currently moored in West India Dock, and you see those boats shown on that aerial photograph as well. The historic steam ship, the *SS Robin*, is used, I believe, for exhibitions and other similar purposes. Ms Lieven explained last week, when she opened our case in relation to Mr Cartwright's Petition, that the effect of the construction programme for the Isle of Dogs station is that the commercial boats presently moored within West India Dock will need to be relocated elsewhere within the dock complex, and that is something that is necessary under both of the construction scenarios that we have presented to the Committee.

21233. The reasons for that were briefly stated by Ms Lieven when she explained the position to you. They, essentially, result from the fact it is necessary, under the first scenario, to partially drain this dock and, under the second scenario, the dock is to be used as a repository for silt, and so it is not possible to retain these boats in that location. So the focus has turned to seeking to negotiate, particularly with Canary Wharf Group and British Waterways Board, alternative locations for this vessel and for the other commercial vessels. You heard from Ms Lieven about the progress of negotiations in that respect last week. Just to summarise the position: remember, we mentioned that the preferred location was the Middle Branch, the Middle Dock, and that you will recall, if you turn to page 2 of 16, was an area of water just to the south of West India Dock North.⁹ You will see that area, Middle Branch Dock, is shown there.

21234. I mention that just to set the context because the position with regard to the *SS Robin* is that due to its size, particularly the height of the vessel, it is not possible for it to be relocated to that dock. So in the case of the *SS Robin* the solution that we are looking to achieve is that it should go to South Dock. South Dock is also shown on the plan which you have in front of you; it is the next body of water to the south of the main Canary Wharf development area.

21235. My understanding is that negotiations between ourselves, the Canary Wharf Group and British Waterways Board are progressing positively in relation to that proposal. At the moment it looks like there is a reasonably good prospect that we will be able to secure that solution.

21236. The other point that was raised last week by the Committee was that, inevitably, any relocation for a commercial organisation is going to involve

⁸ Crossrail Ref: P153, West India Dock North—Location of boats belonging to Petitioners (TOWHLB-AP3-24—04-001).

⁹ Crossrail Ref: P155, Isle of Dogs Station—Millwall Docks (Plan 1) (TOWHLB-325—04-005).

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some costs that would, obviously, not be incurred but for the Crossrail works. You will recall that, I think, Mr Binley asked if we would write to Mr Cartwright and to the Committee in order to explain what the compensation regime would be in relation to reimbursement of those costs, and we have done that. I think you have received a letter from us addressed to Mr Cartwright. I have shown a copy of that letter, dated 22 March 2007, to Mr Kampfner this morning. In short, what we pointed out was that under the Bill there is actually a specific compensation provision which deals with situations where persons are deprived of a private right of navigation as a result of the Crossrail works, which would be the situation here, obviously, with the closure of Bellmouth Passage, and we have explained that, that being the case, that right of compensation would provide a route to reimbursement of the kinds of costs that I have mentioned. That would apply as much to the *SS Robin* as it would to the other commercial boat owners we were focusing on last week.

21237. So, sir, that is the current position in relation to this Petitioner, and I will hand over to Mr Kampfner.

21238. **Mrs Kampfner:** Actually, I am going to start. My name is Nishani Kampfner, I am the co-founder of the *SS Robin* Trust, a registered charity that was set up in 2002. I have held the Chairman's position for the last five years, was reappointed at the last board meeting.

21239. We have spent the last five years developing what was a more or less derelict historic ship into a community creative arts space, which benefits local schools, the local business community and we are now starting to attract more regional visitors as well. There are two concerns that we have. First of all, I should say to the Committee that we are in support of the Crossrail development and believe it will be very beneficial to the area. The concerns that we have are the negative impact on the ship during the construction and engineering works in the dock specifically. The ship itself is on the National Historic Ships Register. She is a fully listed vessel on the same register as *Cutty Sark, Belfast* and *SS Great Britain*. She was locally built in 1890 and we believe that her current berth is really a fitting place for her in her more modern use as a community space. We run a volunteer organisation that donates a lot of time and hours to maintaining the ship on an ongoing basis, and many of those volunteers are from the local community.

21240. The second issue that we have in terms of the actual use of the project is that we converted the ship into a documentary photography gallery and a learning space, and over the last three years have increasing numbers of youngsters coming there, experiencing the ship in different guises and learning and supporting their learning in school. We are

concerned about the impact of any kind of relocation, given the links we have built up with local schools and local businesses who support us.

21241. We have had some consultation with both British Waterways and Crossrail in terms of looking at the possibilities, and we are really here today to safeguard the future of the ship and ensure that there is no damage done to the project and the physical structure of the ship, and to try to put some plan in place with the stakeholders during the construction period.

21242. **Mr Kampfner:** Sir, can I, with your permission, distribute some photographs of our location?

21243. **Chairman:** For the record, A246.

21244. **Mr Kampfner:** Sir, the pictures that you have been given today illustrate a little bit about the project, but can I just give a little bit of background in addition to what my wife has mentioned. We are a registered charity, we are a non-profit organisation and we are, essentially, volunteer led. My wife and I co-founded the project in 2002 and we were hugely supported by Mr Fink, who is here today, from British Waterways. British Waterways Board have been extremely helpful and valuable supporters of the project, as are our other corporate mentors in the area who help us with the school projects that we run on board, including Credit Suisse, Morgan Stanley and Lehman Brothers. We have volunteers from those organisations who help us mentoring the school students who come on board.

21245. Essentially, the ship is the oldest complete steam ship in the world and she is the last remaining steam coaster of her type, and is an excellent example of British merchant shipping. It is fitting that she should be in West India Dock, given that she was built in Bow. I feel, to some extent, that her position in West India Dock has been neglected for a while and that, thankfully, since we have been able to develop this project, some of that sense of history is starting to come back, and that is the core of the project that we run with schools around issues of history and identity and heritage. Those benefits are starting to be seen through some of the local schools that we work with.

21246. We are also beginning to be supported by some of the high-tech industries around us, some of whom I have mentioned, and they are increasingly also joined by computer companies, including Apple Computers, who have donated equipment and training to us and school groups who come on board.

21247. Our major concern is the loss of these last five years of hard work that the professional volunteers and community volunteers have put into the project. Relocating the ship is potentially disastrous for this project. If we were to lose the visibility, the sense of historic place, the transport links, the pedestrian

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safety which is key for the school groups, and the visibility that is important for our corporate mentors to be able to come on board and help us, we feel that the project may well die. It is not by any means secure; funding is not at all secure in place for the long term, and we exist on a process of donations that we are building but which is, essentially, down to our links with the corporate groups that we have built relationships with over the past five years.

21248. If I can just briefly touch on some of the possibilities from the suggestions which have been mentioned today in terms of relocation, I would like to say, to begin with, that the indications that we have been given are that West India Quay is not yet, as far as I know, definitively to be drained west of the DLR bridge. I would appreciate your advice or guidance on this. We are unclear as to whether that is, actually, a definitive statement or whether this is still available for negotiation. Obviously, our primary objective would be to maintain our existence in West India Dock as we are, on the north side of West India Quay. If there is any way at all that we can maintain that presence that would be, without doubt, our preference.

21249. To come on to Middle Dock, which is one of the suggestions which has been made, Middle Dock, if we did have to move, would be our second preference. As far as we understand, there is not a navigable reason why we could not be there. We are a little bit unsure why that has been suggested as a problem. We understand that on a navigable basis we would be able to find a space within Middle Dock.

21250. South Quay represents considerable problems for us. I think if we were to find ourselves relocated to South Quay we would discover that local schools would have difficulty reaching us; we would have difficulties with the pedestrian access and we would also find that some of the corporate mentors and supporters would start to wane on the basis of that location. We also have proximity to the Museum in Docklands, which we appreciate and we feel is very valuable, and we believe that West India Dock is, as has been indicated by some of our stakeholders, our natural home. We would like to state quite categorically that if there is any way at all to maintain our presence there we would like that to be considered.

21251. We are, at the moment, in the process of a significant fundraising bid to the Heritage Lottery Fund to restore the integrity of the hull of the ship, which is an 1890 ribbed steel hull, which needs to be refitted at some point in the near future. If there is a way in which we can be refitted before any particular land-locking of West India Dock that may be, also, a possibility that we would be interested in discussing, but obviously it is the intention of all the stakeholders that we remain visible and that we continue to be an icon, if you like, for the history of the docks.

21252. We are the only publicly accessible historic ship in East London. We are, as my wife mentioned, on the same core collection list as the *Cutty Sark*. The only reason we believe that *Robin* has not had the visibility and public awareness as *Cutty Sark* until now is purely the fact that she has lain derelict until 2002, and we hope to see her restored to as much a jewel of East London as we think *Cutty Sark* is in South London.

21253. She was brought back in 1974 from Spain by the Maritime Trust as a shining example of her type, and that project was led by HRH Duke of Edinburgh, who is also one of our patrons. We feel that she has a fantastic future and we feel that if that future is compromised by a location in which the awareness dwindles, some of the motivation and the enthusiasm that we have built over the last five years would be difficult to restore were she to come back to West India Dock after that period of time. We would like to maintain that visibility and we appreciate your understanding.

21254. **Chairman:** Thank you.

21255. **Mr Mould:** I am going to ask Mr Berryman to go briefly to the witness table and deal with the question of relocation.

Mr Keith Berryman, recalled

Examined by **Mr Mould**

21256. **Mr Mould:** Mr Berryman, first of all, I have explained to the Committee that the position is that we feel that we have to relocate the *SS Robin* for the purposes of constructing the Isle of Dogs station. Just in terms of the permanent situation, is there any reason why the *SS Robin* should not then return after construction has been completed to its present berth?

(Mr Berryman) From our perspective, there is absolutely no reason at all why that should not happen. I know that British Waterways Board are very supportive of *Robin*, so I would be quite surprised if they have any objection in principle. Certainly from our point of view, no, there is no reason why not.

21257. Just remind us: what is the expected duration of the works in North Dock?

(Mr Berryman) It would take about a minimum of 3.5 years and a maximum of 5 years before the water was let back into the dock.

21258. So that is the situation from a permanent perspective. Let us turn to the construction phase.. What is the situation? Mr Kampfner has asked for reassurance about the position as to whether or not it would be possible for the *SS Robin* to remain in situ during the course of the works. What is the situation?

(Mr Berryman) I think there are two scenarios, as you know, that we have been developing over the construction of the station. One of them involves

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lowering the water in the dock by about 5 metres.¹⁰ To put that into perspective, this room measures 6.7 metres high, so the boat would be a long way down the quay wall if it were to stay there. The other option involves the complete draining of the dock in that particular area, albeit it will be a silt store.¹¹ The reality is, from the boat's perspective, leaving it in a place where it could not be got out if it needed any attention or work would be an extremely risky thing to do, and our argument would be it is not actually possible for it to stay there. Quite apart from our construction issues, there are also issues to do with the boat itself.

21259. We were told that the boat is a historic vessel and Mr Kampfner said something about its value in that respect.

(Mr Berryman) Yes. As he said, and as most of us have seen, it is quite an old vessel and extremely risky if it needed any attention that it could not be got at.

21260. Assume the need to relocate. I mentioned that we have referred to Middle Dock and to South Dock in responding to Mr Cartwright's organisation last week. What is the position insofar as this particular vessel is concerned?

(Mr Berryman) We understand that the water draught in the channel which connects the Middle Dock to the South Dock—I can show you on this (it is very difficult without a projector but it is this little bit here—is actually quite shallow and only about 2.5 metres deep.¹² That is our understanding. If that is the case it would not necessarily be possible to get the *SS Robin* through that channel. There is another location in South Dock in the area just marked here which would be adjacent to the footbridge which runs across the dock, which would be another potential location. I think what we would do is agree to work with the *SS Robin* and British Waterways Board and Canary Wharf, and others, to find a location which, as far as possible, is as accessible as the location which the *Robin* has now. Clearly, it cannot be quite as good but as close as we can get to that. There are quite a number of options we can continue to discuss. It would be fair to say the *SS Robin* is strongly supported, as I think the Petitioners said, by British Waterways Board and, also, by Canary Wharf, and I think there is a strong desire to find an appropriate location.

21261. Just one other question: reference has been made to the historic value of the ship, and the Committee will remember that in relation to buildings of historic value we have given a number of commitments about the process we will undertake to protect those buildings from any adverse effects. Is there a commitment we can give to the Committee in relation to this vessel in that respect?

(Mr Berryman) Obviously, the same commitments do not apply, for obvious reasons, but I think the same principles would apply, that we would take all necessary steps to ensure that the safety of the vessel was maintained, if the vessel has to be moved as a result of our works.

21262. Presumably, in that respect, we would consult closely with the Petitioners as the custodians of the vessel to ensure that the appropriate steps were taken.

(Mr Berryman) Indeed, indeed, and any other appropriate body which needed to have input there.

21263. **Mr Mould:** Thank you very much.

Cross-examined by **Mr Kampfner**

21264. **Mr Kampfner:** Sir, we are still unclear as to whether it is a done deed that West India Dock will be drained and we will have to move.

(Mr Berryman) It is a done deal.

21265. Am I able to seek guidance from British Waterways on this?

(Mr Berryman) By all means.

21266. **Chairman:** I am afraid they are not here now; you will have to take Mr Berryman, at the moment, who is the Chief Executive of Crossrail.

21267. **Mr Kampfner:** West India Dock from the west side of the DLR Bridge will be retained?

(Mr Berryman) Either the whole of West India Dock will be drained to half its depth—so there would be about 5 metres of water in the bottom of it—or the whole of the dock with the exception of the small area at the very west end will be fully drained. That small area at the west end will be used as a silt lagoon for the storage of silt material dredged from the bottom of the dock.

21268. And this is agreed?

(Mr Berryman) These are the powers we are seeking under this Bill.

21269. That is different from being agreed. I am not a politician, I do not understand the difference, but—

21270. **Chairman:** Mr Kampfner, you are here to give your views as a Petitioner. We are listening to what you say and then we will make a decision in the light of the Petition you have made.

21271. **Mr Kampfner:** I understand. From our point of view, we would argue very strongly that the draining of West India Dock to the west side of the DLR bridge would be nothing short of disastrous for ourselves and for other stakeholders, but we are only here today to represent ourselves. If there is any way the Committee can see another solution we would plead for that, because Middle Dock—we would argue that we can still find a way through to Middle Dock—would be an alternative. There are

¹⁰ Crossrail Ref: P155, Crossrail Isle of Dogs Station—Site Plan (Scenario 1) (TOWHLB-325—04-016).

¹¹ Crossrail Ref: P155, Crossrail Isle of Dogs Station—Site Plan (Scenario 2) (TOWHLB-325—04-017).

¹² Crossrail Ref: P155, Crossrail Isle of Dogs Station—Site Plan (Scenario 1) (TOWHLB-325—04-016).

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issues about the oxygenation plant in Middle Dock, which I believe would accelerate corrosion, but I understand there are ways of mitigating against that effect. South Dock would be extremely impactable on us negatively. I do not believe that we could continue the project as is if we were going to South Quay.

21272. **Chairman:** Is Middle Dock an option or not? (**Mr Berryman**) My understanding is that there is an issue about whether they can get into Middle Dock, but we are very happy to explore that further and do a detailed survey.

21273. **Chairman:** If you could examine that and keep us informed.

(**Mr Berryman**) We certainly will, yes. As I said earlier, we are committed to working with the Petitioner and British Waterways Board and other parties to find an adequate solution to this.

21274. **Chairman:** You realise, Mr Kampfner, the position which you have been given today is the Promoter's position; that is what they say is necessary for them to deliver Crossrail. You are here as a Petitioner saying you do not think that is a good idea, you do not agree with it or you want something else doing instead. We are asking Mr Berryman to see whether this Middle Dock solution is possible.

21275. **Mr Kampfner:** Thank you, sir.

21276. **Mrs Kampfner:** I would just like to add, I think the real issue is going to be that if the proposed works are a minimum of three and possibly up to five years and that we have to relocate in an area which is not conducive to continuing the development of both the volunteer programme and the schools programme that we have spent the last five years building, then I think the continuation of how we operate is seriously in jeopardy. We have spent five years building something from nothing based on being berthed in that dock, and to start again somewhere else is just not possible.

21277. **Chairman:** Can I ask you both a question? If you did get Lottery funding for fitting a new hull, how long would that take to complete?

21278. **Mr Kampfner:** We believe that the work may take a year. Most of these things usually overrun. Once the budget was put in place it would be, at least, a year from now to agree that budget, were we to be in a position to submit the bid.

21279. **Chairman:** And then for the work to be carried out a further year?

21280. **Mr Kampfner:** And then to find a yard that has availability and the skills to do the work, it may

well take a considerable period of time—possibly from now until at least two years in order to bring her back—in the best case scenario.

21281. **Chairman:** Mr Berryman, would you like to comment any further? I think all the questions have been asked. I do not think you are coming back, Mr Mould.

21282. **Mr Mould:** No, I certainly do not think so.

21283. **Mr Kampfner:** If I can just add an additional point, which is that as part of this Heritage Lottery bid, which is absolutely crucial for our long-term future, as I am sure you will appreciate, a ship of that age is fragile. She has not been out of the water for 20 years, and when we took over the Maritime Trust had been looking after the superstructure for 10 years in West India Dock, but the last time she had been taken out of the water was in the early 1980s. We understand that Heritage Lottery is very positive towards our project and very supportive of our project, but obviously accessibility for disabled users is an important issue. As part of our bid, we are working with heritage consultants and the Heritage Lottery to understand what access we can arrange for wheelchair and other mobility-impaired users. We believe that the current understanding of heritage interpretation today on a vessel of this type is that a solution, for instance, such as the *Cutty Sark*, where an entrance was cut into the side of the hull, is obviously not acceptable as it would cause considerable damage to the heritage of the ship. We understand that the way that access would be arranged on a vessel floating in the dock might be through an interpretation centre on a pontoon, perhaps, either on the side of the vessel or in the interpretation centre close by the vessel, in which perhaps a multimedia experience of the interior of the vessel would be displayed. This directly impacts on any future mooring that we might be taken to because our relationship with Heritage Lottery, obviously, is highly dependent on where the vessel sits, and their concerns are that wheelchair access and disabled access are taken into account.

(**Mr Berryman**) Sir, at the point that we are looking at in South Dock (I know the Petitioner is not very keen on that) there is already a form of access provided by the existing footbridge which comes across that dock, which provides direct access from the main Canary Wharf complex to that location. That exists already. There would be room there for the mooring of a pontoon as well.

21284. **Chairman:** I wonder if you could give to Mr Berryman, and the Promoters, these ideas, and you could have a word with British Waterways, and, again, a second note on what it would propose for the future use of a pontoon.

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(*Mr Berryman*) Yes.

21285. **Mr Kampfner:** Thank you, sir.

The witness withdrew

21286. **Mr Mould:** I am conscious of the time, and I will be literally one minute. We have explained the reasons why, in reality, the issue here is where to relocate to rather than whether relocation is necessary. As regards where to relocate to, we have explained our full commitment to using our reasonable endeavours to finding alternative moorings for the Petitioners, as we have with other vessels within West India Dock. You have heard from the Petitioner and ourselves that both British Waterways Board and Canary Wharf and other commercial bodies in the area support the *Robin* and the work that they do, and the Committee can draw some reassurance from that, in my submission; you can be reassured that all will be looking to do what they can, within reason, to find an appropriate alternative location. Of course, that does not just mean a place, it means somewhere which the *Robin* is able to work with and to continue to carry out its work from during the period of the construction works before it then comes back, which I understand it may, to its current location. I think it is also important to bear in mind that Crossrail, as a Promoter, is obviously committed, as I have said, to use reasonable endeavours and within reason to deal with the effects of the Crossrail project. No doubt that point will be borne in mind by all when further discussion that we have said we will gladly undertake (and Mr Berryman will be writing to you about that) takes place in due course.

21287. **Mr Kampfner:** Can I just ask for some clarification on something? I am unclear, after this meeting today, on what our position is in terms of any kind of commitment.

21288. **Chairman:** What happens following today is that the Committee as a whole meets on all these issues and we will take decisions on the presentations which have been made or the evidence which is asked for, because we have asked for further notes to be sent to us. We will take all these things into consideration and then we will take a view, and that will be published as our response to the Bill.

21289. **Mr Kampfner:** Thank you, sir. If we were to be offered a mooring which we felt would be completely impossible for us to operate from, for instance—assuming that were to be the position—what happens?

21290. **Chairman:** What we have to do is to listen to the presentations made by yourselves and the Promoters and any other evidence which you can

gather en route, and we will have to take a view one way or the other. At the end of the day, we will come to a view. I give you fair notice that the Committee is very limited in what it can do. For instance, we could not say whether Crossrail will happen; we are directed by Parliament for Crossrail to come into being. However, we do take all evidence very, very seriously and take a view. Once we have taken that view it will be published in due course.

21291. **Mr Kampfner:** Thank you, sir. Am I okay to sum up? Thank you. Essentially, *SS Robin*, we believe, is a major contribution to our merchant history and our merchant navy. The legacy that she can potentially contribute to East London's understanding of the history of Docklands is immense and we are only at the beginning of that journey. We believe that her location is absolutely essential and that visibility and the awareness of the project are directly linked to her location, historically as well as from a practical, transport and accessibility point of view. We are only just starting to make an impact on the local community in terms of the understanding that schools have of the Docklands area, and the work that we have been doing has been extremely successful in the last two or three years since we started the education programme, and we believe that this is something that can become an important part of East London's experience of Docklands. We beg for your understanding that our location is crucial in that contribution.

21292. **Mrs Kampfner:** Can I add finally, as well, that the current location of West India Quay actually provides the only source of sustainable revenue stream for our charity. We have no government funding whatsoever. We are completely reliant on donations from local businesses and, also, their use in terms of private hire and functions on the ship, all the proceeds of which go to the work we do with schools. Without that revenue stream we will not have any money to keep the project going. Thank you.

21293. **Chairman:** Thank you very much. That concludes the second hearing today. We will now rise and reconvene at 2.30.

After a short adjournment

21294. **Chairman:** Can I first of apologise for being slightly late, but we were expecting a vote but that will now take place around 3.20. If that happens we will suspend the Committee while we go out and vote and then come back. The Petition which we will hear is the final one today and is that of the Residents Society of Mayfair and St. James. Mr Levaggi, before you start, usually we get counsel to give us a summary of where we are.

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Mr Levaggi appeared on behalf of the Petitioners

21295. **Mr Levaggi:** Sir, I was going to do it myself but I am more than happy for counsel to do it.

21296. **Ms Lieven:** Sir, I am going to make a summary which is that you have heard from these petitioners on a number of occasions, you will recall the last time they attended I made a brief submission as to why really they should be given little if any further time, I am not going to read those submissions. You will remember that their principal point was to promote an alternative alignment north of Oxford Street known as the Wigmore Street alignment. Mr Berryman has already given evidence once to this Committee as to why that is not a sensible solution in transport terms, but I do have him here, so if the Committee want to hear that evidence again, we can call it again if necessary, but I do not intend to open again and I will leave it up to the Committee as to the time given to the Petitioner.

21297. **Chairman:** Mr Levaggi, before you proceed, I know it was a bit problematic at the last hearing. Just to reiterate two points, first of all, the alignment is set, we are charged with seeing this thing through so we cannot go and revisit that, that has been done and we really are quite firm on repetition, so if you want to make a case alone on those slight restrictions, you may.

21298. **Mr Levaggi:** Sir, yes, you wrote to us on 14 March and you asked me to advise my clients to raise issues which only genuinely relate to AP3 and Sir, in my submission the evidence that we will present today does genuinely relate to AP3. The main issue to be raised, which is the one which relates to the costs and on the evidence provided by the Promoter, the additional cost of AP3 on their case is £470 million. That is practically £0.5 billion and the submissions we will make and the evidence we will give today relates to whether or not it is sensible to spend this £0.5 billion generated by the third set of amendments and provisions so I would like to call my first and only witness, Norman Winbourne.

Mr Norman Winbourne, recalled

Examined by **Mr Levaggi**

21299. **Mr Levaggi:** Could you advise me whether it is necessary for Mr Winbourne to identify himself?

21300. **Chairman:** He is already on the record.

21301. **Mr Levaggi:** His CV is at tab one of the bundle.

21302. **Chairman:** For the benefit of the record, it has already been listed as AP3.

21303. **Mr Levaggi:** Mr Winbourne, could you turn to tab three of the bundle?¹³
(Mr Winbourne) Yes.

21304. You prepared this document, did you not, headed "Revised planning balance sheet"?
(Mr Winbourne) That is right.

21305. Mr Winbourne, this relates to AP3?
(Mr Winbourne) Yes.

21306. Item one is headed "Paddington Crossrail Station AP3". What is your opinion of the current proposal for the Paddington Crossrail Station and the amendments AP3?

(Mr Winbourne) They are cutting down it seems, as far as I can see, to an island platform for economy and ten coach trains only. I see no reason for that. Twelve coach trains is the norm that Network Rail and everybody want to run to. I cannot see any reason why we cannot have 12 coach trains stations on Crossrail, whatever the final answer may be.

21307. You say that the station costing guide says it is £400 million?

(Mr Winbourne) That is very rough. I have not been given any exact figures, if you want to be pejorative, you could say I plucked them out of the air, they are the sorts of figures, I have discussed this with Michael Schabas who has been a witness before, he is a railway construction man and that is the sort of cost of these Crossrail stations with the twin tunnels and so on, they are very expensive items. This one happens to be a cut-and-cover but it is under Paddington and under Eastbourne Terrace where there is a considerable disruption of the services and the roads in a major road.

21308. As it currently stands following AP3, do you think this proposal is cost-effective?

(Mr Winbourne) No.

21309. Why not?

(Mr Winbourne) You still have Paddington Station entrances, this is where you are putting the Crossrail platform, Paddington Station stays where it is. Where I would put the Crossrail platforms under the basin, the cost would be halved.

21310. You are saying, are you, that the AP3 amendments are not the most cost-effective?

(Mr Winbourne) They are not. May I say the proposal that I made for putting the station under Paddington basin is not unlike their own proposal at the Isle of Dogs where they are proposing to drain a basin, put a station in and put the water back afterwards.

¹³ Committee Ref: A230, Revised 'Planning Balance Sheet' covering broad brush comparisons between Crossrail and CNIR to include engineering costs, environmental, valuation, compensation and disturbance issues following AP3 (WESTCC-AP3-27—05-045).

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21311. What do you mean by the Paddington basin suggestion?

(Mr Winbourne) Paddington basin is big enough to take one and a half times the size of City Thameslink Station which is the only 12 coach station in London underground or appearing to be underground. In effect, it was a cut-and-cover job where the viaduct was knocked down, it was rebuilt, it needs looking at, it has two tracks in the middle with platforms either side which is what you can achieve or build up from the ground basis. If you simply go to an A-Z and look at the size of that station, you can fit it in a Paddington basin one and a half times.

21312. This is cheaper than AP3?

(Mr Winbourne) Undoubtedly. Generally speaking it has to be because there are no services or anything in Paddington basin, you are simply draining it, putting in a station and putting the water back, there are no services, not like Eastbourne Terrace.

21313. What about disruption caused?

(Mr Winbourne) I would say there has been very little. There would be some effect on the buildings around Paddington basin. There may possibly have to be some compensation, I doubt very much, it is not as serious as what they are proposing.

21314. Mr Winbourne, the second item on your revised planning balance sheet is headed "Paddington to Bond Street via Crossrail"?

(Mr Winbourne) Before you go on to that can I say that I mentioned four possible options at Paddington all of which would be less intrusive in my opinion. The Paddington basin one is my preferred option, there are a couple more and there is even a possibility which would be similar to this which would be to go under Edgware Road itself. Obviously that would be disruptive to services and so on.

21315. For clarity, how does this relate to AP3?

(Mr Winbourne) It is simply the case that their Crossrail station at AP3 is a bad buy in itself and also it creates the need for more disruptive tunnelling to get onto the next station that need not apply otherwise.

21316. Are there any additional points that you wish to make about the second item, "Paddington to Bond Street via Crossrail"?

(Mr Winbourne) It is very simple. They never asked me when I said there was an alternative alignment, they simply went and did their own thing. I say you go from Paddington to Bond Street largely under Edgware Road, there is nothing under there, no tubes or anything that is of significance and it is even possible to consider at a lower cost because the tunnelling is very expensive with these huge twin tunnels. Edgware Road is wide enough to consider cut-and-cover. Cut-and-cover would mean that it would cost about a third the moment you do that. London Underground is proposing big cut-and-cover to dig up Marylebone Road again to re-do the Circle line.

21317. Mr Winbourne, for clarity when you say they propose, this relates to the Hybrid Bill as amended as the proposal is under AP3, that is correct, is it not?

(Mr Winbourne) The difficulty that one has is AP3 is based on the original thing and I am saying that the alignment is the stations, the station entrances are not altering to any great degree, whether they be at Bond Street, or they be at Paddington. I am saying, and I hope the Committee will not think I am taking any liberties because I hope this is terribly important, not only do you cut the cost enormously, especially if you can do cut-and-cover, it goes down exponentially, it also means that you do not disrupt that whole area where there are huge numbers of listed buildings and so on. It is the easy route and it is the route that would have been chosen traditionally in London for the tubes or anything.

21318. Mr Winbourne, can we deal with your third heading, "Bond Street Crossrail"?

(Mr Winbourne) Yes, it is important to Mayfair.

21319. What do you think of the proposed amendments to the works at Bond Street?

(Mr Winbourne) They are extremely expensive, they are caused by predictable overcrowding as a result of the Jubilee Line Extension to the east which should have been addressed ages ago and that has compelled them to look north of Oxford Street, extremely expensively, to knock down, for example, additional buildings. They propose to knock down in all four or five buildings, the most expensive of which they spot-value themselves, it is the one in this consultation document. They put £50 million on that building alone which is on the north side of Oxford Street in the most expensive prime retail patch in Europe, a little to the east of Selfridges. They are proposing to knock that down, I think they have selected it because of prejudice against the 1960s type of building and also its location obviously, the fact is that it is completely unnecessary in my opinion. If you keep your station at Bond Street, you simply put the Crossrail platforms not under Mayfair, but under the north side of Oxford Street. Same station, yes, of course, there will be additional entrances, but there will be with their scheme too.

21320. The same station as suggested by the direction from the House on the second reading to the Committee?

(Mr Winbourne) Yes.

21321. The same station?

(Mr Winbourne) Yes, Bond Street.

21322. The station that the Committee has been directed to include in the proposal, that is correct is not it?

(Mr Winbourne) It is and it is not in exactly the same position as they would have the Committee believe. They have produced papers saying where I would put the station which is rubbish. That station would go approximately under Wigmore Street from the south side of Portland Square as far to the east

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probably as James Street or thereabouts. This is not exact, so we have not had an opportunity to work it out with senior engineers and I believe it is possible to consider a cut-and-cover station on that part of Wigmore Street as well because it is wide enough. There again, instead of these huge tunnels with compensation granting which I have given evidence on before and I do not want to harp on that, but you will recall it, if you can go for a cut-and-cover station again you are miles ahead, it is going to cost a third of the other costs, maybe less.

21323. Mr Winbourne, the real issue is one of costs, is it not?

(Mr Winbourne) Of course.

21324. It is one of the costs of the works consequential upon AP3, that is correct, is it not?

(Mr Winbourne) It is one of the costs, but it is also one of much less overall environmental disturbance.

21325. Disturbance and costs?

(Mr Winbourne) Both disturbance and costs.

21326. Sir, I would like to refer Mr Winbourne to a page of evidence, which is page 6/9 of WESTCC-AP3-27—04. It is on the screen.¹⁴ Have you seen this cost breakdown before?

(Mr Winbourne) I have seen this document which does not help us to any great degree and the reason it does not help us is that it does not give us the base cost of the Crossrail Bond Street Station. This is what quantity surveyors would call the extra overcost.

21327. When did you first see this document?

(Mr Winbourne) Shortly before the abortive hearing that took place a couple or three weeks ago.

21328. It was at a meeting that I was at as well.

(Mr Winbourne) Forgive me, we did get those figures at the meeting where you were present, I forgot that, at the consultation meeting and it then came in written form. I asked at the consultation meeting for the base costs because obviously for comparative purposes I needed to know what was their original station cost and how much more was this and we never got the figures. This is why I have put—you will forgive the expression—a guesstimate in, but I think their original Bond Street Station and, again, I do not want to harp on the point but I will refer back to the fact that it does not connect to Oxford Circus which is terribly important. I think their original Bond Street Station was probably approaching £0.5 billion in itself before these costs were added on. These costs are due to totally predictable extension of the Jubilee Line to the east causing pressures where Bond Street Station is now closed from time to time, the same as Oxford Circus, because of overcrowding. Again, and I have referred to this in evidence before but I will touch on it, if you have a huge new booking hall in a concrete box which is a public car park reinforced under

Cavendish Square, you have got all the space you need, you can connect both stations by escalators and travelators and indeed to Crossrail platforms, if you want Crossrail. In other words, what I am saying is that the concrete box job needs doing anyway.

21329. Mr Winbourne, let us break down those statements. You say, I think I heard you correctly, that you would estimate the cost of the AP3 works at Bond Street to be £0.5 billion, is that correct?

(Mr Winbourne) Yes, what I say towards the end, it goes over the page in my balance sheet, we are at number three, you will see the important thing, I say “I put a guesstimate of £500 million because they gave us no figures” and I said that at the meeting that you were present at Mr Levaggi and they did not seek to argue and they are now putting a further £150 million and it could even get to several hundred.

21330. Let us focus on what they are saying, they say, “Purchase of land minerals and permanent rights including easements to be estimated at £50 million”.

(Mr Winbourne) Exactly.

21331. What is your view of that, purchase of land minerals and easements at £50 million?

(Mr Winbourne) I am not clear whether that is for the one building or whether it includes two others at Hanbury Square because the problem is they are not giving us a breakdown.

21332. When you say the one building, can you identify it?

(Mr Winbourne) I meant the one at Oxford Street, but I can well believe that would be £50 million. I am a valuer and I can well believe that one alone could be that sort of money. It was number 354 to 358 shops with offices over them.

21333. Do you believe that further buildings would have to be acquired under this process?

(Mr Winbourne) Originally they were proposing to knock down one building on the south side of Oxford Street for the Bond Street Station. Then, they were going to dig up Hanover Square. They are no longer going to dig up Hanover Square, thank goodness, they are acquiring I think it is 18 and 19 Hanover Square, I hope I have got the numbers right, two more buildings and this one. There are at least four buildings that they are knocking down. With respect, the proposal that I am suggesting is that there will be no buildings to knock down. There will be a public car park to be reallocated and recycled for good use and what is more, on the north side of Oxford Street the most impressive shopping patch in Europe from John Lewis to Marks & Spencer's, there will be property spin-off which will probably mean that the station will cost nothing.

21334. You say that up to how many buildings may be acquired?

¹⁴ Committee Ref: A230, Cost of works and land at Bond Street Station, Westminster (SCN-20070328-002).

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(Mr Winbourne) I am not sure if it is four or five, certainly four.

21335. On your more conservative estimate, if four buildings are acquired in that part of London, what could that do to this cost estimate of £50 million?

(Mr Winbourne) It must be £150 million, it might be £200 million, but conservatively £150 million.

21336. Station improvements, £102,856,000. What do you feel about that estimate?

(Mr Winbourne) I cannot argue with them except to try to grapple with minimum figures to try and get some idea of what the overall cost is because they will not give it to me. At the risk of emphasis, I make the point that the station entrances will stay pretty well in the same places subject to additional ones, but if we put the platforms and station halls where I say, there will be a queue of property developers who will want to have basement level access to prime shopping in Oxford Street on the north side which is the best side. I have been dealing with West End shop owners for my whole career.

21337. Mr Winbourne, you say you cannot argue with those figures, what do you mean by that?

(Mr Winbourne) I simply accept them as they give them to me, even though they are not sufficient.

21338. Has any background to that particular theme been given to you?

(Mr Winbourne) I am simply saying that they throw some light on it because—

21339. Can you tell me what light the one line in front of us gives to you, it is a station worth £102 million, what line does that show on that figure? How do you think that figure has been calculated?

(Mr Winbourne) I am sorry, they are their calculations. I am sorry, I am not trying to be difficult, I am not trying to assert that I know how they got to their figures, I am assuming they did a proper job.

21340. Let me give you some assistance, have you requested any information in relation to that?

(Mr Winbourne) Yes, when we attended with yourself and two other people from Charles Russell, I asked for the base figures in order to make a sensible comparison. Even with my guestimates, at least I could make a sensible comparison. I have done my best with guestimates in my planning balance sheet because of the lack of information that they have provided.

21341. For clarity, was any information given to you in relation to how that figure has been calculated?

(Mr Winbourne) I do not seek to fault these figures on their own, I want to make that clear. Somebody has worked them out, no doubt they are quite correct as far as they go, they are only a quarter of the matter, that is all I am saying.

21342. Have you any further points that you wish to make about Bond Street?

(Mr Winbourne) Simply that I have already made the point about the easier route from Paddington for the tunnels. The station entrances will be roughly in the same place. I imagine there will probably be added-in construction or a tunnel inserted from the existing Bond Street Station roughly under James Street to get to the platforms, I imagine there might be something, bearing in mind where I have suggested that the station should be located to get to the platforms of Crossrail. I think it would be a far better arrangement all round for Bond Street Station. We are not talking about moving any of the other lines, we are adding Crossrail to it. On this point of alignment, if I may say something, this is not meant to be controversial, I draw to your attention that two previous ministers to the Secretary of State made a similar statement on 3 May 2001. They said that these stations were stipulated. At the time they did not mention Whitechapel, but they mentioned all the others in Central London and they said the details of construction of the stations and the potentials were yet to be sorted out. That is the difference between the two ministerial statements. It is because of that ministerial statement, in both Houses, which was supported by the Mayor and the then head of the Strategic Rail Authority, that they all made simultaneous statements on the same date, I hope I have got the date right, 3 May 2001, and they made it clear that the portholes and the station designs were yet to be sorted out. It was with that information in mind that—and I have referred to this in previous evidence—I attended with others when the then Residents Association of Mayfair met Cross London Rail on 12 December 2001, the minuted meeting which I have referred to previously, and I said then, “I do not agree with going to the West End”, those were roughly my words, “. . . but if you must go there the way to do it is on the north side of Oxford Street and use Cavendish Square”.

21343. For clarity to assist the Committee, how does that comment and your comments generally about Bond Street relate to AP3?

(Mr Winbourne) I think they relate directly to AP3 because if I hold up the ‘Bond Street 2’ document which was for general public consumption, the whole point about it is that you have got the station extending underground north of Oxford Street so that they are coming within a matter of a few yards of my proposals. If you can see the existing Bond Street Station at roughly ten o’clock in the picture and then you are extending northwards across Oxford Street and that is taking the station to within a matter of almost feet, but let us call it 50 yards, it is nothing. For the members of the public the station is not in any different position. If you go into an underground station you follow the signs, you are not aware of where they are taking you underground. I am simply saying the underground workings are in the wrong place, I want them to be in the right place. I leave that as far as clarity with the earlier ministerial statement, both in the Lords and Commons and co-ordinated in some way. I hope I am right in saying this, the Secretary of State was

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making a similar statement when he made the direction which we are all concerned about except that it was shorter.

21344. Mr Winbourne, for clarity, you believe therefore your comments directly relate to the provision of the intermediate station at Bond Street? *(Mr Winbourne)* Yes.

21345. You have said that you believe that costs set out by the Promoter of £157 million could be as high as £700 million?

(Mr Winbourne) Yes. We now have the picture in front of us, the big blue east to west bit of the picture, of course, all the way from Hanover Square to the existing Bond Street Station is what I am talking about, possibly up to £500 million and it is under major streets, it is near the embassies, lorries come time and time again and what is more, where they are going to do their condensation grouting from, goodness knows, and I am saying that we might even be able to do a cut-and-cover station.

21346. Mr Winbourne, we will move on. I think we have now dealt with Bond Street so we will move to number five.¹⁵ Tottenham Court Road Crossrail Station, what do you say about that under AP3?

(Mr Winbourne) It is a similar story. The Crossrail proposals have a major working and lorry holding area on the north side of Oxford Street where the Royal Mail post office station and everything was, the post office station is closed, of course. I understood the position to be at the consultation stage I attended with the Crossrail people in Mayfair, where there was a consultation arranged, that they were now taking the entirety of the Royal Mail property whereas previously they had only taken part of it. That in itself, has an opportunity, next door to it practically, as far away as, again, 50 yards is the disused Middlesex Hospital so there is another huge opportunity site in that vicinity. If one goes straight across Tottenham Court Road at that point you will see at Cheyne Street, some large rail shafts built in 1941 as air-raid shelters in a hurry and so on, which are what are commonly called the deep tube shelters, on the Northern Line alignment, below the Northern Line basically. All of that is north of Oxford Street and if, again, we are talking about Tottenham Court Road Station, not talking about moving the station, you could go still go into Tottenham Court Road, the only difference is the escalators would be going to the north instead of the south from the point of view of the passengers. It has an advantage because Goodge Street Station is not very far, it is only about 500 metres away, so you would be able to take escalators to both of them probably. Under there is an area where there are a lot of the people in the rag trade, import stock houses and what not, and I believe that Mortimer Street-Goodge Street is suitable for going under.

Again, there is a possibility of cut and cover. This needs looking into by engineers properly. If you do it by cut-and-cover you save an enormous amount of money, I have said that before.

21347. Mr Winbourne, this does not relate, does it, to the provision of the intermediate stations? It relates to the route?

(Mr Winbourne) No, what I am simply saying is this is an intermediate station. I am simply saying do it from a slightly different position. It is the same station, it will be a better station, in my submission, they are proposing to take property on the north side. I was privileged to hear other witnesses through other petitioners when we were here the last time and it was an important hearing, they were there from the recording studios mainly. Now the majority of the recording studios they are concentrating on there are some on the north side of Oxford Street, sure, but they are mainly on the south, exactly where Crossrail want to put the station, so the damage to that, and they referred to it as a cottage industry but they were, I think, being modest. It is a cottage industry which is extremely important to this country and London and they are concerned because of vibration damage and so on and so forth, which I am perfectly certain will arise whatever Mr Gambol proposes.

21348. Mr Winbourne, item six, Tottenham Court Road to Farringdon via Crossrail AP3.¹⁶ Could you elaborate on the points there?

(Mr Winbourne) Yes, of course. I could have suggested a line directly—and I want to make this clear—to Tottenham Court Road Station platforms to Farringdon I, want to make that clear. Please, recall what I said, we went to a meeting and I said, “You can vary the northern interchange route” and this is what my suggestion does: I would not cut out St Pancras because of all the advantages of having St Pancras Station. You may say that adds on the cost because we have no St Pancras Station.

21349. Could I stop you there for a second. Before you go on, the comments you are now going to make, do they in any way affect the provision of intermediate stations at Paddington, Bond Street, Tottenham Court Road, Farringdon, Liverpool Street, Whitechapel, the Isle of Dogs or Custom House?

(Mr Winbourne) Yes, every single one of them is dealt with.

21350. Those stations will still be provided?

(Mr Winbourne) Exactly, at every point.

21351. The provision of those stations is not being challenged, is it?

(Mr Winbourne) No, what I am saying is that—and I hope Honourable Members will understand this because this is incredibly important—I can see at

¹⁵ Committee Ref: A230, Revised ‘Planning Balance Sheet’ covering broad brush comparisons between Crossrail and CNIR to include engineering costs, environmental, valuation, compensation and disturbance issues following AP3 (WESTCC-AP3-27—05-046).

¹⁶ Committee Ref: A230, Revised ‘Planning Balance Sheet’ covering broad brush comparisons between Crossrail and CNIR to include engineering costs, environmental, valuation, compensation and disturbance issues following AP3 (WESTCC-AP3-27—05-046).

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least one of you has got out the drawing that I have done showing the variation of the route. If I may explain the purpose of that plan later and you can see a rather, possibly awkward-looking, S-bend from Oxford Circus via St Pancras, but I have to explain to you that the cost of construction between St Pancras and Farringdon will be infinitely lower than what they are doing and, therefore, although this looks a lot more on the face of it, it probably may equate to their cost or it will not be much worse. You will get St Pancras in because they have got to have an emergency intervention point somewhere in Covent Garden because of the distances, I do not need any intervention points. I am simply saying you can get in St Pancras as well and the reason for this, if I can just explain the construction—

21352. Mr Winbourne, with direct reference to AP3 I would like you to explain how you believe the costs of AP3 could be reduced in relation to this pathway. (*Mr Winbourne*) Could I move over to Farringdon and perhaps come back the other way for the moment.¹⁷ At Farringdon there is a huge artificial cutting immediately north of the station which is about 400 metres long, just the right length for the station at Clerkenwell Green. It is setting up for oversite development, it will take about half a million square feet of some kind of development over the top, it will probably put in an extended Clerkenwell Green open space, you could do a wonderful city landscape job there with the right architects.

21353. Mr Winbourne, in your estimation, what would the cost-benefit of that be and whether or not that benefit would be achieved under the current AP3 proposal?

(*Mr Winbourne*) The station would finish up at nil because the development over the top would pay for it and more, and what is more the formal station would be better not only because of the cost, you see the way that I would approach the engineering there would be, if I can explain, not to put Crossrail under the tube but to rebuild the tube, the Metropolitan Line.

21354. **Chairman:** We are going over old ground. We have dealt with the re-routing towards St Pancras and I am finding it very difficult, and so are our members, to see how it relates directly to the provision of AP3. I fully realise you keep saying, “in relation to AP3” but that phrase in itself does not mean you are dealing solely with those provisions, rather what we have got here is old ground we have been over before.

21355. **Mr Levaggi:** Sir, I am not sure that is correct. Could I respond to that?

21356. **Chairman:** I will let you go on a bit longer but just merely by adding the phrase “in relation to the AP3” is not sufficient.

21357. **Mr Levaggi:** I entirely accept that. I think it is relevant to AP3 and the comments Mr Winbourne is making are relevant to AP3. The cost estimate given by the Promoter has not been, in my understanding, the subject of any petition for my client previously. We asked for a breakdown of the cost estimate, but that breakdown was not provided. The breakdown relates to the summary which was provided but was the identical summary which was given to us during the meeting with the Promoter of which we requested a detailed breakdown. It was not provided.

21358. **Chairman:** I accept your argument in relation to cost-benefit but, as I say, I think we need to spend less time on the re-routing aspect of that.

21359. **Mr Levaggi:** What the Petitioners are trying to establish is whether or not that cost estimate where we have no real detail, I can see that, is a fair estimate of the costs of the current proposal following AP3 and we have asked Mr Winbourne to give evidence in relation to what he feels about that cost estimate. What we are trying to do on the limited evidence we have before us, on the limited information provided to us by the Promoter, we are trying to make the best fist we can of the situation.

21360. **Chairman:** I realise what you are trying to do, we are too. It is ground we have already been over. Proceed for the time being.

21361. **Mr Levaggi:** Mr Winbourne, have you any further comments to make in relation to Tottenham Court Road and Farringdon?

(*Mr Winbourne*) Simply that there will be a cost increase by bringing St Pancras Station but the rest of the cost will be vastly reduced and I think that will balance out. The cost of Farringdon Station will come in at nil and possibly with a bonus because of the way it will be done. I cannot recall, sir, forgive me, but I do not think I have made this point in evidence before for various reasons. If I am repeating myself I do apologise, but the way it would be built would be this: you would drop down the Metropolitan/Circle Line—you get two for one—and then you have Crossrail and the Thameslink with cross-platform interchange at Farringdon on top of it so you finish up with a win-win situation from the engineering point of view. It is the less costly line that goes deeper and, of course, you have to close down to do it, there is no doubt about it, but you can do it all by cut-and-cover. That is the point.

21362. **Chairman:** Talking about win-win, we have to go and vote. We will be back in ten or 15 minutes.

¹⁷ Committee Ref: A230, Revised ‘Planning Balance Sheet’ covering broad brush comparisons between Crossrail and CNIR to include engineering costs, environmental, valuation, compensation and disturbance issues following AP3 (WESTCC-AP3-27—05-047).

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The Committee suspended for a division in the House from 3:15pm to 3:25pm.

21363. **Chairman:** We shall resume.

21364. **Mr Levaggi:** Mr Winbourne, moving to paragraph nine, Liverpool Street, what do you say about Liverpool Street?¹⁸

(Mr Winbourne) I am very much on AP3 here. The Select Committee itself was concerned about overcrowding at Liverpool Street and asked for improved arrangements, which AP3 is supposed to meet and of course does at a cost, I would say at a very considerable cost. What you are looking at is a station which already was likely to cost about £1 billion because of the serious engineering underneath Liverpool Street going to Moorgate and under Finsbury Circus Gardens. Prime cost, if I can use that expression for the purpose of this explanation, therefore is about £1 billion before you start with the extras, which have been agreed with British Land. I do not disagree with them doing that if you are starting from the position of the £1 billion platforms. What I respectfully draw your attention to is this, that my proposed platforms are at the other end of Liverpool Street Station, they are not a million miles away. If I may refer you again to the meeting that we had on 13 December 2001, the very point of overcrowding was made by myself and Dr Ronald West, now deceased, an eminent rail engineer.

21365. **Chairman:** In relation to the Liverpool Street Station, I will just remind you, the Promoters came to the Committee and put forward a far cheaper scheme. It was the Committee that went back and gave a decision at an earlier point which considered an expansion and gave instructions to the Promoter of what that expansion should include, so if anyone is to blame for overspending in relation to Liverpool Street it is the Members of the Committee.

(Mr Winbourne) I am not questioning who did what, Sir, please, and I am not questioning the good faith of the Committee, not at all.

21366. **Mr Levaggi:** Or of the Promoters.

(Mr Winbourne) Or the Promoters in the situation which you put them in on this issue. I am simply saying we arrive at a position where there is a very, very high cost indeed.

21367. **Chairman:** I think you have made that point and you have made it thoroughly and we are aware of that. What I need to know is can you tell us what you want us to do? We accept some of the arguments that you have been putting forward, the financial ones and in relation to the routing to Kings Cross-St Pancras and we understand that, although we still do think that one of your arguments is realignment, for whatever reason, but, nevertheless, we have allowed

you to go on with your argument. What we want to know now is what you want us to do in relation to AP3? Are you just going to give us a financial critique all the way through or are you going to tell us what you want?

21368. **Mr Levaggi:** Sir, in my submission, the financial critique is essential. This is an incredibly expensive project, these projects always are. It is perhaps a truism to say that, nevertheless, it is an incredibly expensive project. I think on the Promoter's own case, it is something like £7.9 billion. The Petitioners' concern is that this is done in the most cost-effective way with the least disturbance as possible. The Petitioners ideally would like there to be a proper assessment, maybe by way of a further environmental assessment, of the true cost of this as compared with other possibilities.

21369. **Chairman:** Your case is that you want a new financial calculation on the whole remit of Crossrail, in particular up to AP3?

21370. **Mr Levaggi:** Sir, it surprises me that this sort of assessment is not continuously done in relation to this sort of project. When smaller transactions take place, perhaps with private clients and that sort of thing, there is a continuous assessment of the cost of the transaction, there should be. If costs go up, and we say the AP3 has created further costs, and we say those costs are significant, surely there should be a reassessment. There should always be a reassessment.

21371. **Chairman:** Let me get this correct, what you are asking for then is a reappraisal, a re-evaluation of the cost of Crossrail in relation particularly to AP3?

21372. **Mr Levaggi:** That is correct, yes. Whereas the Promoters might say—I will not put words in their mouth—some of this has been set in principle, we would submit that even though it is set in principle, that should not stop the Committee considering whether or not this is really the most cost-effective approach, particularly when the cost on the Promoter's own case amounts to half billion pounds. Sir, it is perhaps a cheap point to make, but there have been previous projects like this, for example the Jubilee Line Extension which was originally costed at something like £2 billion and came in at something like £4 billion, and it is perhaps a cheap point to mention Euro Tunnel which was originally costed at £4.9 billion and came in at something like £8.8 and is still in debt, something to the tune of £6.6 million. These points might be cheap points and they are not points for you to make any ruling in relation to. All we are saying is we would urge the Committee to look at AP3 prudently and with prudence, we would say, this should result in a proper continuous assessment of whether these costs are necessary costs and whether or not there should be a complete reassessment of the whole thing.

¹⁸ Committee Ref: A230, Revised 'Planning Balance Sheet' covering broad brush comparisons between Crossrail and CNIR to include engineering costs, environmental, valuation, compensation and disturbance issues following AP3 (WESTCC-AP3-27—05-047).

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21373. **Chairman:** That is clarity because we have got where you want us to go, I just find it difficult to understand why we are going station by station, area by area, building by building. We accept the argument, you have made us very well aware of it, is that the only area you want to visit or do you want to amend the Bill or do you want to set AP3 aside or what?

21374. **Mr Levaggi:** Sir, in my submission, one has to go through this station by station. To some extent, the point has been made that you have been directed by the House to include the stations, they have been set, and let us say it is accepted that those stations are set in stone, fine, but even if the stations are set in stone, we want to be able to persuade on a station-by-station basis that a financial assessment should still be made as to whether or not this route through these stations could be done in a better more cost-effective way and that is the point we are trying to make.

21375. **Chairman:** The line of route has been set, we have been given that and we have been given the stations on that. If there is any variation of that, it is slight.

21376. **Mr Levaggi:** Sir, my learned friend, David Elvin, wrote to you and very helpfully, in my view, set up the direction, so this is the basis of what has been set for you to consider. It is set out to you in the letter dated 23 February. You have seen this and you have responded to it but for ease of reference, let me read to you the direction: "In applying the practice of the House, the Select Committee treat the principle of the Bill as includingthe provision of intermediate stations at Paddington, Bond Street, Tottenham Court Road, Farringdon, Liverpool Street, Whitechapel, the Isle of Dogs and Custom House". Sir, this is the extent of the direction to you. We have quite carefully tried to keep to that direction with our submissions. I do not believe Mr Winbourne has suggested that any of those stations listed in that line should be changed or altered in position.

21377. **Ms Lieven:** Is it helpful for me to interject?

21378. **Chairman:** Yes.

21379. **Ms Lieven:** I was only going to say that in my submission it is self-evident that what is happening here is the Promotion of an alternative alignment. As Mr Elvin said in the letter which has just been referred to, that alternative alignment involves not just a completely new route all the way from Paddington past Liverpool Street, it is a different route, it is outside the limits of deviation and it is a fundamentally different route because it is running north of Oxford Street. It also involves what is a new station at Wigmore Street, and a new station at Tottenham Court Road because although it still would have the name Tottenham Court Road, it is in a completely different location way to the north, so it is obvious it is an alternative alignment and it is

obvious that it goes to the principle of the Bill. Further, Sir, there is the minor point which I did point out the last time, but at the risk of being boring I will point it out again, none of this is raised in the Petition and none of it involves a direct effect upon the residents of Mayfair. In my submission, the Committee would be perfectly justified in simply saying that they have heard most of this material before, they believe it goes to the principle of the Bill and they are not going to hear it anymore.

21380. **Chairman:** Thank you very much indeed. Could we just have that map back up? I am trying to be helpful, but Mr Levaggi, could you explain to me why that is not a different route?¹⁹

21381. **Mr Levaggi:** Sir, you are looking at the rather obvious large bulge at the top, which makes it look as if it is a different route, but one has to address where the stations are.

21382. **Chairman:** It is a different place on the map because it comes from a different position. It is a different route.

21383. **Mr Levaggi:** Sir, in my submission, once again, the stations have perhaps been set, but how you get between station and station has not been set. The location of the stations, we say, is—

21384. **Chairman:** I understand how you trying to hang in there, at the moment, but it does not relate to AP3 and it was not included in the Petition.

21385. **Mr Levaggi:** Sir, it was included in the Petition because the concern we raise in paragraphs 8, 9 and 10 is one on costs. Paragraphs 8, 9 and 10 of the Petition are drafted in a general way, that is accepted, but it relates to costs. We say, on the Promoter's own case, this is half a billion pounds.²⁰

21386. **Chairman:** I fully understand that. Can I just say I have already accepted that you have made a legal argument to us on the matter of costs, but it was not included in your Petition and AP3, and the matters are not related to matters connected with Mayfair. Will you explain to me how that is in relation to AP3?

21387. **Mr Levaggi:** Sir, it does relate to the Petitioners. I would say the issue of costs relates to any inhabitant of London—and, arguably, the country. So it is from that perspective—

21388. **Chairman:** I accept you have made a case in respect of that. What I am saying is this is a new route. It is a different alignment entirely. It is very clear from your own mouth that it is a different

¹⁹ Committee Ref: A230, Crossrail Northern Interchange Route ('CNIR')—Central London Core Section (Diagram Map B) (WESTCC-AP3-27—05-049).

²⁰ Committee Ref: A230, Revised 'Planning Balance Sheet' covering broad brush comparisons between Crossrail and CNIR to include engineering costs, environmental, valuation, compensation and disturbance issues following AP3 (WESTCC-AP3-27—05-047).

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route. The station is a different station and it does not apply to the matters which we are dealing with in this hearing, other than the broad brush approach you put down in relation to the cross-examination. What I am perfectly willing to do is to stick with that argument, which you can go on making, but I really do not want to revisit—we have already revisited it in previous hearings—the whole of this realignment. We are dealing now only with matters absolutely applicable to AP3, and I am not really willing to go back to this. Members have made it clear to me in the short recess we have had that they do not want to revisit it either. If you want to keep on on financial costings you are perfectly able to do so, but as I say, we have heard the arguments.

21389. **Mr Levaggi:** Can I make one very short final submission? It is almost impossible to discuss the issue of costs unless one does it in a comparative way. In relation to any valuation issue before any court one has to look at comparative evidence. It is an essential point of any valuation process. I am buying a property and a survey comes back and throws something else up which adds to the cost of my purchase. I am bound to look at comparative properties to see whether or not it is still a good idea for me to complete this transaction. All we are saying, sir, in relation to the costings of AP3, the current alignment, the current Bill, is that to have any proper understanding of whether or not this is a good idea, from the point of view of the public purse, etc, to some extent one does have to consider comparatives.

21390. **Chairman:** I am grateful for that. As I say, we have heard your argument on the financial aspects of it and take note of that. Are you going to proceed any farther?

21391. **Mr Levaggi:** Sir, we are almost there, actually. We were just finishing off paragraph 9, which is Liverpool Street.

(Mr Winbourne) Yes. Can I say, before you go ahead, if the Chairman will allow, it is a different route—inserting your words, sir, not accepting my view—it looks longer at that point, but if you look at the pink on my plan they are routing—and there is a long working tunnel as well which is not shown on theirs, which goes out to Allen Gardens ending in the East End—if you take the entirety of their route, it is, give or take, nearly twice as long in colouring terms overall; it is nearly twice the tunnel across London that I am suggesting. I am suggesting half; what is more, probably cut-and-cover for a lot of it. Now, that is an enormous difference in savings terms. Since you accepted the savings point I did want to make that point. That is the purpose of this plan; it shows existing railway stock in terms of track; it shows a recycling of a bit of the Docklands Railway, which has taken heavy rail tracks since 1967 and, for peanuts, can be put back to heavy rail—that is the point—and that is what the light blue on the plan shows, and I do not think the Committee has had put before it a proper plan of London railways before, sir.

21392. **Chairman:** Can I just remind you that in relation to this route we have had evidence on that and I think you are aware of that and you have referred to Mr Schabas' evidence earlier on. Indeed, Mr Schabas himself referred to some aspects, so we have heard this in much earlier sessions and we have dealt with it.

21393. **Mr Levaggi:** Perhaps, in conclusion, sir, in relation to paragraphs 11 to 15, do you have any particular points you would like to make, Mr Winbourne?²¹

(Mr Winbourne) Keeping it as short as possible, Stratford station, no change. As far as I am concerned, a perfectly good station—no arguments—except that I have heard arguments and I have been present when Shenfield people said you did not need to go to Shenfield. I am inclined to agree with them—I would go to Barking. These are locations which Crossrail has considered in the past and chopped and changed. They keep moving the goalposts in these outer routes. The difference is I would go to Stansted, and that is why I am showing the route in green via Lea Bridge out to Stansted. That is the only reason for it. It is accessible from Stratford. Number 12: that is the only place where I have trouble with the intermediate station point, and I plead guilty to that, sir, because I would branch off to Whitechapel as distinct from the word strictly intermediate. I am not trying to suggest it is. The reason is because of the huge saving of tunnelling disruption and everything else in the East End which was thrown out on the Channel Tunnel Rail Link and is still in on Crossrail. That is number 12. I do say to go to Whitechapel simply go underneath the East London Line. If you want to go on from there you can. On the Whitechapel/Crossrail station, I think it was Mr Schabas who said to me it was about £400 million. I pointed out that the station under Vallance Road—or the platforms under Vallance Road, because I am doing my own case an injustice, the station entrance is all staying in the same place—the platforms under Vallance Road would not be a problem, and what is more there are artefacts in St Mary's. Every rail buff knows of them, a closed down station in 1939; there is a curve that goes south-east and you could, in fact, improve on Whitechapel station by doing that. Number 14, Whitechapel to Canary Wharf. This is really the kingpin on the cost. It is unnecessary miles and miles of expensive and disruptive tunnelling under the East End, which was rejected for the Channel Tunnel Rail Link, and that is why the route was moved to go under the North London railway to get to St Pancras. The previous Select Committee—I think it was actually changed before they got in front of the Select Committee procedure because they could see trouble coming, but it was thrown out because of an outcry in the East End. We have here virtually a recycling of that cast route at an

²¹ Committee Ref: A230, Revised 'Planning Balance Sheet' covering broad brush comparisons between Crossrail and CNIR to include engineering costs, environmental, valuation, compensation and disturbance issues following AP3 (WESTCC-AP3-27—05-048).

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enormous cost, which can be dealt with much more simply by using the assets which the railway industry has and which the Mayor of London and DLR have by simply recycling the heavy rail route to Poplar/Canary Wharf which could have been used for the Docklands Light Railway since 1967. If you revert back to heavy rail or share it with the Tube—you can have joint working, there are various ways in which it can be done—you would have more than one line to Canary Wharf and it would cost tuppence ha'penny compared to what they are proposing to spend. The track bed is there, it is in use for the DLR, and that is what the Victorians would have done in a trice, if they had been given the choice. They chopped and changed their railways all the time; they were not frightened of doing so. Last, but by no means least, the only point I would make is there has been some controversy in the papers and so on about the Woolwich station. I believe that it has been caused by the taking of the position of the Woolwich station for the Docklands Light Railway. I think that is what has caused the extra cost. I am not absolutely sure of this but I do refer back to what I have said before in evidence, it is in that meeting of December 2001: if you put four tracks under the river at Woolwich, not two, the same route as theirs—there is no argument about routing here—you have got a proper railway right across the east side of London. You can have passengers, freight, fast and slow. That is the end of the submission, sir.

21394. **Ms Lieven:** I am certainly not going to cross-examine, sir, no. Nor is Mr Mould, in case you were wondering!

21395. **Chairman:** Thank you, Mr Winbourne. (*Mr Winbourne*) They did not cross-examine me for either point.

21396. **Chairman:** It is their prerogative.

The witness withdrew

21397. **Ms Lieven:** Sir, I was not intending to call Mr Berryman, unless you feel the need, for this reason: as I have already submitted, this case goes to the alternative alignment, which is, in my submission, contrary to the principle of the Bill. The issues raised are about the cost estimate. The point that Mr Levaggi did not seem to understand is that the cost estimate is a public document; it is in the public domain, produced by the Secretary of State to Parliament, and we find it impossible to see how that can properly form the ground for a Petition because, in effect, what is being said is that any council taxpayer in London can petition against the Bill on the grounds that they might have to pay the costs of Crossrail, or some proportion of it. Sir, it is well-established that that type of interest does not give rise to a Petition; a Petitioner has to be directly affected by a proposal. We are not suggesting the Residents' Association of Mayfair are not directly affected but that there has not been a single word today about the direct impact on them; it has all been about the alternative alignment. So, in my

submission, the Committee just does not have to worry about the alternative alignment, and the cost of it, at all.

21398. So far as the detailed points on each station are concerned, on every single station that is raised in this document of Mr Winbourne's the Committee has heard evidence. It has heard our justification for why we are proposing the stations where they are. Now, sir, I could call Mr Berryman either just to deal with the Wigmore Street alignment or to go through each station and justify each station again, but I simply cannot see that that is going to assist the Committee in its deliberations.

21399. **Chairman:** We have already had that.

21400. **Ms Lieven:** You have already had that and you have already heard why an alignment that goes north of Oxford Street has all sorts of problems, both in terms of cost of acquisition, which Mr Berryman said before was likely to be comparable, and in terms of the fact that one would then be looking at a whole series of different worksites which are likely themselves to be highly controversial—Cavendish Square behind John Lewis in Oxford Street is perhaps the obvious one, and Connaught Square is not likely to be desperately popular as a worksite—a whole series of worksite issues. However, most importantly, is the point that Mr Berryman made before, which is that the stations are in the wrong place for the passenger flow. Passengers want to be in Oxford Street, and primarily to the south of Oxford Street; running along Wigmore Street means much longer interchange times and much less alignment in transport terms. We have dealt with all that before, sir; I cannot see the Committee is going to be helped (Day 24, just for the note) by that.

21401. There is one final point I would like to make. Again, Mr Berryman could give evidence on this if necessary but, in my submission, it is not appropriate, and that is the suggestion that we have got a very expensive project and we simply sit back and do not consider the cost of it. That is completely wrong. The estimate of expense is a public document produced by the Secretary of State to the House. However, all the time, behind the scenes, we are working very, very hard on reducing costs. The Committee will be conscious of that through the press attention to Crossrail and the various announcements that have been made recently. We are constantly reappraising costs and seeing how we can cut them down. I would not want the Committee for one instant to think that we just take however many billion it is and leave it there, but it is not a matter that the Committee needs to engage in. It does not go to the issues that are properly raised in Petitions. Also, we are obviously not going to produce detailed cost breakdowns of work because that is commercially confidential information and it is likely to be very disadvantageous to us in a contracting process and a tendering process if we revealed all our cost estimates in the public domain.

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Sir, I only touch on that because I do not want the committee to think that we are, as a project, or a Promoter, insensitive to the issue of cost. Nothing could be further from the case.

21402. So, sir, I am intending to leave it there, unless the Committee feels the need to hear from Mr Berryman on any points.

21403. **Chairman:** I do not think there is any necessity for that, but I will say that Mr Levaggi said he had to make a fist of his case, and he was actually arguing financial data, and he has every right to Petition—

21404. **Ms Lieven:** Absolutely, sir.

21405. **Mr Levaggi:** First, dealing with the issue as to whether or not the Petitioners have the right to raise the issues in their Petition, my learned friend makes the point well that the Petitioners have standing to make this Petition because they are residents in the affected area. So if they have standing they have the right to petition in relation to any relevant issues, and surely the issue of costs is a relevant issue. It is, surely, of interest to them how much this is going to cost. It might not be the case, if somebody in Manchester wanted to petition on the basis of the cost of this project; that that person might have the requisite standing, but my clients do, and I think Ms Lieven has accepted that, in reality. Much of this does come down to costs. It comes down to costs and it comes down to a proper consideration of alternative alignments, not a continuous assessment of what they regard as a done deal, but a proper consideration by way of comparable evidence of the cost of alternatives. That must be the case in relation to any transaction in the country, whether it is a business transaction or whether it is a private transaction. Why should it not be the case in relation to a project that will cost £7.9 billion? It must be the case. That £7.9 billion might be wrong. It is a very, very expensive project.

21406. Sir, those are my submissions and they are the submissions of the Petitioners on the Residents' Society of Mayfair and St James. Finally, we have made points other than on costs. Without recalling Mr Winbourne to go over those points again, there were points made about disturbance and whether or not the positioning of escalators and that sort of thing could be improved. I heard those points; those points will be on the transcript. They are my submissions.

21407. **Chairman:** Thank you very much, Mr Levaggi.

21408. **Mr Elvin:** Sir, I have circulated a set of written closing submissions, for a number of reasons: one, it picks up a number of common themes and, two, it responds to a number of common points that have been raised by the Petitioners over the last 14 months. Whilst we are not absolutely at the end of

the Committee process we are largely at the end of the Committee process, subject to a few items of business which will be dealt with after Easter.

21409. Sir, the purpose of these submissions, therefore, following the completion of the hearings into the Petitions against the Crossrail Bill and the three sets of Additional Provisions, is to cover general points and themes which have occurred in respect of a number of the Petitions present, although of course, as I have just said, it is not the conclusion of the Committee hearing. It is not the intention to repeat submissions and evidence made on the specifics of individual Petitions which have been dealt with at the time of the hearing of each of those individual Petitions. The Committee, of course, is referred back to those submissions and to the general opening which I made, good heavens, back on 17 January last year. How time flies.

21410. During the course of the Bill three sets of Additional Provisions have been deposited with the Private Bill Office, so far, together with Environmental Statements for the APs and SESs as well, and fall to be considered in accordance with the instructions of the House. I just remind you: AP1 was deposited on 18 January 2006; AP2 9 May 2006 and AP3 7 November 2006. The amendments introduced by the APs were the subject of submissions which I made on 18 January of this year, Day 66, at the paragraph numbers set out in the note. Since the issue of a station at Woolwich remains to be dealt with following last week's statement by the Secretary of State, it is not proposed to make a formal presentation of the filled Bill now but to leave that until the final conclusion of the Committee hearings.

21411. Sir, I do not know whether you want to give this document a document number.

21412. **Chairman:** Are you going to read it entirely or not?

21413. **Mr Elvin:** No.

21414. **Chairman:** A247.

21415. **Mr Elvin:** Sir, if I can ask for your guidance on this: it is divided into two parts, having just introduced it. There are some detailed notes at the end on technical matters such as Environmental Impact Assessments and environmental information in the Aarhus Convention, which I was not proposing to read out but to simply lay as submissions in documentary form. I am going to summarise them for the moment, but it did seem to me it would be easier for the Committee if I simply took you through these submissions as briefly as possible, because the written document is available and we will put it on the website so it will be available for anyone else to see, rather than simply wearying you with too long a recitation.

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21416. **Chairman:** That is helpful.

21417. **Mr Elvin:** So, sir, running as quickly as I can then through the main headings, the first one is “Crossrail: the need for it and its benefits”. The position is set out in the main Environmental Statement Chapter 4. Taking you back 14 months, to the first day, Crossrail is a major new cross-London rail link project to serve London and the south-east of England. It will support and maintain the status of London as a World City by providing a world-class transport system. It will be a significant and essential addition to London’s transport infrastructure and the south-east of England and will deliver a number of important benefits: firstly, a fast, efficient and convenient rail access to the West End and the City by linking the existing routes from Shenfield and Abbey Wood in the east with Maidenhead and Heathrow in the west.

21418. Secondly, improved services for rail users through the relief of overcrowding, faster journeys and the provision of a range of new direct journey opportunities. Wider social and economic benefits not only for London, including the regeneration of areas such as Docklands and Thames Gateway, and also for the south east of the UK as a whole. The key objectives are, therefore: to support the development of London as a World City and its role as a financial centre of Europe and the United Kingdom; secondly, to support the economic growth of London and its regeneration areas by tackling congestion and the lack of capacity on the existing rail network, and, thirdly, to improve rail access into and within London.

21419. It will achieve these objectives by addressing problems of inadequate capacity on the national rail and London Underground networks, by improving accessibility to regeneration areas, and by providing transport capacity for the growth expected for London. This is not at the expense of regional services, such as to the south-west and to Wales. Crossrail services will use only the slow lines, as you may recall, during normal operation, not the fast lines into Paddington and to Liverpool Station that regional services use.

21420. These objectives have been forcibly underlined by some of those petitioning—for example, the cases made by the Corporation of London and Canary Wharf with regards to the needs of the business community and by the London Borough of Greenwich with regard to regeneration needs, particularly in the Woolwich area.

21421. I turn then to Environmental Minimum Requirements. I just remind the Committee, of course, that I gave an undertaking in this respect on Day 1, in paragraph 112 of the transcript. The EMRs set out controls for the design and construction of Crossrail relating to environmental and planning issues, and they include the Construction Code, the Planning and Heritage

Memorandum and the Environmental Memorandum. The first draft of the EMRs was published in September 2005 and circulated to local authorities affected by Crossrail and other bodies. A revised version, following discussion, was published in November 2006 and it remains the subject of ongoing discussions and will be finalised through the final stage of the Bill’s progress through Parliament.

21422. The Secretary of State will contractually require the nominated undertaker to comply with the controls set out in the EMR and take such opportunities as may be reasonably practicable to reduce significant adverse impacts. These contractual requirements, with the undertakings and assurances given by the Secretary of State, will ensure that impacts of the exercise of the Bill powers which have been assessed in the Crossrail Environmental Statement will not be exceeded so as to depart from the various assumptions in the Environmental Statements, unless that situation results from a change in circumstances which was not likely at the time of the Environmental Statement, or would not be likely to have significant environmental effects (meaning significant adverse effects where the change is a modification to the current project) or where they would be subject to their own consent process and to further environmental assessment if required.

21423. Turning then to the third point which is Environmental Impact Assessments about which you have heard a number of submissions from time to time and, as I have said, there are detailed submissions set out in writing in the annex. Two issues have arisen before the Committee frequently in the context of environmental assessment and the Petitioners have frequently made claims concerning either, first, the inadequacy generally of the environmental assessment process for the Bill and the Environmental Statements produced for Crossrail and, secondly, the failure to consider alternatives. You have heard an example of that both today and last week in the context of Mayfair and Spitalfields. It has been said by a number of Petitioners that Crossrail simply has not considered the alternatives. A detailed note on these topics is set out in the annex, as I have said, and they repeat to a large extent what was set out in the letter I wrote to you, sir, on 1 March this year in response to the Woodseer and Hanbury Residents Association and Spitalfields Small Business Association. What is in the annex you will have seen to some extent already, but the points, of course, are of wider application. Putting the matter in summary form, our response is this: environmental assessment is intended to assist not hinder the process of decision-making, in this case, of course, decision-making by Parliament. Secondly, the adequacy of the Environmental Statement is a matter for the reasonable judgment of Parliament. The courts have frequently pointed out that merely because a party making representations about development proposals does not agree with the approach or the contents of an Environmental

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Statement does not mean that document ceases to be a proper Environmental Statement or one that is not fit for its purpose. In fact, part of the process of the environmental assessments involves consulting the public on the Environmental Statement to enable those who have views on the project, as analysed in the statement, to express their own views, so it does not follow that because Petitioners can identify parts of the Environmental Statement which they disagree with that it is not a valid Environmental Statement. Thirdly, what has been produced in the Environmental Statement meets the legal requirements of providing an outline of the main alternatives studied by the developer and an indication of the main reasons for this choice taking into account the environmental effects. There is no requirement, contrary to the views expressed by some, to set out full information on alternatives only to present an outline of the main alternatives to the project as a whole. The requirements of the Directive, therefore, have been met. The main alternative study was summarised in chapter six of the main Environmental Statement deposited in February 2005. Specific issues of alternatives have also been addressed, for example the alternative depot proposals as a result of AP3 and the alternative alignments in the Spitalfields area, which I addressed in my letter to you, sir, on 1 March. By the appropriate touchstone of reasonableness, the environmental assessment process adopted for the Bill complies with the environmental assessments directive and is based upon a thorough Environmental Statement which has been updated and amended as the Bill has proceeded. The fact that, in documentation concerning this huge product there may be some flaws, or some might disagree with elements of it, does not render it or the process as a whole flawed or non-compliant with the Directive. The Committee can be satisfied, we say, that the project should proceed taking account of the information provided in the Environmental Statements together with that obtained from the public through the consultation process on the Environmental Statements which together form the part of information to be taken into account by Parliament. The Committee is entitled to conclude, we say, and report to the House of Commons that the Environmental Impact Assessment process has been conducted in a suitable and reasonable manner and has met the relevant requirement of the Directive under European law. That is all dealt with in more detail in the annex but those are the headline points.

21424. I turn now to the fourth heading, Århus and the public participation directive. The Århus Convention on access to information, public participation in decision-making and access to justice in environmental matters and the public participation directive produced by the European Union which resulted from it seeks to establish greater dissemination of information and public participation in environmental decision-making. A detailed note on the topic is also set out in the annex

to these submissions. The public participation directive only has implications for the Bill process to the extent that it modifies the environmental assessment directive from 25 June 2005 to improve the requirements for dissemination of information, publicity and public participation. Publicity requirements of the Directive are amended and include the duty now to make available certain information whether by public notices or other appropriate means, such as electronic media, where available. This has been done, including the use of electronic media, as the Committee is well aware. Although the Promoter considers that the Directive does not apply to the Bill process simply because the Bill process started some months before the Directive came into force that does not need to trouble the Committee since the process that the Bill has followed has met the requirements in any event, and I simply give you again the headline points .

21425. Sir, I set out in my opening in paragraphs 32 to 40 an overview of the consultation process on the project as a whole. The Committee will recall those extensive pre-Bill consultations on the proposals for the public awareness campaign in 2003 and the establishment of information centres, the second awareness campaign in 2004 followed by a second round of public information centres. There were 103 days of information centres at 55 locations across the Crossrail route attracting over 15,000 visitors. The consultation responses were evaluated and considered in the design of the project and mitigation measures associated with it. In 2005, before the Bill was deposited, an information round was implemented in information centres explaining the proposals for which powers are now sought in the Bill and an aggregated consultation report in September 2005 is available which summarises the consultation process. Secondly, additional notice of the likely proposals was given in the CLRL business case in July 2003 and in the Montague Report in July 2004. The Bill and the Environmental Statement give ample information on the proposals together with other information available from CLRL and DfT, both in electronic and paper format. Sir, you will note behind the Environmental Statement there sit a number of very detailed technical reports which have been brought out from time to time. They are all available on the Crossrail website along with the Environmental Statement.

21426. Fourthly, subsequent information, of course, through the APs and SESs and by other means have been made widely available as APs have come forward and as the committee process has continued.

21427. Fifthly, the right to petition Parliament in respect of which we said at the outset we would not generally take locus points has allowed those wishing to raise issues with regard to the Bill to raise them before this Committee, to call evidence and to question witnesses for the Promoter, and the Committee has been able to request amendments

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and other steps to be taken via undertakings and assurances. Deliberations and decisions made by Parliament with regard to Crossrail are made publicly available through a number of media, including Hansard, the internet and the Committee's own website. Committee proceedings are published on the website and can be listened to via the weblink or for a period of months as part of the internet archive of recordings. There is ample opportunity to hear and understand what is happening. The provision of information on the Bill has been extensive and widespread. In addition to depositing documents in public libraries and with local authorities and by responding to individual requests for additional information generally under the Freedom of Information Act provisions significant amounts of information have been made available electronically via the internet by, for example, both the CLRL and DfT website.

21428. Therefore, in conclusion on this, there is no proper basis for saying the procedure related to bringing forward, deliberating on and justifying the Bill proposals has not accorded with the substance of the Convention or the requirements of the public participation directive on access to environmental decision-making. We say the process has been more than ample to cater for those requirements.

21429. We turn then to another issue which we raised on a number of occasions, human rights. The issues which have arisen in committee hearings largely concern three particular convention provisions, Article 8, the right to respect for the home, private and family life; Article 1 of the First Protocol, the right to the undisturbed enjoyment of possessions which includes, of course, property rights to be acquired under the Bill; and Article 6, the right to a fair trial. As far as Article 8 and Article 1 of the First Protocol are concerned and any other substantive rights, you will recall the Minister has certified compliance with the Human Rights Act in the Bill and in any event those rights are not absolute and can be displaced if, for legitimate reasons, the homes or the properties and activities of those affected are to be disturbed in the public interest. In the language of Strasbourg, sir, the interference must be necessary in a democratic society, in other words proportionate or strike a fair balance between the private rights being affected and the public interest which justifies the interference. What it all means simply is the public interest in proceeding with Crossrail outweighs the impact on individual lives and properties having regard to the powers sought and the effects which they are likely to have. It is plain that the public interest in proceeding with Crossrail is, we say, sufficiently important to outweigh the individual rights of those likely to be affected by the Bill proposals and that the petitioning and the select committee process here allows the claims of Petitioners to be considered in detail by your Committee, sir. In a number of cases your Committee has required the balance between the project and the parties concerned to be adjusted,

thus adjusting the balance of proportionality, as it has seemed appropriate to your Committee in the light of evidence and representations you have received. There is, therefore, built into the hybrid bill process a means of adjusting proportionality in individual cases where your Committee, sir, has thought it necessary. So far as Article 6, that is concerned with the fair trial rights of persons, where there is a determination of civil rights and obligations. Article 6, in our view, sir, does not apply to hybrid bills or to any other parliamentary procedures other than the judicial functions exercised by the House of Lords. This is because section 6 of the Human Rights Act, which subjects public authorities, including the courts, to a general duty not to act incompatibly with convention rights, specifically does not apply to either House of Parliament or a person exercising functions in connection to proceedings in Parliament. Sir, the proceedings in Parliament are specifically excluded from the duties under section 6 of the Human Rights Act. Apart from section 6 of the Human Rights Act Article 6 would not have applied here in any event to your committee procedures since you are not concerned with the content of the law with Article 6, only its procedural protection. Secondly, there must be a genuine dispute over a civil right or an obligation which can be said fairly to be recognised under UK law and the Bill process and you, in particular, sir, are not determining a dispute over the civil rights which exist under the law but what the Bill should be if the Bill is passed by Parliament. In any event the procedure adopted for the committee proceedings embodies a fair procedure. It allows Petitioners a reasonable opportunity to present their cases, call evidence and cross-examine the witnesses called for the Promoter. The case the Petitioners have to meet is known to them, it is set out in the various Bill documents and supporting documents and in the petition response documents which have been sent out explaining the Promoter's response to individual petitions in the vast majority of cases. Sir, I would observe that the Committee has been very fair, indeed, giving Petitioners considerable leeway to present the cases they have wanted to present to the Committee and the Committee has allowed them to make those cases even though on occasions issues as to relevance and materiality to the Bill proposals have occurred. The Committee has not been ready to cut people off and has been extremely fair, in our submission. Although some have complained at being cut short by the Committee from time to time even if Article 6 applied to the passage of a hybrid bill, which it does not, Article 6 does not require an oral hearing and you can satisfy it by consideration of documents including petitions, it does not permit those being heard to be repetitious or irrelevant in their presentation to you and it does not restrict the body conducting the hearing, in the case of these proceedings this Committee, from exercising reasonable control over its procedures, for example where it determines that matters run contrary to the principle of the Bill or do not arise out of an additional provision. That is all I say, sir, about human rights.

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21430. Sir, I then turn to a couple topics which I will run through briefly. On noise, sir, you will be aware that the Promoter's schemes for control of noise during construction and operation have been fully set out in IPD9 and IPD10 and there is a draft IP in relation to fixed sources that was produced during the period submitted on behalf of the London Borough of Havering. They are of course being updated to reflect undertakings and assurances given during the committee process and further negotiations which have occurred since they were initially published. Mr Thornley-Taylor has spoken to those documents on a number of occasions and he is, of course, pre-eminent in the field and we would suggest respectfully, sir, that his views should be given considerable weight when the Committee is considering its recommendations in its report.

21431. In relation to groundborne noise, the Promoter has put in place design criteria which will ensure that during the construction and operation of the railway there will be no unacceptable impact on the occupiers of property above the railway and the Committee will recall, in particular, the criterion adopted for the protection of residential properties 40dbA L_{Amax} is appropriate. There is no justification for the application of a lower criterion than this, as some have suggested, and in the context of a project that is attempting to drive costs down so as to be affordable, there is no justification, we say, for the provision of floating slab track across the whole of the central section. Floating slab track will be used, as the Committee is be aware, but only where necessary. Where there has been a need to identify additional mitigation due to the particularly sensitive nature of a Petitioner's property to groundborne noise, we have offered undertakings to provide that additional mitigation, so that no unacceptable impact is likely. I give you the recent example of the Barbican Hall, an earlier example of the British Board of Film Censors and more recently the Grand Central Sound Studios petitions. An appropriate undertaking regarding the regime of maintenance to be applied to the track and wheels based on the undertaking sought by Camden has been incorporated in the latest drafts of the relevant IPs. In relation to the airborne noise and its control during construction, the consent procedure under section 61 of the Control of Pollution Act 1974 will apply and that will require a construction contractor to use best practical means to control noise arising from his operations. Thus, the Committee rest assured that an appropriate level of mitigation will be provided and controlled by the local authority. Where, notwithstanding the use of best practical means, the construction noise impacts are forecast to exceed the criteria set out in IPD9, residential occupiers will be offered noise insulation for their properties or temporary re-housing as appropriate. The criteria have not been subject to challenge in any petition that has been heard by the Committee, which is of itself an indication that the criteria are appropriate.

21432. So far as fixed source noise is concerned, this was raised, as you will recall, by the London Borough of Havering which had concerns regarding the appropriate criteria to apply and you will have evidence on that given at the time. Needless to say, we rely on our submission made at that time in response to Havering's petition. There is no scientific basis for adopting the criteria which Havering has proposed. In short, sir, we contend the mechanisms put in place in the Bill and undertakings provided will secure that noise from the construction operation of the railway is appropriately controlled.

21433. Sir, the next topic, which has arisen frequently, is settlement. Sir, we have explained our positions clearly in a number of circumstances, first, Professor Robert Mair's evidence to the Committee on Day 8 paragraphs 2368 to 2425 in IPD12 ground settlement and the Environmental Statement Volume 6, appended to B1 section 10 and B2 and in the various technical reports. Sir, I am going to summarise this section because most of this has not been the subject of major dispute. A three-stage approach to settlement has been adopted based on long experience of major infrastructure, including CTRL and the DLR. It is set out in the IP. It is very conservative in its assumption so it is always predicting a worst case scenario and we rely upon good practice and experience to be the main means of preventing settlement effects from tunnelling. We have in place a series of protections should issues arise and there will, of course, be careful monitoring. Subject to certain conditions, the Secretary of State will require the nominated undertaker to reimburse property owners for the reasonable cost they might incur in remedying material or physical damage if ground settlement is caused by the Crossrail works, and you will be aware that a settlement deed is being produced that gives effects to the assurances set out in the IP. I should remind the Committee that deed is to be amended and it will be the amended deed which is finally completed which will be offered to the occupiers who fall within it, but, as I reminded the Committee and some of the Petitioners I think on Day 68, you do not have to sign up to the settlement deed to benefit from the protection set out in the IP, they are available in any event.

21434. I add a note because of what has been said on some occasions. Contrary to the views that some have expressed, we do not suggest that it would be right or fair for the Promoter to offer a complete indemnity as to any damage occurring during the works without it being shown the damage that resulted from the works themselves. It is not the role of the public purse to act as insurer of the damage, however caused, and it is only reasonable that it should only compensate, as it will do, if it is shown that damage has been caused by the Crossrail works themselves. But, Sir, as you will be aware, in the most instances in which settlement has arisen it has concerned the provision of information. You will recall the two weeks dealing with the Spitalfields objectors last summer and the concern over

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information has been dealt with by the giving of undertakings for the provision of further information.

21435. We turn then to the question of compensation. With few exceptions, identified by the Committee in its interim decisions, the general approach of the Promoter is to ensure a level playing field with other public works projects and to apply the National Compensation Code as set in IP C2 and as explained on a number of occasions in submissions, for example Day 14, paragraph 4041-4050 and day 74, 19979-19985.

21436. Mitigation, as you will be aware, Sir, has been offered in many cases which obviate the need for further concern. In any event, the law which applies to development projects in this country is based on the case which I have referred the Committee to on a number of occasions, *Andreae v Selfridge*, which was supported by the House of Lords in the *Wildtree Hotels* case. What this recognises is there has to be give and take in modern society. Crossrail is a project overwhelmingly in the public interest, running through one of the busiest cities in the world where development and building works are a constant fact of life. What the court said in *Andreae v Selfridge* I have quoted before and it is worth repeating: “When one is dealing with temporary operations such as demolition and rebuilding, everyone has to put up with a certain amount of discomfort because operations of that kind cannot be carried out at all without a certain amount of noise and a certain amount of dust, therefore the rule with regard to interference must be read subject to this qualification and if they are reasonably carried on and all proper and reasonable steps are taken to ensure no undue inconvenience is caused to the neighbour whether by noise, dust or other means, the neighbours must put up with it”.

21437. Apart from the wholly exceptional case of Smithfield, we maintain that those seeking special treatment are going against the will of Parliament which has been to apply the current code on a consistent basis for years, that they are seeking an advantage not provided to most affected by such projects, and in some cases they are effectively seeking that Crossrail should under-ride losses which were avoidable, for example those who may have purchased properties in the knowledge that they were within the safeguarding area for the project or simply seeking Crossrail to provide them with an insurance policy. This has not been the general policy of Parliament nor is there any good reasons, we say, why those claiming it should be singled out for special treatment from the majority of the population, particularly given the benefits Crossrail will deliver to the population, both business and the residential communities.

21438. Petitioners’ costs: A number of Petitioners have requested the Committee that the Promoter should pay their costs of petitioning Parliament, and

we say, Sir, the position is quite straightforward, there is no power to award costs. Section 1 of the Parliamentary Costs Act 1865—I am not sure whether this is deliberate—which is replaced as of 1 April this year by Section 10 of the Parliamentary Costs Act 2006, applies only to private bills, as does the new provision, not to hybrid bills, which are public bills introduced to Government by ministers rather than by private bill procedure. The Crossrail Bill was, of course, introduced by the Secretary of State for Transport. Costs should not be awarded in any event as a matter of course since they may only be awarded where two further requirements are both satisfied: firstly, the provisions of the Bill have been altered to include provisions for the protection of the Petitioner, this has not been done at least to date in the interim decision and , secondly, the Petitioner has been unreasonably or vexatiously subjected to expense in defending his or their rights proposed to be interfered with by the Bill. That is a high test to meet and the Promoter submits that it has not been met here. Sir, in any event, the simple answer is we do not think the cost provisions apply to the hybrid bill process.

21439. Sir, finally, you will be relieved to hear, I have an update on the Access Option, which is Section 10 of the written statement. Sir, you said in your interim decisions you would like an update from the Secretary of State on the Access Option. The Access Option would provide security that Crossrail trains can have sufficient access to Network Rail’s network needed for Crossrail to work as a project and to ensure its benefits can be realised. You will recall, Sir, there was unhappiness in the rail industry about using railway powers in the Bill to secure access to the rail network. There was widespread support for using an Access Option instead, which is an existing industry mechanism under the Railways Act. The Promoter therefore decided to negotiate an Access Option with Network Rail which will be subject to the approval of the Office of Rail Regulation. The Promoter consulted widely on the policy document describing the planned Access Option which was finalised and published in March 2006. You will recall that the cross-industry Timetabling Working Group, under an independent chairman, oversaw work to demonstrate the feasibility of the Crossrail timetable and took a look at the growth issues. The Committee then heard evidence on this at some length last July. Later that month, the Promoter started to discuss heads of terms over the Access Option with Network Rail. Also, at that time Network Rail assumed the lead in further timetabling and other modelling work and that work is detailed and I know Mr Berryman provided it to the Committee dated 17 July last year. As that paper described, the modelling work needed to support the Access Option application is very extensive. There has been consultation with interested parties through regular meetings of the Reference Group chaired by Network Rail which replace the

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Timetabling Working Group. The results of the modelling work are emerging and the reference group is being consulted on them.

21440. Preparing the Access Option is by its nature a contractual negotiation with Network Rail. It is built on a great deal of technical detail on operational and other issues. The work required has been particularly extensive because the use of Access Options has not been highly developed by the industry and each one is to a significant extent bespoke.

21441. Sir, you will be pleased to hear that the legal drafting will be in excess of 100 pages long. Happily, I can report that the Promoter and Network Rail are currently dealing with what are a handful of remaining issues and the joint aim is to formally agree the text within the next month. The Promoter and Network Rail are currently undertaking pre-application consultations with the ORR. Once the Access Option is submitted to the ORR, together with the supporting timetabling modelling, the ORR will publish it and undertake industry consultation in the usual way. That process may include the holding of a hearing. The ORR's decision will then be taken in accordance with its statutory duties under the Railways Act that apply to all applications.

21442. Assuming that the ORR's process follows a typical timetable for such applications, the decision would be in time to inform the Lords' Select Committee and railway Petitioners before they are heard. Sir, I know that some Petitioners hoped that a much faster timetable could be achieved but the Promoter has consistently said that this is not practicable. The Promoter and Network Rail have worked very hard to reach the current stage and the

aim is to make a formal submission of the Access Option to the ORR within the next month. Of course, since the Committee will be sitting again for a final session to deal with the final AP, the Woolwich AP, assuming that the House gives the appropriate instruction on the request of the Secretary of State, then there will be a final opportunity to update you as to where matters have reached at that stage. Sir, thank you for patience. I hope that has covered those general issues sufficiently for the Committee's purposes

21443. **Chairman:** It is certainly very comprehensive. That would conclude today's hearing but before we do, can I remind Mr Elvin, we still have a few notes outstanding which we have been promised you will send, so if you could get those to us.

21444. **Mr Walters:** Sir, I have been here all day and I have a Petition and have not been heard.

21445. **Chairman:** It is not appropriate to deal with that now, you will have to deal with the clerk.

21446. **Mr Walters:** Why have I not been heard, I have put a Petition in, number 14?

21447. **Chairman:** Sir, were you scheduled to appear here?

21448. **Mr Walters:** She is saying no, but I have not come here for nothing, I have been here all day.

21449. **Chairman:** I am afraid you are not on the programme but the clerk will talk to you after the hearing today, but you are certainly not scheduled for today. It only remains for me to say that concludes today's hearing. The next time this Committee will meet will be on a day and time of my choosing.

Tuesday 10 July 2007

Before:

Mr Alan Meale, in the Chair

Kelvin Hopkins

Mr Ian Liddell-Grainger

Ordered: that Counsel and Parties be called in

21450. **Chairman:** Ladies and gentlemen, first of all, welcome back. I am sure you all missed us these last few weeks. Just to recall, it is my intention to break about 11:30 for 15 minutes' or so comfort break for everybody. We are here today to deal with one remaining Petitioner deposited against the full set of additional provisions that need to be heard. First of all, could I call on Ms Lieven to introduce the new AP4.

21451. **Ms Lieven:** Thank you, sir. What I intend to do is briefly introduce AP4 and also touch on the matters in the supplementary ES on Poplar Dock, just to give the Committee an update and then Mr Mould is dealing with the AMP Petition which is the outstanding business of the day.

21452. As the Committee are well aware, AP4 concerns the provision of a Crossrail station at Woolwich and, as the Committee is equally aware, Woolwich lies on the south-east branch of Crossrail, south of the Thames and to the west of Abbey Wood. If I could have up the first exhibit, please, 001.¹ This shows the alignment of the route coming across the Thames going past—I am afraid it has not come up terribly well on the screen, it is better on the screens in front of us—the Warren Lane shaft, which is a ventilation shaft and emergency shaft. On the left here, the west side of the alignment is the demolished Woolwich power station which is relevant because of the position of its foundations; I will show the Committee in a minute. The route then swings down to the location of the station, which is here, and which lies between Plumstead Road to the south and the Royal Arsenal site which is the old munitions site which lies to the north here and, in particular, the Royal Carriage factory which is the building there. As the Committee are probably aware, the Promoters have put a great deal of effort into trying to bring forward a more affordable scheme at Woolwich. That has involved somewhat changing the alignment of the route in order to allow the station to be a less deep station and, therefore, reduce the costs of construction. Just before we look at more detail on the station box, the change in alignment is very difficult to pick up on the large screen but is much easier in front of you. The original alignment went effectively through the same location as the box but then swung to the south to avoid the southern outfall sewer and to go under the Docklands Light Railway which is this line here, presently under construction and it then went off to

the east towards Plumstead where it emerged at a portal at Plumstead Goods Yard. Because the line has been made less deep in order to reduce the costs, the alignment has had to change somewhat, and I will show the Committee the vertical alignment in a moment. As far as the horizontal alignment is concerned, what now happens is the line stays further to the north, it goes over the DLR rather than under and it stays to the north of the sewer—Mr Berryman will go through all this in more detail later—and proceeds to the north of Plumstead Road off towards Plumstead Goods Yard.

21453. If I can put up 005.² It is, again, not a brilliant plan, I had forgotten how poorly these things come up, but this shows in more detail the constraints in the area because this is the station box and, as I have already shown, to the north we have got listed buildings and to the west listed buildings and we can see more clearly the DLR here and the southern outfall sewer which lies to the south there. Just while we have got this one up—it is not shown on this plan but I will indicate—the above ground structures on the station are two emergency shafts, one at either end, emergency and ventilation shafts, and the entrance to the station which lies somewhat in the middle. Just looking at this plan, the Committee may remember, those of you who went on the site visit, the majority of the station box lies to the west on a road called “Arsenal Way” which you will hear more of when we come to the Petition of AMP, which I am indicating on the drawing now.³ The area to the west of Arsenal Way is currently an open car park, so there is no demolition in that area, it is just open land at the moment, and the box will be constructed underneath. The position to the east of Arsenal Way is that there are a number of properties here, Gunnery Terrace properties, and the box goes into the building of number 16 Gunnery Terrace which is the AMP building. Mr Mould will go through that in more detail, but one can see the line of number 16, I am indicating at the moment, and the box goes into it where it lies to the east of Arsenal Way. The ventilation shaft, which was previously a free-standing structure, has now been incorporated into the eastern part of the station, as is normally the case in our other stations as well.

¹ Crossrail Ref: P158, Woolwich Station—Crossrail alignment (GRCHLB-AP4-6—04-001).

² Crossrail Ref: P159, Woolwich Station—Position of a Station Box and Petitioner's Premises (GRCHLB-AP4-6—04-005).

³ Crossrail Supplementary Environmental Statement (SES4), Map SE5(ii) Woolwich Station, Amendment of Provisions—Revised Scheme and Impacts (LINEWD-AP4-010).

 Promoters opening on Woolwich additional provision and other matters

21454. If I can put up 002, please.⁴ This shows the vertical alignment and it is just useful to see some of the constraints. I do not know whether it is possible to expand it on the top one so we can see in a bit more detail? On the west side we have the line coming under the Thames and the first constraint is that it has to avoid the foundations and the water outlets from the demolished Woolwich power station; the foundations are still in the ground, so there is a fixed point that has to come underneath. It then goes through the Warren Lane shaft, that is this building here. The next constraint—No, sorry, because it has been split in two. It then has to raise the line to the optimum level for the station, this is the station box. An important constraint at this point is that the gradients on the route have to accord with the Crossrail standards, one cannot have trains zipping up steep gradients or, indeed, zipping down the other side, so we are tightening the constraint on this side by the Thames and the power station. Then if we swap to the eastern side of the power station, we have got the station box here, but the critical issues on the eastern side are that somehow Crossrail has to get past the DLR, these are the two DLR tunnels. As I told you a moment ago, originally the line came underneath the DLR tunnels, but that necessarily would have involved a very deep station with much greater expense so we are now coming over the DLR tunnels. The next problem, which I have referred to and which Mr Berryman will explain in more detail, is the position of this sewer, the southern outfall sewer, which is a major sewer in South London. It is absolutely critical that, firstly, obviously we avoid it but, secondly, we do not cause settlement to it. Those are the constraints on the route which Mr Berryman will go through in more detail.

21455. The other point to say about the route is that further east, because of the changed alignment, the portal at Plumstead Goods Yard has been shifted somewhat to the east, but there are no petitions respecting Plumstead Goods Yard that are outstanding in this House, so I do not intend to say any more other than that, but there is that knock-on effect further east.

21456. Perhaps we can go back to one of the general pictures to set the context. Could I then turn to the position of Woolwich Station within the powers of the Bill.⁵ As the Committee know, the construction of the station box at Woolwich is dependent on the successful completion of a binding agreement between the Secretary of State and Berkeley Homes. There is, as you know, an outline agreement which you were informed about by Mr Elvin in the last session. The Department is currently in negotiations with Berkeley Homes to finalise that agreement and

those negotiations are progressing satisfactorily. The outline agreement is that Berkeley Homes will fund and build the station box, receiving a contribution from the Department commensurate to the savings to the project from avoiding Crossrail works in the area, principally the Arsenal Way shafts and the tunnels. The fitting-out of the box depends on the project receiving sufficient contributions either from developers and/or businesses which stand to benefit from the station, so there is a division in the agreement between the construction of the box, which is down to Berkeley Homes, and the fitting-out. It is because of that agreement that the Environmental Statement is somewhat complicated in respect of Woolwich because what it does is it assesses the base position, which is the construction of a fully operational station at Woolwich and then assesses four alternative scenarios: first of all, the fit-out of the station being delayed by five years; secondly, the construction of the box but no fit-out; thirdly, the construction of the shaft at the eastern end but no station; and, fourthly, and this is a very minor point, having a surface level ticket hall rather than a subsurface ticket hall, the primary assumption is the subsurface ticket hall. I think it is worth explaining that because it is a different position from many of the other parts of the Environmental Statement.

21457. If we can have up the more detailed plan that shows Gunnery Terrace, please, 005.⁶ It is just worth explaining one detailed point about Berkeley Homes, the outline agreement for Berkeley Homes. The outline agreement involves Berkeley Homes retaining the land to the west of Arsenal Way—the Committee will recall this is Arsenal Way—that being allowed, Berkeley Homes currently have a development option so the agreement is Berkeley Homes keep their rights over that land and that is being dealt with in detail in the agreement. That is also the land where Berkeley Homes currently have a benefit of an outline planning permission for development on that land, but the agreement does not involve any provision as to Berkeley Homes gaining rights over the land to the east of Arsenal Way, that is land which they currently have no interest in and there is no agreement, outline or final, with the Secretary of State that Berkeley Homes will be given any rights to it, so there is a crucial distinction by the boundary of Arsenal Way.

21458. Could I then turn to a specific point about over-station development at Woolwich. The Committee may remember, although I do not think it is a subject we have ever really had to labour in a petition, that the Secretary of State gave an undertaking in respect of those sites where there is demolition within a conservation area where Crossrail is going to demolish the buildings. We gave an undertaking as to the process that we would go through to give some level of certainty as to the future of those sites that development would come

⁴ Crossrail Ref: P158, Woolwich Station Alignment at Woolwich Arsenal—East and Westbound Long Sections (GRCHLB-AP4-6—04-002).

⁵ Crossrail Supplementary Environmental Statement (SES4), Map SE5(ii) Woolwich Station, Amendment of Provisions—Revised Scheme and Impacts (LINEWD-AP4-010).

⁶ Crossrail Ref: P159, Woolwich Station—Position of a Station Box and Petitioner's Premises (GRCHLB-AP4-6—04-005).

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back, so that the Committee and local planning authorities could place some reliance on the sites not being left vacant and an eyesore for prolonged periods. In respect of Woolwich, the undertaking has no relevance to the land west of Arsenal Way because, the Committee will remember, there are no buildings on that land, and so there is no demolition. The undertaking is only relevant in respect of the land to the east of Arsenal Way, the Gunnery Terrace properties which are to be demolished. Because of the particular agreement in respect of Woolwich and the timing issues that throws up, there is a slightly different undertaking in respect of Woolwich and the land to the east of Arsenal. I know it is tedious but I have been instructed to read that undertaking into the record so that there is no confusion. Perhaps if we could have it up.⁷ I will read it, sir, while it is going up. “The Secretary of State will take steps to ensure that: (1) If—(a) a decision is made to proceed with the fitting out of station at Woolwich; or (b) a decision is made that a station will not be provided at Woolwich; a planning application and (if required) an accompanying environmental statement for a proposed OSD is submitted as soon as reasonably practicable and in any event no later than 2 years after”—I should say I have changed “that” from “that” to “either”—“after either decision has been made and the construction of Crossrail Works at Woolwich has commenced, unless the Local Planning Authority agree to a deferral or agree that an application is not required”. That gives a long stop date for when a planning application should be made, but it does in respect of the particular Woolwich situation which is in (1)(a) taking into account the fitting-out of the station because that is a separate stage and in (1)(b) the possibility that the whole deal with Berkeley Homes collapses, so that is Woolwich-specific. Then “(2) There is consultation with the local planning authority, prior to submission of a planning application for OSD on: (a) the proposed use, quantum, lay-out, scale, access, appearance and response to context of the proposed OSD (including where appropriate co-operation in the preparation of a Planning Brief and/or SPD)”—that is Supplementary Planning Documents for those who are not in the know—“and (b) the means by which the fundamental design elements of the new development will be integrated with the Crossrail Works (including loadings, support and access).” That is all in exactly the same terms as the standard undertaking. “(3) The OSD will be designed in accordance with relevant national, regional, spatial and local planning policies, and in consultation with English Heritage”, again standard. “(4) In assessing the contribution that the OSD will make to the character or enhancement of conservation areas the quality of buildings that existed prior to demolition will be a material consideration”, again exactly the same as the others. “(5) Reasonable endeavours will be used to obtain planning consent by the date the works for the new station or railway on the”—

“site”, it should be, not “sites”—“site is completed. (6) Reasonable endeavours will be used to ensure that development is commenced in accordance with the planning consent granted once the works to the new stations or railway on the site is completed”. Five and six are taking into account the possibility that there will not be a station. Sir, that is the slightly amended undertaking in respect of Woolwich.

21459. Sir, that is all I intended to say in respect of Woolwich. The other matter I am to deal with in opening is just to touch on the Poplar Dock and Blackwall Basin issue, that the Committee will remember was, I think, the business of the last time we sat and was left slightly over. The Committee will remember that the issue—could we have up the Poplar Dock plan—was the boat residents of Poplar Dock and Blackwall Basin being able to get access out of the dock during construction and that at the last session we brought forward a possible change to the scheme which would allow such access to be maintained.⁸ Now we have taken that work forward and what we are now proposing to do is to construct a long cofferdam along the eastern section of North Dock to allow access through.

21460. The Committee may remember there were two options being floated the last time we met and we have decided to go with the cofferdam option. It does not require an additional provision because it falls within our limits of deviation, but it does require to be assessed environmentally which is why there is a supplementary Environmental Statement. The solution which we are setting out here has been discussed in detail with the boat owners and the position we have arrived at is that navigable access consistent with that currently existing will be maintained during the construction of Crossrail at Isle of Dogs subject to possible temporary restrictions during the construction of the cofferdam. What we mean by those last words has been set out to Poplar Dock and Blackwall Basin residents in a letter dated 18 June 2007. In essence, we are talking about a period of about three months when there may be some restrictions. They will be able to get in and out but not all of the time, wholly unrestricted.

21461. In terms of the size of vessels, what we have agreed is that the position of the cofferdam will be such that the largest vessels currently in Poplar Dock and Blackwall Basin can safely navigate the channel. We are working with both BWB and the Dock residents to achieve that result. In the light of that work, and the discussions with the boat owners, they have indicated that they are content not to appear in Committee. You may remember they were adjourned last time, so they had the right to come back even if they did not petition again, but they have indicated that they are happy with the position. Hopefully that is a happy end to that particular problem. Sir, that is all I intend to do in opening, so

⁷ Crossrail Ref: P160, Proposed Undertaking to Parliament—Over-Site Development (OSD) at Woolwich (SCN-20070710-001 to -003).

⁸ Crossrail Supplementary Environmental Statement (SES4), Woolwich Station, Amendment of Provisions—Revised Scheme and Impacts (LINEWD-AP4S4A-008).

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unless the Committee have any questions at this stage, I was going to hand over to Mr Mould to open specifically on AMP.

21462. **Mr Mould:** We have up the map showing the position of the station box and the position of the premises at Woolwich, which Ms Lieven was showing you a few moments ago.⁹ AMP Limited and Mr Charlesworth are long leaseholders and business occupiers of the building at number 16 Gunnery Terrace, Woolwich. The footprint of that building is shown here outlined in red. You can see on the southern side it has a little nib coming out beyond the elevation there and we will see in a photograph in a moment that is part of the building occupied by the Petitioners. We have here the outline of the station box which Ms Lieven showed you a few moments ago. As you have been told, that represents the outline of the box that is proposed under the additional provisions before the Committee. The construction arrangements for that box are essentially a cut and cover proposal, so it follows that anything that lies on or over that box at the present time will perforce be called to be demolished and removed to enable the box to be dug.

21463. As you can see straightaway, that would include a portion of the Petitioner's building at 16 Gunnery Terrace. The simple proposition is that the Petitioner's building and land is needed for the purpose of constructing the proposed station for Woolwich, for Crossrail. I will not repeat what has been said by Ms Lieven as regards the constraints which have led to the box being located where it is and the proposed line of the railway as it passes through this location, she mentioned to you a number of constraints which serve to govern what is proposed, both in terms of horizontal alignment and in terms of vertical alignment. Those are important points to bear in mind.

21464. If we turn to Exhibit 007, please, just to see a photograph of what you have just seen on the plan.¹⁰ This is the AMP building and, as I mentioned, this is the element of the AMP building at 16 Gunnery Terrace which just comes slightly to the south of the main building line and roughly the area that is required to be demolished for the purposes of digging the station box includes this building and the portion of the main building to about this point here. In physical terms, that is what is required to enable the box to be constructed. What we propose then is the compulsory acquisition of AMP's land at 16 Gunnery Terrace. The demolition of the building is for the purposes of constructing the station box and the integral ventilation and escape shafts, the use of the balance of the Petitioner's land, that is to say, the

remainder of the building which will be demolished as part of a larger worksite to serve the construction of the Woolwich Station.

21465. If you could put up 004, please.¹¹ Here you see in yellow the station box. Here is broadly the footprint of the Petitioner's building and as you can see a larger worksite extending to the north is proposed including, amongst other things, the provision of a batching plant and fabrication yard. We have shown the worksite as extending around the whole of the box work area with indicative arrangements for activities and so forth. I shall not take further time to describe the various elements, but that information is before you. AMP occupy their building as their headquarters for their mail distribution and storage business and it is plain that our proposals will require them to relocate to alternative premises. We recognise three matters in relation to that requirement: firstly, that they should be given as much advanced notice as is reasonably possible to enable them to plan relocation. We have already committed to them that we will give them 12 months' advanced notice of entry on to their premises.

21466. The second point is we recognise that they should have assistance with relocation and we have already explained to you in earlier hearings that we have a policy to set up an agency in relation to that to assist commercial occupiers who are displaced as a result of the Crossrail proposals, and we have in this case already sought information from AMP on their requirements for relocation. There has been correspondence in relation to that.

21467. Thirdly, they will be entitled to land compensation which will embrace both the full market value of their leasehold premises but also the reimbursement of their reasonable costs incurred in relocating their business to another location which will be recoverable as disturbance compensation. Not all of the Petitioner's land is likely to be required for Crossrail on a permanent basis and the surplus land, which will essentially be a part of the balance of their site which is required for a worksite, surplus land at 16 Gunnery Terrace, will be dealt with following the completion of the construction phase in accordance with the Secretary of State's adopted Land Disposal Policy. In due course, I will ask Mr Smith to give evidence to explain to you how that would work in a little more detail so far as is necessary to enable you to complete your hearing of this Petition.

21468. Finally, the Petitioner's land had been within the safeguarding for Crossrail Woolwich since 2005. Under the Hybrid Bill scheme it was proposed that there should be a vent shaft at the south-eastern end of the Arsenal Way car park. If we could put up plan

⁹ Crossrail Ref: P159, Woolwich Station—Position of a Station Box and Petitioner's Premises (GRCHLB-AP4-6—04-005).

¹⁰ Crossrail Ref: P159, Woolwich Station—16 Gunnery Terrace from the south end of Cornwallis Road (GRCHLB-AP4-6—04-007).

¹¹ Crossrail Ref: P159, Crossrail Woolwich Station—Worksite Arrangements (GRCHLB-AP4-6—04-004).

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SE5(i), please.¹² This shows the arrangements under the now superseded Hybrid Bill. Here is AMP's building again, here is Arsenal Way. Under the Hybrid Bill there was a proposal for a vent shaft at this location and that would have affected AMP's land by virtue of not only the location of the shaft but also the worksite arrangements associated with it. Under Additional Provisions 3 the shaft was proposed to be moved to the east, this location shown by the red dot and the worksite shifted at the same time so that it fell within the car parking and open space associated with this block here, which is the IO Centre. You may recall Ferrotec, they are the occupiers of that centre. Essentially, the purpose of that change under AP3 was to enable AMP to remain in their premises throughout the then current proposals for Crossrail at Woolwich. That arrangement was the subject of an agreement in principle with the Petitioners through their agents in May of last year, that is to say, well in advance of this Committee's interim decisions in July which led ultimately to the Secretary of State promoting the Woolwich Station arrangements which we now see before you. It follows that it is essentially the promotion of the proposed station at Woolwich under AP4 in response to your Committee's interim decisions which leads to the position we are now in whereby, as we have explained, we require AMP's building to displace from their current premises in order to enable Crossrail in its current form to proceed. The reason I mention that in opening and just set out the factual position is because I anticipate that one of the points which Mr Jones, who is acting for AMP, will raise before you in a moment is a question as to costs and I want to set out the basic history, the chronology in relation to the proceedings.

21469. **Chairman:** Essentially you are saying it is our fault!

21470. **Mr Mould:** I am not saying it is your fault. I am not seeking to attribute blame; I am simply explaining the chronology. Both yourself and the Secretary of State, as is well known, have reached a sensible meeting of minds in relation to Woolwich and today's proceedings very much reflect that. That is all I propose to say by way of opening. I shall pass over to Mr Jones.

21471. **Mr Jones:** Mr Mould has given me the pointer, but I cannot guarantee to the Committee that I am going to be as *au fait* as Ms Lieven and Mr Mould!

21472. **Chairman:** I always find it slightly amazing that you are all on very good salaries but you never can afford more than one pointer!

21473. **Mr Mould:** We have to account for our own expenses and keep the taxman happy!

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Mr Gregory Jones appeared on behalf of the Petitioners.

21474. **Mr Jones:** We are trying to be sustainable in recycling! Could I say, I am not going to open at all in length, other than just to headline the issues, partly foreshadowed by Mr Mould and then for Mr Danny Charlesworth to give evidence. Could I say that so far as my clients are concerned, we are not in the business of attributing blame to either the Secretary of State or to this Committee, that is for others to decide. One thing I think we can agree is we are not to blame for the circumstances in which my client finds himself. As Mr Mould rightly foreshadowed in correspondence, my client has been co-operative as a Petitioner to the AP3 scheme. Right from pretty much the start it indicated to the Promoters that it was not necessary to put a shaft in the middle of our service area so that we were forced to relocate our headquarters. We employed legal, engineering and other consultants and we were successful in discussions with the Promoter in persuading the Promoter, if you like, of the error of their ways. The Promoter agreed that the matter could be dealt with by way of an undertaking and that would have been it. The position is we now face relocation. My client does not oppose the scheme, my client sees the benefits for the area where most of our employers come from, it does not oppose the scheme, but we do say that those costs have been incurred and the question for this Committee is where fairly should they fall? Should it fall on my client, someone who is losing their land, having to be relocated and then rubbing salt in the wound, we have got to pay costs by being co-operative, doing everything that this Committee and the Secretary of State would like us to do and the costs fall with us. We say, and there can be no dispute about this, in my submission, that that would be unfair.

21475. It is also right to note, as Ms Lieven indicated in opening, the reason why we lose our site, quite justified from the point of view of the Promoter, is that it is going to save costs to the Promoter, do a cut and fill job for the station. Another alignment for a deeper station would have avoided the need for taking our site. We are not suggesting that that is an alternative which should be taken, no doubt the cost/benefit justifies that, but given that that is a saving of a considerable degree to the Secretary of State, we are suffering the burden of having to move our business as a result of that cost. We then have the position of who should then bear the costs thrown away on AP3 and we say that should also be the Promoter's cost since in any event, as it so happens, by following this scheme and taking our land, it is actually saving a considerable amount of money. That is one point that we will be raising for the Committee's consideration.

21476. The second point really flows and can be subdivided, and that is this: we do ask that the land, which, as Mr Mould indicated, is not required

¹² Crossrail Supplementary Environmental Statement (SES4), Map SE5(i), Woolwich Station, Amendment of Provisions—Original Scheme and Context Plan (LINEWD-AP4A-009).

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permanently, be retained within our ownership or that we be given a freestanding option to repurchase it back at market value. My client is prepared to enter into any appropriate lease or licence arrangement so as to allow the Promoters full access to that land to do with as they wish for site construction.

21477. The Promoter says there is no agreement with Berkeley Homes for the land to the east of Arsenal Way. We may explore that a little bit further to see what stage that has reached. There is no suggestion by the Promoter that the development of the remainder of our land is necessary to fund the Woolwich Station. That is not part of the case.

21478. In closing, I will deal with the principles of compulsory purchase, which I think are trite law, but one should not use a Draconian power to compulsorily purchase more than is absolutely necessary for the public purpose. That means not just geographically but the type of interest you are acquiring: freehold rather than leasehold. Then we would say, first of all, that we are prepared to offer a leasehold or a licence, and if the business case was being promoted that that land was needed for some ulterior purpose then that should be transparently put before the Committee, and it has not been. In the alternative, we would also ask that we be given an option to purchase back and not in accordance with the land disposal policy of the Secretary of State, which you have probably had cause to look at before—I do not know—but which does not provide the guarantee of an option to purchase back at market value.

21479. Can I say the second sub-point very briefly? The reason we have such concern for the retention of our land, and an interest in that—either by way of option or licence—is, to be quite frank, we are very unsure how committed the Promoters are to seeing through the Woolwich scheme and the Woolwich station. We are reinforced in that view by today, which is the first time we have been privy to the undertaking that has just been produced today; we have not seen any sign of that, which is rather surprising. I see it is dated 10 July. That undertaking, again, reflects the uncertainty which one finds in the Environmental Statement as to the commitment by the Promoters to do anything else than, via Berkeley Homes (that well-known station builder) to provide a shell of a station. We believe there is a very real risk, as envisaged in the Environmental Statement, as envisaged by the undertaking, and also the agreement which I will be making some submissions on (Ms Lieven referred to the heads of terms agreement signed in March which expresses that it was due to be completed by May and is still not completed), that there can be certainty that the scheme will go ahead.

21480. If that is right, as a protection to my client, we will be submitting to the Committee that it is only right that we be allowed to retain the interest in the remaining land. What we do not want to see is a

position where we lose the site, we are relocated, the station does not go ahead, and others get to develop the site.

21481. Unless I can assist further, I thought it would be helpful just so that you know, sir, where we are coming from. I would like to call, please, if I can, Mr Danny Charlesworth.

Mr Daniel Charlesworth, sworn

Examined by **Mr Jones**

21482. **Mr Jones:** Mr Charlesworth, could you just explain to the Committee, please, who you are and your relationship with the company?

(Mr Charlesworth) I am Danny Charlesworth; I am the owner of the actual site and I am Chairman of Alternative Mail Parcels/ City Parcels. We are a mailing company delivering parcels, mail, all sorts of catalogues and different things throughout the UK.

21483. We have a bundle of exhibits. Can we put up the first one.¹³ That shows the site there. The Committee will be familiar with that. That shows Plumstead High Street and then running to the side is Arsenal Way.

21484. **Chairman:** Could I just say this is A247?

21485. **Mr Jones:** If we turn on to the next picture there should be an aerial shot showing Gunnery Terrace almost in the middle of the site.¹⁴ It is not very clear there.

(Mr Charlesworth) Yes.

21486. I think we can see on there the surfacing area. Could you just explain, first of all, the number of staff that are employed at the headquarters and what they do, just so the Committee have a feeling of the turnover, also, of the business and how the business has been developing?

(Mr Charlesworth) There are approximately 200 staff: about 40 in the offices, which is the front part of the building, which has to be demolished, as you can see. That is where the offices are located. Behind that is the warehouse where we have approximately about 150 people at any one time packing books, Yellow Pages and all sorts of different magazines, directories—

21487. Dod's, as well I saw there.

(Mr Charlesworth) Was it? I am not *au fait* with every single magazine that goes out of there, but most certainly there is lots and lots of material that goes out of there 24 hours a day.

21488. Just to give a feel for it, because I thought it would be largely machine packing, how is the nature of the business, which is client-specific, dealt with? Is it just on a big conveyer belt? Or how is it dealt with?

¹³ Committee Ref: A247, HM Land Registry, Title Number: TGL223162, Greenwich (GRCHLB-AP4-6—05-002).

¹⁴ Committee Ref: A247, Aerial view of 16 Gunnery Terrace, Greenwich (GRCHLB-AP4-6—05-004).

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(Mr Charlesworth) No, it is dealt with by hand, really. It is very time-sensitive magazines. We deal with ones you will be familiar with: *Law Society Gazette*, *Lawyer*, and money magazines—financial magazines—and we have to distribute within six hours of receipt—of them actually coming into our building. They have to be on the client’s desk within sort of six hours, so the actual location of the property—again, through the Blackwall tunnel and into central London as quickly as possible—is very important.

21489. You are prepared for having to move away, but just to be clear about this: do you see that the relocation is going to be an easy task? It is something you are prepared to do but is it an easy task, do you envisage?

(Mr Charlesworth) No. I mean, to actually set this business up and to do what we did in getting this particular unit up and running took us over a year; it took us approximately 18 months. Therefore, when I was speaking to Crossrail I actually told them about that and I said I would need a minimum of a year to actually move this business out and relocate it and staff it again—to which they agreed and they said “Fine”. So there is not a problem with that. I understand the need for the actual railway station. A lot of the people who I employ are local residents and come from that area, so I think probably their need is greater than mine, but in the same respect I do understand that they do need the station there.

21490. You are looking at about 60 square foot of space, are you not, of property there?

(Mr Charlesworth) It would not be 60; I think it would be about 60,000 actually. 60,000 square feet of space, probably. About 35,000 of actual warehouse space and 25,000 and so on for car park.

21491. Just so you can see how the business operates, just on that photograph probably, I think we can see some HGVs there.¹⁵ How does it work with the HGVs? Presumably, you have got them coming in, delivering stuff. Explain to me who you have got coming in.

(Mr Charlesworth) We have articulated vehicles coming from all printers from all over the country, depending on what they are bringing. We then sort and get ready for delivery anything we can via our own network. Anything that we cannot deliver via our network—which are, virtually, small vans, transit-size vans—we broker out to bigger networks, like DHL, and even back to Royal Mail as well. So we actually give back to the Royal Mail for the final delivery in the areas where we cannot complete—like the Scotlands, the Outer Hebrides, and Channel Islands, and such. So we broker lots and lots of the work out—probably about 60 per cent goes back into different networks. So at different times we can have up to 30 trailers in the yard. That was the reason that the site was so important, because of the big car park that we had.

21492. If you could just go to the very last plan.¹⁶ Mr Mould very helpfully set the scene so that we can save some time for the Committee as to the position, as it was in AP3, of the shafts and the initial Promoter’s proposal and how you dealt with that, please, Mr Charlesworth.

(Mr Charlesworth) The initial Promoter’s proposal was to actually put the shaft—I think you can see the green one located there—which fell into the centre of the car park, or to the sort of right-hand side of the car park. Not only did they want that, they said for the actual works unit they wanted to take the whole car park. I had no option but to object at the time because it would have really stopped the business functioning. Obviously, I took legal advice on that and went to see Bircham Dyson Bell, who advised me that they would get engineers to look and see if we could actually promote Crossrail into moving the shaft slightly and putting it somewhere else so we could still operate and actually have a road going inside of it, if you like, inside of the shaft. Quite happily, we had Crossrail down in the region of six or seven times, with 30 people drinking untold coffee and eating, probably, about £3,000 of Rich Tea biscuits.

21493. We are not claiming for those!

(Mr Charlesworth) Not claiming for those. We had untold meetings with them to try and actually resolve it so that we could still operate from the site and it would mean I would not have to get rid of anybody or make anybody redundant or move the site away. That was what we did. Obviously, after countless meetings and probably six, nine months of me employing engineers and Bircham Dyson Bell and other barristers to look at it, they said to me at our final meeting: “That has all sort of gone by the wayside; don’t worry about that because there’s going to be a station on the property anyway”. I felt slightly aggrieved, to say the least.

21494. You reached the stage of, as I understand it, agreeing in principle on a draft undertaking having been agreed—

(Mr Charlesworth) Yes.

21495. For the movement of the shaft.

(Mr Charlesworth) Yes, absolutely, I agreed.

21496. That was agreed with the Promoters, in principle.

(Mr Charlesworth) Yes.

21497. Was it ever suggested to you by the Promoters that you did not need to have employed these engineers and that this was something that you had just done on your own? Has that ever been suggested to you—that, somehow, you were frivolous?

¹⁵ Committee Ref: A247, View of the car park at 16 Gunnery Terrace, Greenwich (GRCHLB-AP4-6—05-006).

¹⁶ Crossrail Supplementary Environmental Statement (SES4), Map SE5(i), Woolwich Station, Amendment of Provisions—Original Scheme and Context Plan (GRCHLB-AP4-6—05-013).

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(Mr Charlesworth) The original idea for Crossrail was to take the whole car park, and it would have meant them digging a hole and the vehicles turning round and falling into this hole. So I did not really have any option but to do that.

21498. Unless there is anything you want to ask on that history, you have heard Mr Mould indicating quite rightly that not all of the site is actually required by Crossrail on a permanent basis. The Committee can see from the plans that the lid, or the front, of the building comes off where the station is to be located but the rest of the site is to be used for construction sites, not on a permanent basis. Would you have any objection to any arrangement by way of lease, licence or whatever, should the Promoters wish that, in order that they could have full access to the remainder of your site for construction or any other purposes related to the building of the Crossrail project?

(Mr Charlesworth) No. You know, in your summing-up, what you said was that there is no guarantee that this is going to actually happen. If it does not happen I would like to stay where I am, and carry on employing the people I have got there, and carry on the business as it is. It is a growing business; we are in the mail market, the mail market has been de-regularised; we have just won a £7 million contract from one of the biggest banks in the country to give us work. This is going to cause us all sorts of untold problems. The banks want their material delivered into central London and into the Docklands within an hour of receipt. So I am going to need to find something very close to where I am, if not in central London, to carry on this business in the proper way.

21499. Mr Charlesworth, if it does go ahead, and if it gets so far as to the shell being erected, would you still be prepared to grant a lease or licence in respect of the remainder of the land to be used as a construction site, so that you could retain it for whatever you wanted to do?

(Mr Charlesworth) Yes, I would.

21500. Failing that, if I am right, you heard me say that you would want an option, not subject to conditions and caveats and the code that is suggested by the Secretary of State, to purchase back if you cannot have that by way of lease, the remainder of the land at the appropriate market value?

(Mr Charlesworth) If at all possible, I would, yes.

21501. Is there anything you would like to add at this stage, Mr Charlesworth?

(Mr Charlesworth) No, only to say that I have co-operated in every possible way that I can with Crossrail. I was only in the building, probably, nine months or a year when all of a sudden this sort of came on top as such, and they came in with this petition and said what they were going to do—I have just spent something in the order of £1 million developing this building and getting it to exactly how we wanted it. Obviously, the building itself—it is a lovely building; it is where they used to make the

armaments in the War and it is a bit of history attached to it, and I particularly liked the building at the time and wanted to retain it. So to say I was put out and a bit peeved was a complete and utter understatement. As I said, we co-operated, and I understand the need for the station. We need to move it forward with congestion and whatever, so I do understand. My son, actually, has a house just behind the actual unit, which we bought, and it is a Berkeley Homes house. But I just feel slightly aggrieved at the way it has been done and how I have been treated and, really, I went into all of this with solicitors and barristers and all the different people, and spent God knows how much—there must be in excess of £100,000 in legal bills—and I think them probably knowing at the time there was probably going to be this station anyway. I would have liked some sort of warning or some sort of forethought on it—you know, from anybody.

21502. Obviously, if you were to be awarded by the Committee (and I will deal with that in submissions), there are taxation provisions, but you are indicating a global sum of around £100,000. You say “legal fees” but that includes also, as I understand it, the engineering costs.

(Mr Charlesworth) The engineering costs as well.

21503. It is a global figure. That does not include my fees! Unless there is anything we can assist further with for the Committee, thank you.

Cross-examined by **Mr Mould**

21504. **Mr Mould:** Just one or two questions, Mr Charlesworth, if I may. Just so the Committee is clear on the land ownership position: your company has a long under-lease of the premises at 16 Gunnery Terrace, does it not?

(Mr Charlesworth) It is 1,000 years.

21505. Nine-nine-nine. Near enough. Your landlords are C&P, are they not?

(Mr Charlesworth) They are, yes.

21506. You understand they are head lessees and the freeholder is the London Development Agency.

(Mr Charlesworth) Yes.

21507. So the site is in multiple ownership in that sense. That is right, is it not?

(Mr Charlesworth) Mmm.

21508. You lease the premises—your company—as your place of business.

(Mr Charlesworth) I do, yes.

21509. That is its principle virtue to you, that it provides you with an appropriate place in which to conduct your business. Is that fair?

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(Mr Charlesworth) Yes.

21510. You have acknowledged that in order for the Crossrail proposals for Woolwich Station to proceed you accept that it is necessary for the building within which you conduct your business to be demolished.

(Mr Charlesworth) I do not concede that. I have not seen every engineer's report possible. I was not going to sort of go down another road of employing more engineers, but when they first actually did this development, I see that you raised the way the tunnel comes up—originally they were going to put it a lot lower when it suited them and bring it up until it was not quite vertical and it was not a funicular railway but most certainly it was going to come up at a lot steeper angle than is now the case.

21511. Ms Lieven dealt with that in opening. I do not think you challenge, do you, that, from an engineering point of view, it is necessary to proceed with the proposal for the station in the way that we have described to the Committee?

(Mr Charlesworth) I would not challenge it but I do not know that there is not another option.

21512. On the assumption that those proposals go forward and your building is then demolished, clearly so far as your principal interest in the site is concerned it has gone away; you need to find somewhere else from which to do your business. That is right, is it not?

(Mr Charlesworth) Yes.

21513. I do not know if you are aware of this, but the works to construct the station box are expected to last about three years and seven months. Have you seen that in the statement?

(Mr Charlesworth) I have not read every detail but I did read something about three years, and I would probably anticipate about five.

21514. You have mentioned that you would be looking for some sort of commitment from the Promoter that if he does acquire your building he acquires it to enable the station box fitting-out works at Woolwich to be carried out. You accept that.

(Mr Charlesworth) Yes.

21515. Can we put up page 05-011 from the Petitioner's document, just so the Committee can see what we have committed to.¹⁷ Just glance down, if you will please. This is from our Petition Response Document. I expect you have seen it before.

(Mr Charlesworth) Mm.

21516. Paragraph 17. Do you see there: "The Promoter has already provided the Petitioner with commitments regarding the circumstances in which the powers of acquisition of its land will be exercised . . ." (and it refers to earlier correspondence). It quotes two passages. Firstly: "The Promoter will not

exercise its powers of compulsory acquisition over your clients' property before there is a commitment on the funding of the rest of the Crossrail scheme (i.e. other than provision of a station box and other station works at Woolwich)" and, secondly: "it will not exercise its powers of compulsory acquisition over your clients' property before there is a commitment on the funding of the rest of the south-eastern spur (other than provision of a station box and other station works at Woolwich) and that the land will be acquired for the purposes of Crossrail." You have seen that before. Would you accept that you do have there a firm commitment from the Promoter that, at least, so far as your land is concerned, it will not be taken from you for the purposes of Crossrail unless and until the Secretary of State is committed to the funding of the rest of the scheme as a whole, and indeed the rest of the south-eastern section? The gives you the comfort you need, does it not, in relation to the theoretical uncertainties that Mr Jones mentioned when he opened the case, as to whether and when and how far the scheme for Woolwich Station will be proceeded with. Is that right?

(Mr Charlesworth) Yes, definitely. There is no problem there.

21517. Thank you very much. Finally, just in relation to compensation, you have agreed that your principal interest in the building is as a place of business. It has been explained to you, has it, that on being displaced from the building so that it can be demolished for Crossrail purposes, you will be entitled to receive compensation which reflects the open market value of your long lease? That has been explained to you, has it?

(Mr Charlesworth) Yes, it has.

21518. You will also be entitled to claim back the costs which are incurred in relocating your business to other premises.

(Mr Charlesworth) Yes.

21519. We have also committed, have we not, to giving you 12 months' notice of entry into your premises for the purposes of Crossrail works? We have given you that commitment already.

(Mr Charlesworth) Yes, I agree with that. May I just say something? Obviously, you have committed to all of this and you are telling me to read this paragraph 17. In it you say you might not take the land and if you do not take the land that is fine, but then what compensation do I get for being messed around for the last 18 months? I have not taken management time into this—into my costs. I have not even included management time and the amount of meetings with Bircham Dyson Bell and your people.

21520. I understand you have a point about costs that you have incurred so far. I am not going to ask about that, I am going to deal with that in submissions in a few moments' time. The advance notice point is reflected at the top of the page on the

¹⁷ Committee Ref: A247, Crossrail Petitioner's Response Document, Para 17—Commitment to proceed with project in advance of acquisition (GRCHLB-AP4-6—05-011).

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screen. Do you see that? I think you have accepted that that is a valuable commitment to your business on our part.

(Mr Charlesworth) As I said when I opened, I do not oppose the Crossrail scheme at all; I do not oppose it; I think it is necessary; I think Woolwich needs it. It is unfortunate that it has fallen on my shoulders, and I am the one that has actually had to bear the brunt. I am going to be the one bearing the brunt of probably making 60 or 70 local people redundant if I cannot find something within the distance I need to do. Otherwise I shall probably have to move the business somewhere else.

21521. In that respect (this is my final question to you) clearly, the more you can be assisted by action taken by the Promoter in arranging relocation for your business, the more likely it is that you will be able to keep to a minimum the disruption in terms of redundancies and so on that you have just mentioned. Is that fair?

(Mr Charlesworth) I would like to think we could keep it as a minimum, yes. I would think if the building is available afterwards I would also like to re-employ people from the local area, if I can actually take that land, even if I used it as office space.

21522. Again, we have written to you on a number of occasions in recent months indicating that we would be very keen to hear from you at the earliest possible stage details of your relocation requirements with a view to assisting you in relation to that process.

(Mr Charlesworth) I am not too sure I have actually received any of that correspondence.

21523. You will see it is referred to in the second paragraph in the page before you—letters between Winckworth Sherwood on behalf of the Promoter and your agents, Messrs Bircham Dyson Bell. You are aware of that correspondence?

(Mr Charlesworth) I am aware of some of the correspondence, but I would not say it was “many times”. You may have written on one occasion. I honestly cannot remember that. Even so, that is still time, money, people, looking at these places, going out and evaluating what we want, seeing what we want—before we know anything is absolutely concrete. This is not something I have developed or I have gone out and looked for; this is something that has been put upon me. I am a local person; I live in Sidcup, I operate a business in central London; we had six or seven units in central London, and this particular unit I liked; it was the proper unit, it allowed me to employ 200 people from within the local people—all good people, all salt of the earth people—and I just think the way you have come along and disrupted it is not great—is not good. You did not do your homework. When the first people from Crossrail came round to see me, they showed me pictures of an empty unit and they said: “Ah, but this was empty when we looked at it”. Of course it

was because I had not taken possession then; they took the pictures two years before and decided that was where their venture was going to be.

21524. Mr Charlesworth, the only point I am seeking to establish is the modest one that, as I understand it, you would welcome the opportunity to share your detailed relocation requirements with the Promoter to enable him, as far as he is able to do so, through agencies that he proposes to set up, to assist you in relocating your business.

(Mr Charlesworth) All the help I could get I would be glad of, yes.

21525. **Mr Mould:** Thank you very much.

Re-examined by **Mr Jones**

21526. **Mr Jones:** Just looking at context here: we had this letter from Winckworth. I will make submissions—it is a matter of legal submissions—as to the undertaking that is now offered, and through the Chair I seek confirmation from the Promoters that the undertaking referred to by Mr Mould at paragraph 7 (I will make submissions on it later) is, nonetheless, going to be offered as an undertaking to this House.

21527. **Mr Liddell-Grainger:** Is it paragraph 7 or 17?

21528. **Mr Jones:** Seventeen, referred to by Mr Mould in cross-examination. I will make legal submissions as to what it actually provides. That is a matter for me rather than Mr Charlesworth. I would seek confirmation through the Committee and ventilated here for the Promoters to acknowledge that this has been offered as an undertaking to this House and not simply a correspondence from Messrs Winckworth. Hitherto, it has not been offered as an undertaking to the House; I would ask, particularly since Mr Mould has sought to cross-examine relying on it before this House, he gives it to this House. I am sure that should not be too difficult. He nods. I will make submissions as to what it actually provides as a matter of legal submissions rather than Mr Charlesworth. I just want to ask Mr Charlesworth: you were asked about a letter from Messrs Winckworth Sherwood about you relocating. Is your company looking to relocate if Crossrail does not go ahead?

(Mr Charlesworth) No.

21529. Would you want to relocate—

(Mr Charlesworth) No, not at all.

21530.—at any time if Crossrail did not go ahead?

(Mr Charlesworth) Not at all.

21531. We know that this Bill has still got to go to the other place. Can I have a look at paragraph 17 and the position that we are in, so far as this aspect of the commitment that is given? I do not want to ask you about the commitment itself but can you help me with this: look at paragraph 17 of the undertakings given. Is there any time limit on that

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commitment—that the funding will be in place within two years, five years, 10 years, 20 years or 200 years, so far as you are aware?

(Mr Charlesworth) No.

21532. **Mr Jones:** Thank you very much. No further questions.

Examined by the Committee

21533. **Mr Liddell-Grainger:** You said something about letters; you said you had not had much communication from the Promoters. Is that the case?

(Mr Charlesworth) I think they have kept us up-to-speed on everything but it was the way he actually said that I had received lots and lots of letters. I may have received one or two. I think we have received them and I have definitely seen this particular letter, but I cannot remember seeing letters saying: “You will get all the help and what you need to actually look at other units”. I have actually had my own people out looking anyway in the local vicinities.

21534. **Chairman:** Mr Jones, do you have any more witnesses?

21535. **Mr Jones:** I do not have any more witnesses. All I have, in due course, are my submissions.

The witness withdrew

21536. **Mr Mould:** Sir, I am going to call two witnesses: first of all, Mr Berryman, very briefly indeed, just to deal with two specific points. While Mr Berryman is taking the seat, can I just be clear in the light of what was said by Mr Liddell-Grainger? The paragraph you have in front of you refers to a series of letters. The position is that those letters were exchanged as correspondence between Messrs Winckworth Sherwood and Messrs Bircham Dyson Bell acting on behalf of the Petitioner. How those matters were dealt with internally, within the Petitioner’s team, I cannot say, but that is an accurate record of the position as regards correspondence from us to the Petitioner. I hope that clarifies that.

Mr Keith Berryman, recalled

Examined by **Mr Mould**

21537. **Mr Mould:** Mr Berryman, just two points, if I may. First of all, perhaps I should just ask you this: Ms Lieven in opening, and I, to a degree, in opening in relation to the AMP Petition outlined the basic logic of the current proposals for the station at Woolwich, and in particular the engineering logic which underlies the current proposals before the House. Do you want to say anything more about that or are you content that what has been said is an accurate account?

(Mr Berryman) I thought Ms Lieven gave a marvellous exposition of the thinking behind the selection of the alignment.

21538. Thank you very much. I am not going to ask you repeat it for a second or, even, a third time. That is all I want on that. Just two points. If one was promoting a deep station for Woolwich as opposed to the actual proposals before the Committee, what do you say about the need, in that alternative hypothetical scenario, for the Promoter to take powers to acquire AMP’s land?

(Mr Berryman) I think there are two things to say. The first is that Members will realise from other station designs that we have put up that every station needs escape stairs at both ends of the station and also needs ventilation structures at each of the stations. So whatever the depth of the station there would need to be some structures at each end of it. You will recall that even central London, where we have had to demolish very substantial buildings in order to acquire those for the purposes of making those escape stairs and ventilation shafts, the same would apply here, and the area of Mr Charlesworth’s premises would certainly be significantly disturbed by these structures to the extent that they become unusable. I had been thinking for a few moments before I came in, because I knew Mr Mould was going to ask me this question, and I cannot actually see a way of avoiding that if there is to be a station at all.

21539. Just so I am clear, on the second scenario, if the position was no station at all at Woolwich—that alternative scenario he put forward for the sake of argument—what about the situation then? Would you still need the AMP site in those circumstances?

(Mr Berryman) Again, Members will remember last year we talked about the issue of Ferrotec and AMP, and the alternative sites for a ventilation shaft at that stage were either to take the Ferrotec site or to take AMP. In the event, at that point, before there was going to be a station, we decided to take Ferrotec and Ferrotec appeared before you for us to explain why that was. With the changed alignment that we have now adopted which allows for the construction of the station, it would no longer be practical to put the shaft on the Ferrotec site. So we would be back to square one with Mr Charlesworth’s point when we originally spoke to him and said: “This is where we have to have the shaft.” So, in any event, there would be an intervention of a ventilation shaft in that area.

21540. **Kelvin Hopkins:** Just a technical point. The station box is obviously very close to the surface—almost on the surface. I appreciate that it is difficult but would it be technically feasible just to leave the building there and, somehow, to construct underneath it and have accesses at some side at the eastern end, or is it absolutely imperative that it comes down? Setting aside the arguments on cost, and I understand those as well, would it be technically possible to support that building, build underneath it and have the accesses on the southern side so it did not interfere with the building?

(Mr Berryman) It would be very, very difficult. It would be hideously complicated. You said that the station is very close to the surface, and indeed,

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compared to the other stations on the route, it is, but it is about 14 metres deep. If you think that this room is 6.7 metres tall, it is twice the height of this below the ground.

21541. The upper ceiling, if you like, of the station is quite close to the surface.

(Mr Berryman) The ceiling of the station will be at the surface. If one were to do that, supposing it was an ancient monument or something of that sort, one would, in this situation, probably dismantle it and re-erect it stone by stone. I do not think there is an easy way of doing it. A very, very cost-ineffective decision, as you have just said.

21542. **Mr Mould:** Mr Berryman, just so we are clear, we know that there are a number of listed buildings in the vicinity of the Woolwich station site, and Ms Lieven has pointed those out. Is number 16 Gunnery Terrace a listed building?

(Mr Berryman) No, it is not.

21543. **Mr Mould:** Thank you very much. There may be some questions from Mr Jones.

Cross-examined by **Mr Jones**

21544. **Mr Jones:** So far as engineering matters are concerned, you are the witness I should ask, as I understand it. Could you just go through it in stages, please? I think we can agree from your answers to the Committee, setting aside costs, that it would be technically feasible to provide the station on this alignment without the removal of 16 Gunnery Terrace, or you say it would be taken down and rebuilt. That is technically feasible, from an engineering point of view.

(Mr Berryman) It is technically feasible to take it down and rebuild it. However, there would be surface structures as well in this area here. It would not be an economical thing to do, by any stretch of the imagination.

21545. Put costs out of your mind for one moment. You are giving engineering evidence.

(Mr Berryman) Indeed.

21546. Bear in mind you do not have to worry; we are not running a case, as Mr Charlesworth made clear, objecting to the station. One of our points, as you will appreciate, is very much who bears the burden of cost. By pursuing this scheme for good cost reasons, it would be technically feasible to have constructed the station with the ultimate retention of 16 Gunnery Terrace—from a technical point of view.

(Mr Berryman) It would not be possible to retain the exact building. One of the things which the Committee Members will have heard me say many, many times is anything is possible in engineering if you chuck enough money at it. These decisions are actually all about money. What is technically possible and what is economical to do are two different things.

21547. Mr Berryman, I am just asking you about technical matters. Please just leave to one side economics. I think we can agree if I say that it is accepted by you that technically (but, of course, it costs and it may cost a disproportionate amount of money) it is feasible to construct the station and, ultimately, retain 16 Gunnery Terrace pretty much as you see it today.

(Mr Berryman) Or re-erect a facsimile pretty much as you see it today.

21548. It is right, is it not, that by not doing that but going on the proposal that is before us there are considerable cost savings to the Promoters?

(Mr Berryman) There are considerable cost savings to the Promoters by not doing that, but the main point is that for the station itself we require to own the freehold—we intend to own the freehold on all the stations on the route—and we need to have access to the station structures so that when the time comes to maintain it and repair it we can get at it. There are a number of arguments as to why we would not want to reinstate that building. Second thing: your client would not be there for a period of five years: three-and-a-half/four years to construct the station and then another year to reconstruct a facsimile—

21549. That is a matter for my client, not for you, though, is it not?

(Mr Berryman) Indeed, yes.

21550. So far as you raising the spectre of shafts and stairwells, it is right for the Committee to know that although you are giving this evidence (and I do not mean this disrespectfully) this is pretty much oral, on-the-hoof evidence; we do not see before this Committee any worked-out alternative that shows that any detailed consideration has been given to this alternative.

(Mr Berryman) There are worked-out alternatives. I have not got them with me but we did work out alternative deep level station proposals, probably 12 months ago, when the matter was first raised by the Committee.

21551. On this alignment?

(Mr Berryman) No, on a slightly—

21552. I will come to the other alignment in a moment.

(Mr Berryman)—an alignment slightly to the south of this.

21553. Do not worry, Mr Berryman, we will come on to the other alignment in a moment. So far as this is concerned—and this is no disrespect—the answers you give are doing the best you can to assist the Committee are not the result of a considered study of the type you did for the other alignment to the south of the site.

(Mr Berryman) No. On the contrary, although it is some time ago a considered study was done on this—

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21554. On this alignment?

(Mr Berryman) No, not on this alignment; on the Hybrid Bill alignment. The study was done for a deep level station.

21555. I am saying unlike that study on a different alignment, the same detailed study has not been carried out of a deep cut for this alignment.

(Mr Berryman) You could not do a deep alignment here because you would collide—the reason we have got this alignment is because at this point here we go over the top of the DLR tunnels and the DLR is sloping quite steeply from here down in this direction. On the old alignments you cannot get over the top of the DLR tunnels because there is not enough cover and, therefore, you have got to go underneath them. That is why it is deep, and that is why this one is shallow.

21556. The option we are exploring, prompted I think by the Committee, was not for a deep cut here but looking at the feasibility of the existing shallow cut-and-fill as seen on this alignment and then with 16 Gunnery Terrace remaining in place. That is what we were exploring. I think I got the answer I need: you have not carried out any detail—I am not criticising you—on that basis. Can I ask: you raised the spectre as well of shafts and accesses. It is right, is it not, that when you initially came to the site—I say you, I do not know if you were involved—you were proposing in AP3 a shaft saying that it had to go in a location which we have seen, which would have meant the relocation of my client's business. Was it not? That was the position of the Promoters then.

(Mr Berryman) Not in AP3, no.

21557. Prior to AP3. The original proposal which led to AP3?

(Mr Berryman) That is correct. The reason we raised AP3, as I think you know, is so that we could keep your client's business in play. As a result of that we had to take the other business—these three businesses here.

21558. What that does indicate—and it is right, is it not—is that the Promoters benefited from the work and the discussions carried out by my client and those advising him in formulating AP3?

(Mr Berryman) Certainly it was as a result of discussions with your client and their advisers, yes.

21559. The work done by my client's advisers was helpful, was it not, to the Promoters in coming forward with AP3?

(Mr Berryman) I would not put it quite as strongly as that. It was certainly helpful to your client in that it allowed for the removal of his business to be lifted and given to somebody else instead.

21560. Could I put it this way, if you do not want to say it was helpful: if it had not been for that evidence and that professional evidence it is unlikely that you would have agreed to that removal?

(Mr Berryman) I think the situation was as your client described in his evidence. When we first did our recognisance of this area the building was empty, and that was the original decision taken to locate the shaft there—when it was felt, at that time, that it would not be of any particular inconvenience to anyone. Of course, as things transpired, your client took a tenancy in the building and we then became aware of it. He made us aware of the fact that—

21561. He already had the tenancy at the time.

(Mr Berryman) Apparently so.

21562. You had not checked. That is the point. Not you personally, but Crossrail had not bothered to check.

(Mr Berryman) No, I do not think that is right. Certainly nothing had come up in the original investigation. I think you have got to bear in mind that this project has gone on for a very long time. We are talking about quite some time ago. Certainly, when we became aware that he was there we did start to look at the possibility of moving, and it was helpful—

21563. It was helpful.

(Mr Berryman) Yes, of course. Most of our Petitioners are helpful.

21564. I am happy with that: that the evidence provided was helpful to you. Obviously you made your own judgment that it was helpful. Can I then move on, if I may, please? Other alignments were envisaged, and I think, as Ms Lieven indicated in opening, the southern alignment, with a deeper cut, was rejected not least because it was much more expensive than the alignment that is currently pursued.

(Mr Berryman) That is exactly right. It is very much more expensive to construct a station.

21565. Just give the Committee a feel—they may already have a feel but I do not—of the difference of the cost saving of not going with the southern route for the station—the southern, deeper alignment—and going with this route. The southern alignment would not have affected my client's property, would it?

(Mr Berryman) If there had been a station there it would, yes.

21566. If there was a station there but there need not be a station there. If you go with the southern alignment, the deeper cut, that could have been accommodated, could it not?

(Mr Berryman) What could have been accommodated?

21567. My client's operations at 16 Gunnery Terrace.

(Mr Berryman) Indeed it could, as you know, because AP3 contemplated that situation.

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21568. We are looking at AP3 in terms of going with the current alignment with a cut-and-fill as opposed to the other alternative that Ms Lieven indicated, which was for a deeper station to the south, what is roughly the cost saving? Roughly.

(Mr Berryman) Several tens of millions; it would be in the range of 60 million or so.

21569. **Mr Jones:** Thank you very much.

21570. **Chairman:** What I am going to do, Mr Jones, rather than re-examine now I am going to break. We will be back here at 11.45.

After a short break

Re-examined by **Mr Mould**

21571. **Chairman:** Mr Mould?

21572. **Mr Mould:** Thank you. Mr Berryman, just a couple of points. First of all, there was a bit of debate about the extent to which it might be possible, ignoring cost considerations, to carry out the proposed station works at Woolwich which you see on the screen and, if necessary, to demolish and then reinstate a facsimile of AMP's building on the footprint we see. Just so we are clear, can you comment on that as regards the proposal to provide a ventilation and escape shaft at the eastern end of the station box, please?

(Mr Berryman) Clearly the difficulty would be that you have got to provide structure over the top of the station box to allow the fans and vents to discharge into the air and to allow the staircases to discharge into a place of safety. Obviously there will be extreme practical difficulties in reinstating a similar building to that which is there now. In any event, there would be something immediately outside the building which would mitigate against its effective use.

21573. I am not going to ask you to bring costs into account, I think we understand the position in relation to your evidence if that is done. The second point is Ms Lieven in opening drew the Committee's attention to the fact that in the Environmental Statement we have analysed a series of alternative scenarios, including fit-out of the station itself being delayed by up to five years and so on, do you remember that?

(Mr Berryman) I do remember that.

21574. I think the least invasive at surface of those scenarios, if you will, was that which contemplated a shaft only.

(Mr Berryman) That is right.

21575. If you can remember, Mr Berryman, as regards AMP's premises at 16 Gunnery Terrace and the requirement to acquire it for demolition, did the position change in relation to any of those scenarios or not?

(Mr Berryman) No, not really. If there was no station there and it was just a shaft which was providing emergency intervention and ventilation the works would be marginally smaller than they would be for those works which would be associated with the end of the station but they would only be slightly smaller. We normally have three fans at the end of a station and we have three fans in each of our ventilation shafts. The main difference would be that the staircases which in the station are designed to evacuate all of the passengers on the station would only be designed for intervention by the Fire Brigade and other emergency services, so we would still have the staircase but it would be slightly narrower and we would still have the lift to allow the evacuation of MIP passengers if that was needed and we would still have the fans which are about the same size. In summary, there is not very much difference in the scale of the works.

21576. Under any of those scenarios would it be feasible for the AMP building to remain and for AMP to continue to occupy it?

(Mr Berryman) No, it would not. In any of those scenarios the workspace we would need would completely submerge the AMP building.

21577. Thank you. Finally, there was a debate between you and Mr Jones about the assistance the Promoter had derived from work undertaken by the Petitioner in the context of the Hybrid Bill, do you remember that?

(Mr Berryman) I do.

21578. Just help me with this: were the AP3 proposals for the relocation of the Arsenal Way shaft informed by an engineering report?

(Mr Berryman) Yes, they were.

21579. Who was the author of that engineering report?

(Mr Berryman) Mott MacDonald, from memory.

21580. For who do Mott MacDonald work in relation to Crossrail?

(Mr Berryman) They work for us.

21581. **Mr Mould:** Thank you very much indeed.

The witness withdrew

21582. **Chairman:** Mr Mould, do you have a second witness?

21583. **Mr Mould:** Yes, Sir. Just before Mr Smith gives his evidence, it may be helpful for the Committee to hear me say two things because his evidence may touch on this. First of all, Mr Jones asked rhetorically whether the commitments that I drew attention to when I cross-examined Mr Charlesworth were commitments that the Promoter was prepared to give to the House, and the answer is yes, those commitments are given to this House.

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21584. The second point is this: Mr Jones also observed that the revised over-site development undertaking that Ms Lieven presented to you this morning was one that I think we had not addressed publicly in this House until today, for obvious reasons, but I thought I ought to mention that the need for such an undertaking and the substance of that undertaking are set out clearly in the Environmental Statement in support of AP4 in paragraph 2.2.24.¹⁸ So that matter has been a matter of public record since, I think, early May of this year when the Environmental Statement was published. Thank you very much.

Mr Colin Smith, Recalled

Examined by **Mr Mould**

21585. **Mr Mould:** Mr Smith, you are well-known to the Committee but just for the benefit of the Petitioners, you have been giving evidence to the Committee on behalf of the Promoter in relation to property purchase and land compensation matters, is that right?

(Mr Smith) Yes.

21586. In relation to this particular Petition, I have just one or two points, if I may. Can you proceed, please, on the basis that it is established that the Promoter requires to acquire number 16 Gunnery Terrace and to demolish it for the purpose of the Crossrail scheme?

(Mr Smith) Yes.

21587. That fact, as I think was accepted by Mr Charlesworth, will inevitably involve the displacement and relocation elsewhere of his business which is currently carried on within the property.

(Mr Smith) Yes, it will.

21588. What does the land compensation regime provide to the Petitioner in those circumstances?

(Mr Smith) Broadly speaking, Sir, he will gain the value of his land interest whatever that may be at the time we proceed with Crossrail and, in addition to that, he will receive disturbance or any other losses not based on the value of land which in this particular case, most importantly, will include the cost of relocating the business and any temporary or permanent losses that may be shown to have occurred to that business as a result of the relocation only due to the acquisition of the premises by Crossrail.

21589. Insofar as any policy arrangements that the Promoter has put in place to address the impact of displacement over and above those matters, those matters that are provided for in money terms under the Land Compensation Code, is there anything you would wish to draw to the Committee's attention in terms of relocation?

(Mr Smith) Yes. Obviously in terms of our policy of helping businesses in this sense the Promoter has agreed to set up an agency to inform Petitioners and people who are actually displaced of the availability of potentially suitable alternative premises and to assist in their moving wherever that is practically possible.

21590. Can I then turn to the two issues which were raised by Mr Charlesworth. The first of those was he indicated that whilst he accepted the need for the Promoter to occupy his premises for the purposes of constructing the proposed station, he would propose rather than compulsory acquisition some form of consensual arrangement, perhaps by way of a lease or an option, which would enable his company to effectively retain its leasehold interest in the property and resume it after the works had been completed. Do you recall that he said that?

(Mr Smith) Yes.

21591. I want you just to help the Committee on that. First of all, what are the existing tenancy arrangements insofar as this particular property is concerned? What are the property interests that relate to it?

(Mr Smith) It is a little complicated in this area. As I understand it, the land east of Arsenal Way and west of Cornwallis Terrace, which is shown on the plan to be the land which AMP occupies, that land is owned by the London Development Agency and they are the regeneration arm now of the Greater London Authority. It is let on a 999 year lease to a property investment company called City and Provincial, who then under-let the property on 999 years, I believe less one day, to AMP and other occupiers in that block, so it is not a straightforward land arrangement.

21592. So we have a property which is in multiple occupation and which is proposed to be acquired for clearance of existing buildings in order to enable the Crossrail works to proceed.

(Mr Smith) Yes.

21593. What is the Secretary of State's approach to land acquisition in relation to such property?

(Mr Smith) In accordance with our Land Acquisition Policy, which has been published and put before the Committee, in these cases the Promoter would acquire the interests of the various occupiers and the owners because the building is not just required, it has to be demolished and we have to move the people out. We do require part of it long-term freehold for the works and, as I say, this is pretty standard practice. It would not be possible for Crossrail to construct the works on that site under the existing tenure arrangements, we would be in breach of those leases. The general policy, and this is not just Crossrail but major works, would be to acquire those premises.

21594. Just one other point on this issue. We mentioned the inevitability of the Petitioner having to move their business to other premises and we have

¹⁸ Crossrail Supplementary Environmental Statement (SES4), Over-site Development, Para 2.2.24 (LINEWD-AP4-012).

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already identified in proceedings this morning the likely duration of the works: three years and seven months for the station box and a further 15 months for the fit-out. What would be the position as regards land compensation in the event that Mr Charlesworth's proposed arrangement was to be given effect?

(Mr Smith) Obviously, unfortunately, we are going to have to displace Mr Charlesworth's business anyway and, therefore, we have to pay all of those costs. If the building is retained, again it must give rise to the potential of double compensation if it is suggested that we move them out and move them back.

21595. Thank you very much. Now turning to the other issue, where I think Mr Charlesworth assumed that his land was acquired compulsorily but, as he made clear his understanding, in the long-term there may be some part of the cleared site that would become surplus to the Promoter's requirements following completion of the construction phase. Do you recall that?

(Mr Smith) Yes.

21596. Can you explain to the Committee the Secretary of State's policy position insofar as the disposal of land of that character is concerned following completion of the Crossrail works?

(Mr Smith) Yes. I think it is fair to say that the overriding principle that we are trying to follow is that wherever we have surplus land we wish to make it available in a way that will in the public interest meet the Secretary of State's undertaking on early development, that is the overriding principle. Obviously there are other principles, but that is the most important one. Accordingly, the Land Disposal Policy in a multi-owned site would not look to maintain a patchwork of ownerships but would generally look to dispose of the site as a whole in one lot to one person, which is likely to lead to the early redevelopment of the site. Obviously it would also achieve best value but it would achieve early redevelopment. The danger if one were to dispose of it in small pieces is that you would effectively not secure early redevelopment, you would have different landowners arguing about what should happen and we want to avoid that at all costs.

21597. I have had put up an extract from the Land Disposal Policy, paragraph 4.4.¹⁹ I wonder if you just might glance at that. Is that helpful?

(Mr Smith) Yes. Taking the case where we have a parcel of interest, the Land Disposal Policy then says owners who have qualifying interests on the site, and AMP have a qualifying interest, they have a 999 year lease, can bid for the acquisition of that site, so in implementing the policy that would be the case, but also the Secretary of State would require people bidding for the site to demonstrate that they have the necessary financial and technical expertise to ensure, again, that the site is developed early. What we want

to avoid generally speaking, and I am not suggesting by any means this applies to the Petitioner, is disposing of these sites to property speculators who sit on them for years and then sell them at a profit. We want to see the sites redeveloped, so we want to ensure that whoever we sell to will and can redevelop those sites.

21598. As regards the planning circumstances of this site and its surrounding area, is the site in a conservation area?

(Mr Smith) Yes, it is.

21599. Does that have any bearing on the policy that you have just mentioned?

(Mr Smith) It would not have a bearing on the policy but probably in its implementation. Obviously the Promoter is not the person who will determine what is built on this site, that will be down to the local planning authority and it could be that there will be some restrictions on what can be built there because of the conservation area. As I say, it is not for the Promoter to decide upon that, it is for Greenwich Council.

21600. Just one final point going back to compensation, if you just think about what the Petitioner's land compensation entitlement will be, clearly, as the Committee understands, land compensation following compulsory purchase is assessed in what is known as the no-scheme world, that is you leave out any value effects of the Crossrail scheme, but with that in mind would the assessment of market value take account of the development value, such as it is, which the building possesses?

(Mr Smith) Yes, it would take account of any development value that it has at the present time, but obviously being in a conservation area and a building linked with other buildings I would expect that the development value would be less than its existing use as a depot.

21601. But it is a matter to be taken into account?

(Mr Smith) It can be taken into account.

21602. **Mr Mould:** Thank you very much indeed.

21603. **Chairman:** Mr Jones?

Cross-examined by **Mr Jones**

21604. **Mr Jones:** Thank you very much. Mr Smith, can we just begin with compensation points that I think we can agree. Any compensation payable to my client will be in the so-called no-scheme world, so as matters stand they would not share in the bounty of Crossrail.

(Mr Smith) Yes.

21605. Second point: insofar as this Committee is considering the costs in the region of £100,000 expended by my client in respect of AP3, those costs would not be recoverable, would they, under the ordinary Compensation Code to which you refer?

(Mr Smith) No, they would not.

¹⁹ Crossrail Information Paper C10—Land Disposal Policy, Para 4.4. The interest to be offered back, billdocuments.crossrail.co.uk (SCN-20070710-004).

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21606. In respect of dealing with a site, first of all, you raised the spectre of double-recovery if my client were to go off the site and come back, but it is a principle of compensation that my client would be under a duty to mitigate, so there would be no prospect of double-recovery. Particularly if you are doing your job for Crossrail, or your successors, there is no way you are going to pay double-recovery, is there? We would not be entitled to it?

(Mr Smith) In the normal course there is no question of that. I think the point that was put to me was in the circumstances that you put forward this morning to the Committee there could be a chance of double-recovery, particularly moving the businesses twice. It depends on exactly what you were referring to, but I can see the prospect of paying more.

21607. Mr Smith, can I put it to you pretty fairly and squarely, if it was either under a lease arrangement or with an option you, as a valuer, would be taking that into account in any disturbance costs that were payable, as would the Lands Tribunal on any appeal to the Lands Tribunal. That is a prospect that you would guard against. There is no right to double-recovery.

(Mr Smith) There is not under the compensation law but I suppose I did not quite know what it was you were suggesting and, therefore, I was commenting on that. It seems to me if we accept that your client's site has to go and that we are applying the Compensation Code in the normal way and we do not make it a special arrangement here then I would agree that there is no double-recovery.

21608. What we are asking the Committee to do is not to follow, that is the whole point, your standard policy on compensation but to depart from it, and as a consequence of departing from it, either by taking a lease or granting us an option, the compensation would be adjusted accordingly, we recognise that, it is a different package. Do you follow?

(Mr Smith) Yes. I am struggling to think how that would work, with the greatest respect, because I do not see how it could work under the existing arrangements. I do not see what we would do with the other landowners on the site. The whole thing would be difficult.

21609. Let us take it in stages. I want to distinguish between whether it is convenient to you or whether you actually need it. I can understand it is inconvenient that you actually have to address the particular merits of a site rather than having a blanket policy that is very convenient to apply. First of all, it was never suggested to Mr Charlesworth that there was anything difficult in the lease arrangements of 999 years—you were here when he was cross-examined—that made it impossible for you to go by way of lease or licence or option agreement, was it? Mr Mould did not suggest that to Mr Charlesworth, did he?

(Mr Smith) No.

21610. Insofar as your position is concerned, is there any evidence that you want to show to the Committee that you have taken steps to approach any of the other parties with an interest in the property to see whether this arrangement by way of an option, a lease or a licence is possible and that being rejected? There is no evidence, is there?

(Mr Smith) No.

21611. Mr Mould referred to the terms of the lease, do you produce the terms of the lease to the Committee or are there any clauses that you want to refer the Committee to?

(Mr Smith) No. I only heard this proposal this morning so I have not come here prepared for it. I was answering a question on that proposal.

21612. You were aware that we wanted an option though, were you not, to buy back?

(Mr Smith) An option to buy back is different.

21613. Yes, I realise that.

(Mr Smith) The point I am making, and elsewhere along the line of route, is we have followed the Land Acquisition Policy. This land is in part required permanently and part required temporarily, the problem being that the building has to be demolished.

21614. Yes.

(Mr Smith) In other cases where we have acquired what we have agreed to do, which is commonsense I think, is to buy the land and once we have bought it and finished we apply the Land Disposal Policy to the surplus land which does give existing owners the ability to come back and buy the site.

21615. We will look at the terms under which your policy allows that in a moment. So far as the lease arrangements are concerned, as to your requirements, the station would be a cut-and-fill box and there would be a roof over it.

(Mr Smith) Yes.

21616. You are not saying to this Committee that Crossrail has foreclosed for any technical reasons the ability to sell the rights to develop over the station to a third party. It is not your evidence to the Committee that that is the case, is it?

(Mr Smith) Absolutely not.

21617. Indeed, you would wish to encourage that, would you not?

(Mr Smith) Yes, with certain safeguards.

21618. Although you would retain the freehold of, if I can call it, the subterranean box of the station, legal arrangements would be in place so that a third party, whoever it is, would be able to develop, whether on a leasehold or other arrangement, even above the station. That is a possibility, is it not?

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(Mr Smith) Yes. That presumes that we actually buy the land first and then we grant back those rights with various protections for the railway considered within that agreement.

21619. That is the position with the box.

(Mr Smith) Yes.

21620. Even on the box it is not the case that you take the freehold completely with no prospect of development over the top. The rest of my client's land which you do not need permanently you can use for a construction site and there is nothing there that would prohibit you either taking a lease or a licence. It is more inconvenient.

(Mr Smith) Do you mean acquiring a lease?

21621. Yes.

(Mr Smith) Right, okay.

21622. You would have to go and speak to the various parties but there is nothing legally that prohibits you from doing that. It may require you not just to follow your standard policy but there is nothing that has been put forward to this Committee as a matter of fact or as a matter of law, other than inconvenience, that stops you doing that.

(Mr Smith) We would want to acquire your client's leasehold interest so that it enabled us to build Crossrail, that is the point I think I am making.

21623. Yes, but that can be granted to you under a lease arrangement.

(Mr Smith) By agreement.

21624. Yes.

(Mr Smith) Provided that the other landowners are also in agreement.

21625. But you have taken no steps to do that, you have come in with compulsory purchase. The effect will be compulsory purchase.

(Mr Smith) Yes, and to be fair I think normally getting six landowners to agree all to dispose of interests to us by agreement is slim and the reason that we have compulsory purchase powers, or we are applying for them in the public interest, is so that we can secure the site.

21626. Come now, Mr Smith, when you talk about the six different owners, this is not a site that is divided up into different ownerships. You have got a 999 year lease and you have got some headlease people whose only interest in it is a financial one.

(Mr Smith) But they are all different land interests. They own different land interests, it is in multi-ownership.

21627. The Committee can recall that no steps have been taken even to approach those other owners.

(Mr Smith) With the greatest respect, we have not got this House to approve the scheme yet. It would not be normal to do that. It is normal for a scheme of this importance not to leave it to chance that we

will get all existing owners to be friendly and agree with us but that we do have the power to go in and acquire the site and secure it for the works.

21628. Let us look at the Land Disposal Policy. The Committee no doubt have been over this a number of times, and I am not going to go over it, but we can agree this: it gives no right, does it, to my client to have first option, no absolute right?

(Mr Smith) No.

21629. There is a series of exceptions, and I do not want to go through all of them that could apply but one of them is if the Secretary of State at 8.1(ii) is of the opinion that the nature of the site is so small it would not be commercially worthwhile, or elsewhere if the Secretary of State thinks it is advantageous to include land in adjoining ownerships in joint disposal.²⁰

(Mr Smith) Can I just say that these exceptions are all included in the Government's advice on disposal of surplus land in the Crichel Down policies. We have generally followed those but extended them slightly. Yes, there are exceptions to the policy.

21630. **Mr Jones:** You indicated there is no overriding desire to develop the land although it is not really in your control. So far as the arrangements with Berkeley Homes are concerned, we have seen the stage of --- I do not know if the Committee has a copy of the document that Ms Lieven referred to, the final agreed version. I do not know whether it has been put before the Committee: "Final Agreed Version. Non-Binding Outline Agreement on Station Box at Woolwich". It is at the back of the Promoter's exhibit bundle, is that right? No, it is in another volume. It is in this bundle that was on our table.²¹

21631. **Chairman:** It is numbered A248.

21632. **Mr Jones:** This is a document Ms Lieven referred to in opening.

21633. **Ms Lieven:** I did not put the document in, I simply referred to it. I do not think that it is in front of the Committee unless Mr Elvin has referred to it. It may have been handed around.

21634. **Mr Liddell-Grainger:** We have it, "Non-Binding Outline Agreement on Station Box at Woolwich".

21635. **Mr Jones:** It is your exhibit bundle, this is the one I found on my desk when I came in.

21636. **Mr Mould:** That is not before the Committee, that Petitioner is not coming now.

²⁰ Crossrail Information Paper C10—Land Disposal Policy, Para 8.1 Exceptions, billdocuments.crossrail.co.uk (SCN-20070710-005).

²¹ Non-Binding Outline Agreement on Station Box at Woolwich (SCN-20070710-006).

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21637. **Chairman:** We have the document.

(Mr Smith) Thank you.

21638. **Mr Jones:** It is probably right that you should have it. Mr Smith, the position is when this was signed on 20 March 2007 it was envisaged, was it not, that it was hoped to use reasonable endeavours to have a conditional contract by 31 May. Do you see that in the first paragraph?

(Mr Smith) Yes. Could I say to you and to the Committee at this stage that I have not been involved in these discussions and, therefore, what I can say is from hearsay and limited.

21648. Paragraph 17, insofar as that commitment on funding is concerned, that is not time-sensitive, is it? There is no commitment as to when a commitment will be given, if I make myself clear?

(Mr Smith) No, except I would add that obviously the powers, if granted by this House, will last only for five years and after that period they either lapse or the Promoters would have to come back to the House to have them renewed. It is not indefinite, this has to be implemented within that period or else the powers will need renewal.

21639. That is very fair, Mr Smith. On that basis, I am not going to waste the Committee's time on going through the document, I will make whatever submissions I want to make. Is it right that you have not been involved in any negotiations with Berkeley Homes?

(Mr Smith) No, Sir.

21649. Are you referring to the full powers, that they have to be exercised in every respect or if they are implemented elsewhere in the Crossrail scheme that will trigger the five year requirement?

(Mr Smith) No, I am referring to the land acquisition powers which I believe have to be implemented on each site within five years from the date of Royal Assent.

21640. Are you aware of any negotiations that have taken place with Berkeley Homes?

(Mr Smith) I am aware that—

21650. **Mr Jones:** Thank you very much, Mr Smith.

21641. Just at that stage?

(Mr Smith) Yes.

21651. **Chairman:** Mr Mould?

Re-examined by **Mr Mould**

21642. Fine. So there is no-one I can ask about that. Mr Smith, finally, because a point was being made in respect of the Armouries, can you just help me with this, they are not listed buildings, are they? They are not.

(Mr Smith) Are you referring to your client's property?

21652. **Mr Mould:** Just one matter, Mr Smith. I am asking for the Land Disposal Policy, which was shown a moment ago, to be put back on the screen. Cast your mind back to the scenario that Mr Jones was putting to you, which I think I am right in saying was essentially along these lines: that it would be open to the Promoter to enter into arrangements with the owners of land interests in relation to 16 Gunnery Terrace, that is to say AMP themselves, City and Provincial, the head-lessees, and the London Development Agency, the freeholders, and by agreement to make arrangements for the future hand back of any surplus land and its appropriate redevelopment after that had taken place. Do you remember that?

(Mr Smith) Yes.

21643. Yes.

(Mr Smith) No, it is not a listed building.

21644. But it is within a conservation area, as you have indicated.

(Mr Smith) Yes, it is.

21645. And, therefore, ordinarily its demolition would require conservation area consent.

(Mr Smith) Yes.

21653. Just glance, please, at 5.1(iv) and 4.4.²³

(Mr Smith) Yes.

21646. Can we agree this: although they are not listed they are historic buildings, they are part of the historical Woolwich Armoury, are they not?

(Mr Smith) Yes, I believe they are.

21654. In principle, does the Land Disposal Policy allow for such an eventuality?

(Mr Smith) Yes, it does.

21647. Can we just confirm this finally: insofar as the undertaking that Mr Mould kindly gave this House this afternoon, the reference to a commitment by the Secretary of State—This is paragraph 17 of the letter which you will find in the Petitioner's bundle of exhibits and I think it can be put up on the screen.²²

21655. What would have to be demonstrated to the Secretary of State in order for the policy to have that effect?

(Mr Smith) We would want to see—If I can just say, 5.1(iv), where there is fragmented ownership, firstly it is left open that if the owners get together and form a consortium, ie one owner, then obviously the Promoter is in a different position. What the

²² Committee Ref: A247, Crossrail Petitioner's Response Document, Para 17—Commitment to proceed with project in advance of acquisition (GRCHLB-AP4-6—05-011).

²³ Crossrail Information Paper C10—Land Disposal Policy, Para 4.4, The interest to be offered back/ Para 5.1 Interests qualifying for offer back, billdocuments.crossrail.co.uk (SCN-20070710-004).

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Promoter would not have to do is choose between Owner A and Owner B on a particular site: "You can bid for the site, but you can't". If they form a consortium obviously you are dealing with one person, one site, and that is a way in which these former owners can get together and have an interest. We would still want to qualify that with paragraph 4.4 and say that we would want them to have the necessary development and financial expertise to show that the site can be developed early, we do not want this thing hanging around. We would want the bidders to be experienced and qualified in property development.

21656. So in principle the opportunity that Mr Jones mentioned is there; whether it can be realised in practice will depend upon the points that you have just mentioned.

(*Mr Smith*) Absolutely, yes. He has the opportunity.

21657. **Mr Mould:** Thank you very much.

21658. **Chairman:** Thank you very much indeed, Mr Smith. Mr Mould, would you like to sum up?

The witness withdrew

21659. **Mr Mould:** Sir, before I do, and I will be as brief as I reasonably can, can I say that Mr Jones has stored up one or two points for his closing as you have heard during the course of his submissions and in particular he indicated that he might make some submissions about the document that was handed to you a few moments ago. He has not given any indication as to what the substance of those submissions might be and he has not asked Mr Berryman, for example, any questions about them. What I am going to do, if I may, is to reserve my position and if there is anything there in relation to what is an important facet—

21660. **Chairman:** That is agreeable.

21661. **Mr Mould:** And if I need to respond I may have to ask for leave to do so. Thank you.

21662. Ms Lieven reminds me, if I need reminding, that I have to pray the Committee's patience when we have completed this Petition formally to identify four matters by way of overall closing, which I hope will not take very long at all, but I will leave that, if I may, until after Mr Jones has had his say.

21663. Sir, just summing up our position in relation to this Petition, it is, I think, now essentially accepted that the practical reality is that we need to acquire the Petitioner's property and to demolish the building to clear the site to enable the proposed Woolwich Station works to proceed. We have explained that to you and Mr Berryman has confirmed that in his evidence.

21664. We have made a commitment, repeated before this Committee today, as to the circumstances in which we would exercise powers of compulsory acquisition conferred by the Bill for that purpose, and Mr Charlesworth has very fairly accepted that that gives him a measure of comfort as regards the uncertainty which he identified as to the progress of the scheme.

21665. We have also indicated, and he has equally accepted, that this is a valuable commitment, that we would give advance notice of entry by way of 12 months' advance notice of entry in order to enable him to plan for the inevitable relocation of his business from the site. The Committee knows that the reality is that the business would have to relocate because the building would be demolished and the works would endure for a period of some five years whilst the construction of the Woolwich Station was carried out. The Petitioners would be entitled in the ordinary way, as with others who are in a similar position through the scheme, to receive land compensation on the open market for their leasehold interest and the cost of being disturbed and displaced from their business to alternative premises, and we have indicated that we would assist in that process through the services of the proposed relocation agency.

21666. That is the background against which the issues raised by the Petitioners need to be considered. The first of the matters raised is the possibility of the Secretary of State foregoing acquisition of at least a part of the Petitioner's land and entering into some sort of licence or lease arrangement. Mr Smith has explained that he thinks there are particular practical difficulties with that given the multiple nature of ownership in relation to this land and the difficulties of dealing with the compensation position. The fact that Mr Smith, with all the experience that he has in relation to these matters, was finding it very difficult to see how that arrangement might possibly be made to work, you may feel speaks volumes as to the impracticality of that and, for that reason, the policy that we have for acquisition in relation to sites where demolition is to take place for works, sites in multiple ownership, has been established, it is a tried and trusted approach which on balance is fair to all concerned.

21667. The other issue raised is as to the arrangements, assuming acquisition takes place, for disposal in due course of any surplus land that might be available following the completion of the Crossrail works. We have explained our policy in relation to that. In principle, as the only qualifying interest, the Petitioners are able to seek to bring themselves within the approach of their policy. Mr Smith in re-examination explained some of the considerations that were to be taken into account, but the overriding consideration is this: the Secretary of State and the Promoter are very keen that land which is surplus and available for re-development following the completion of the works should be disposed of and dealt with in a way that

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accords most fully with the public interest. In this case the public interest clearly demands that at the earliest possible stage appropriate redevelopment take place in order to satisfy the requirements of the conservation area and to ensure that the scenario Mr Smith painted of a uncertain period of fallowness, as it were, is not realised. That is why the land disposal policy is drawn as it is and that is how it ties in with our commitments to over-site development following the completion of the Crossrail works. It is the public interest in those matters that must, we would submit, be paramount.

21668. Finally, I come to a matter that has been touched on in questioning, but I think will probably inform the subject matter in some submissions by Mr Jones in a moment or two and that is the question of costs. I think there is to be an application that the Committee should require the Promoter to pay the Petitioner's costs incurred in these proceedings in relation to its premises. We would respectfully suggest that would not be an appropriate decision for the Committee to make. Mr Jones put the matter in this way: firstly, he said costs had been incurred and the question is where should they fall. He said that this is a case of a landowner whose land will be acquired compulsorily, he will be displaced and have to relocate his business. That will entail costs and construction. He said that he has incurred costs in seeking as far as he can to co-operate with the Promoter in relation to the scheme so far as it affects his property and his interests. He said that he has incurred costs, in particular, in responding to changes brought forward during the course of the development of the Bill scheme and proceedings before this House, changes which, of course, as the Committee well knows, have been brought forward in response to recommendations and decisions made by your Committee and which, therefore, sir, you will take no difficulty in being dissuaded, very much reflect the public interest. Those are essentially the factors that Mr Jones places before you and which he says justify a requirement that we shall pay his client's costs. That is a set of circumstances which is by no means unique to these Petitioners. There will be many instances where during the course of negotiations between the Petitioners and those who sit behind me the question of Petitioners' costs are raised in just those circumstances and the Petitioners have ultimately accepted that is not a justifiable basis upon which to require the Promoter to pay Petitioners' costs. If this Committee were to depart from that approach in relation to this Petitioner, it would set a very radical precedent and one which, we would submit, does not find any justification in the factors to which Mr Jones has and, I understand, will refer. Sir, that alone, we would submit, should make the Committee, with respect, think long and hard before acceding to Mr Jones's request.

21669. Finally, if I could set that briefly in the context of practice and precedent, it is the long-standing practice of this House that in relation to hybrid bill proceedings, the Promoters and

Petitioners should bear their own costs. That is confirmed by the Parliamentary Costs Act 2006 which is a consolidated statute and which made no provision for awards of costs for unreasonable, vexatious circumstances in hybrid bill proceedings. It was confined to a position in relation to private bills, so it is submitted this Committee should be slow to depart from a position that has been so recently established in consolidating legislation by Parliament. In any event, if the Act were to make provision for costs in proceedings such as this, it is clear from Section 10 of the statute that two prerequisites must be established in order to raise consideration whether costs should be awarded. One is whether the provisions of the Bill have been altered so as to include protective provisions in favour of the Petitioner and here, as we stand today, no such provisions, I understand it, are being sought in relation to the Woolwich scheme. Secondly, and more importantly, the requirement is that the Petitioner has been unreasonably and vexatiously exposed to costs and that must logically entail the Petitioner demonstrating that the Promoter has been guilty of some unreasonable or vexatious conduct as regards the Petitioner and his interests in order to justify, if you will, an award of costs thrown away by that conduct. No such evidence is available here and I support that by this: under the hybrid bill scheme the Petitioner stood to be affected, as you have heard, by virtue of the need to construct a shaft to the south-east of the Arsenal Way car park. The AP3 amendments supported by Mott MacDonald's engineering report, which Mr Berryman referred to, enable the Promoter to revise the scheme in favour of AMP so as to enable an agreement to be reached in principle in May of last year with AMP and their agents that arrangements could be secured so as to enable AMP to remain. That was, as I made clear in evidence, an agreement in principle reached before any decision of this Committee as to the need to promote a station at Woolwich which, as you recall, was taken in July of last year, a year ago. That position only changed when the apparent proposals for Woolwich were decided upon and accepted by the Secretary of State and then promoted by virtue of the additional provisions which you have before you today. There can be no question of the changes of circumstances which affected AMP during the course of the summer of last year being due to any prevarication or lack of clarity on behalf of the Secretary of State. It was a situation that arose as a result of a considered decision by this Committee and an equally considered reaction to it by the Secretary of State, ultimately resulting in this AP being brought forward. As I emphasised, that was one which was based upon both this Committee and, indeed, the Secretary of State weighing up where the public interest lay in relation to what should happen to Woolwich and a meeting of minds in relation to that question. That has, unfortunately, caused AMP from their perspective to incur substantial costs in reacting to that change of circumstances. We sympathise with them in that respect and understand why they feel frustrated that should have happened, but that fact alone does not, in my submission,

The Petition of Citipost AMP Limited and Mr Daniel Albert Charlesworth

justify any award of costs being made in their favour in relation to their appearance before this Committee. I am sorry I have gone for a little length, but it is an important point to substantiate. For those reasons I would invite the Committee not to accede to those points which I know Mr Jones is going to make in a moment or two.

21670. **Mr Jones:** I have got some notes in writing which means I hopefully can be a little bit more speedy with the Committee and I am conscious of lunch coming up. If my agents can pass them around. There are two notes, one on this Committee's ability to award costs and a second note on the lease, licence, grant of option. Could I deal with the costs point—

21671. **Chairman:** These documents should be listed as A249 and 250.

21672. **Mr Jones:** Sir, the position of the Petitioner in this case is quite unique. Mr Mould painted the picture that there were plenty of petitioners who may have negotiated, reached some arrangements, withdrawn their petitions and not received their costs, so be it, but we are not in that position. We are in a position where we have incurred what Mr Mould concedes are substantial costs but not for any benefit, not for the avoidance of our relocation and, although Mr Mould—I may respectfully suggest—paints the picture of the pleader in difficulties, whenever in difficulties, you always paint the difficulty that this will open the floodgates. I will come back to that in a moment. The position here is quite unique and I note the Promoters have not drawn the Committee's attention to any other Petitioner before this Committee who has been in the same position.²⁴ This Committee's decision in respect of Woolwich arises out of quite unique circumstances. I have set out in paragraph 1—I do not need to repeat—the history of why we are obliged to employ professional assistance. Even the Promoter's witness at the end, though he did not want to say it, admitted that had been helpful in re-examination and that is why I could not cross-examine him, although the report was done by Mott MacDonald, that was—and I think this is a submission if there is any issue of it—with the input and direction of those engineers employed by my clients. That was raised in re-examination so I could not deal with it, but there has been no doubt or suggestion by the Promoters that it was not necessary for us to incur those costs.

21673. I turn to paragraph 2, again I can take that mostly as read. I take the point that the Chairman of this Committee raised by touching on the issue of fault at the beginning of this hearing. The question is, as Mr Mould must concede, who should bear the costs thrown away? These are not costs improperly incurred, unreasonably incurred, these are costs properly incurred, who should bear the costs of up to £100,000? On any view, it should not be the

Petitioner. Nobody is suggesting, and Mr Mould quite properly does not suggest, that the Petitioner unreasonably incurred those costs. The question, therefore, should be whether it is fair and proper for the Petitioner to bear those costs and it is important it is the Promoter who wants the scheme—it may be in the public interest, we sympathise with that, we support it—but as part of the promotion of a scheme it is the Promoter who must bear the vicissitudes and risks of promoting its scheme.

21674. Paragraph 3, if I go to the legal point. There seems to have been a bit of change, if may say so, from the position of the Promoters to that which they gave in closing submissions and also the implication that was given in correspondence to us. It appeared to be asserted by the Promoter before this House previously that costs may only be made under the Parliamentary Costs Act 2006, that was my impression in reading the closing submissions given to this House, and I have given the reference on Day 81 by the Promoter. It does appear now from Mr Mould that he accepts the Committee does have the power to award costs. Mr Mould is right in saying so in respect of hybrid bills and, indeed as I point out in paragraph 4, it would be highly anomalous and unfair if a person petitioning against a hybrid bill, where the Promoter is the Secretary of State would be in a worse position than a private bill. In paragraph 5 the Committee has an inherent discretion to award costs. That discretion is not fettered or governed, as Mr Mould seems to suggest, by Sections 10(a) and (b) of the Parliamentary Costs Act 2006 because—and I agree with the Promoter—those provisions apply only to private bills. What that Bill has done in its re-enacted form is to limit the discretion that this Committee would otherwise have in respect of private bills but it does not—and this is paragraph 6—purport to restrict the discretion this Committee has to award costs in respect of a hybrid bill. We are not, therefore, governed by Sections 10(a) and (b). If there were any doubt over the ability to award costs, that comfort is found in Section 15 of the Parliamentary Costs Act which provides for the taxation mechanism in dispute of costs, once you have got the awards, so whether the Promoter accepts the £100,000 or not, the taxation provision under the Act is expressly applied to hybrid bills and you see that in Section 15. I have also given the reference and quotation from the Law Commission's report that supports that.

21675. Paragraph 8, again we have given it, I hope, in to the Committee. I have given the reference in any event. The Committee has a power by way of a clause to insert into the bill either for a particular Petitioner or in general a provision for costs and I give the reference to that. In short, this Committee has to decide whether an innocent person who is having his land removed from him should also have to bear the costs of £100,000 or whether the Secretary of State should bear those costs. In my respectful submission, this Committee found the view that the Secretary of State should have been promoting the station of Woolwich—I am not going

²⁴ Committee Ref: A249, Committee's ability to award costs (SCN-20070710-008 to -011).

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to enter into that debate—the Secretary of State fought tooth and nail not to do it, it is not the Petitioner’s fault that the Secretary of State did not come up with a scheme which found favour with this Committee at first blush and the cost should be borne by the Secretary of State. They are modest in comparison to the cost savings that we have also seen by running the route on the alignment of my client’s land. That is all I wish to say on the costs.

21676. If I move to the issue of the option, I have got a short note on that.²⁵ The first three paragraphs set out the authorities for the propositions that I opened with, I do not believe they are in any dispute. You should only take what is necessary in the public interest. In this case, the freehold may be necessary for the subterranean station box; it is not necessary for the surface. Surplus land, the approach of the Promoters is simply to apply their policy and not even to consider the prospect of a lease or licence. Sir, I do say that when you come to examine this point, whether the Promoter should be supported in simply applying his ordinary policy, it is relevant to take into account the peculiar circumstances that my client finds himself in as a result of the losses incurred and the disturbance of the change from AP3 to AP4, it does place this Petitioner in a different position to others. The point is that whatever policy the Secretary of State makes, it cannot be a magic wand for behaving other than in a reasonable way, and in a reasonable way the Secretary of State must justify in the public interest why he requires the freehold. That has not been done and it was noticeable that for the first time in vague terms pushed by Mr Mould to suggest certain planning issues as to conservation areas and such like, we heard the first scintilla of a case being made that there was any public interest in my client not having an option to purchase or a lease or licence. No proper case has been put forward and certainly in respect of the option to buy back at market value, that has been with the Promoters for some considerable time. We do say that no compelling case has been put forward by the Promoters to justify the acquisition of the freehold of all the remaining land. This is my final point, Mr Mould sought in re-examination to draw some comfort from the code that contemplates a re-sale to previous owners who form a collective together. That is very different to what we are seeking, we do not want the land to be acquired freehold, first of all, and, secondly, that option is still subject to the other caveats in the code that the Secretary of State could, for example, sell the land and decide that Berkeley Homes, for example, one of the largest landowners, it would be more convenient for them to be given all the land east of Arsenal Way. I ask rhetorically when, if ever, this Committee is going to see the final agreements between Berkeley Homes and the Secretary of State as to the true funding arrangements by which the station is to be developed and on what basis the land east of Station Road will be promised, something that, I suspect, will be kept

from this Committee for some time. Unless I can assist any further, those are the submissions on behalf of the Petitioner.

21677. **Chairman:** Thank you very much indeed, Mr Jones. We now come to the end of the cases before this Committee. Before we ask Ms Lieven to do a closing statement, sorry, Mr Mould, you want to reply?

21678. **Mr Mould:** Yes.

21679. **Chairman:** For how long?

21680. **Mr Mould:** If I start now, I suspect I will go perhaps just five minutes beyond one o’clock, so if you want to get it over with.

21681. **Chairman:** Ms Lieven, you are not coming back at all?

21682. **Ms Lieven:** No, I have finished, sir. The division was that I did the opening and the other Petitioner, and Mr Mould did the closing on AMP. The other Petitioner withdrew so, I am afraid, I get off lightly.

21683. **Chairman:** Over to you with a request for haste.

21684. **Mr Mould:** Absolutely. Sir, there are just four matters to deal with. They are these: firstly, we need to make a supplementary undertaking to Parliament in relation to the environmental minimum requirements, I will deal with that in a moment. We need to make an undertaking to Parliament in relation to certain works that we no longer propose to carry out in the event the Committee decides to approve certain additional provisions, I need to give you a brief update on the Access Option, and then I just need to deal with one or two points briefly in relation to the filled bill provisions.

21685. Firstly, the Environmental Minimum Requirements: on the first day of the proceedings before your Committee we gave an undertaking to Parliament concerning the enforcement of the Environmental Minimum Requirements. That undertaking addressed compliance by a person appointed as nominated undertaker under the Bill or a person such as the Greater London Authority or Transport for London or both of them, to whom the powers of the Bill are devolved under Clause 53. On 8 January last year amendments to the Bill were deposited which would allow statutory undertakers to implement development for or in connection with the Crossrail project under their own permitted development rights insofar as their development had been assessed in the Crossrail Bill, Environmental Statement or any subsequent supplementary or additional provisions of Environmental Statements. Such development could therefore be carried out by a person who was not the nominated undertaker or a person to whom Bill powers are devolved under

²⁵ Committee Ref: A250, Lease/Licence/Grant of Option (SCN-20070710-012 and -013).

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Clause 53 of the Bill and the original undertaking as to enforcement of the Environmental Minimum Requirements would not apply.

21686. The Secretary of State, the Promoter, has accordingly decided to give a supplementary undertaking to address this and the undertaking is as follows: this undertaking applies in any case where a statutory undertaker is carrying out development for or in connection with the Crossrail project in reliance on the planning permission enjoyed in consequence of the provision of the Bill, of which the marginal note is extension of permitted development rights. The Secretary of State undertakes to take such steps as he considers are reasonable and necessary to secure compliance with such of the Environmental Minimum Requirements as he considers relate to that development and are not directly enforceable against that undertaking. That is the first matter.

21687. The second matter relates to certain provisions of the Hybrid Bill scheme providing powers which the Promoter would undertake not to exercise in the event that the Committee decides to approve and to report amendments of provision that have been placed before you during the course of the proceedings. That undertaking is in the following terms: "In submitting the various Amendments of Provisions to the Committee with the request that they be included in the Bill reported by your Committee, it is right that we should offer an undertaking not to carry out certain works that the Amendments of Provisions are intended to replace. On behalf of the Promoter, I can therefore offer the following assurance. Subject to the Amendments of Provisions being accepted into the Bill, the Promoter will not use the powers in the Bill firstly to construct a depot at Romford; secondly to construct sidings at West Drayton; thirdly to construct temporary facilities for the removal of excavated tunnel material from Hanbury Street shaft, including the Pedley Street, adit and conveyors; fourthly to use Bow Midland Yard East Olympic land north of Pudding Mill Lane. Finally, you will recall that in addition to providing Over Head Line Electrification on the Great Western Main Line railway the Promoter intends to retain four bridges as set out in chapter 10 of Supplementary Environmental Statement 3, with reference to the Brunel Bridge, as you will recall from earlier proceedings.

21688. That being the case, that is the intention to retain the four bridges. The Promoter will therefore not construct the temporary bridges originally adjacent to three of these bridges, that is to say Leigh Road Bridge, Wexham Road Bridge and St Mary's Road Bridge. This undertaking, relating to those five matters, will be added to the register in the usual manner. That is the second matter.

21689. The third matter is to provide the Committee, as we undertook that we would do, with an update on the progress with negotiations on the Crossrail

Access Option. You will recall that Mr Elvin last touched on this when he closed in March of this year. The Committee asked to be kept in touch with progress on that case between the Promoter and Network Rail on the Access Option on Crossrail services on the main network. You will recall that the Access Option, subject to the approval of the Office of Rail Regulation, would grant access rights for an extended period for a defined level of Crossrail services on the main network. I can report that negotiations are complete on the legal drafting of the Access Option, and what is being resolved this week are some remaining side letter issues. The final stage will be formal approval by ministers and Network Rail's Board. The Access Option will then be submitted to the Office of Rail Regulation who will then publish it and launch a consultation process. In the expectation that this is imminent, the Railway's Minister, Mr Harris, has called a meeting of the Crossrail rail industry stakeholders forum for the twenty-fifth of this month to discuss the Access Option and next steps. Supporting the Access Option is a great deal of modern work to demonstrate that Crossrail trains can be timetabled and operated satisfactorily alongside other passenger and freight services. The rail industry has participated throughout the Crossrail Timetabling Reference Group, which has met monthly under the chairmanship of Network Rail. Both strands of work, the negotiation of the Access Option and the supporting time-tabling modelling work, have taken longer than Network Rail and the Promoter anticipated. General industry policy on Access Options was relatively undeveloped until Crossrail and a couple of other projects came along. This has meant that Network Rail and the Promoter have had to tackle a number of issues on which there was no existing model to use or adapt, which has taken time. The Promoter's intention remains that if the ORR approves suitable access rights for Crossrail in an Access Option, it will bring forward proposals to cut back the railways powers in the Bill. Assuming no major delays, this would be in time for the Lord's Select Committee stage. That is the update on that issue.

21690. Finally I think you have had distributed to you a document, a paper of amendments submitted to the Commons Select Committee dated 4 July, and also I believe a speaking note relating to that which may have been handed to you.

21691. **Chairman:** List this as Exhibit A251.

21692. **Mr Mould:** Sir, I am told that it is a requirement that I read this into the record, so if you just bear with me while I do that.

21693. The Committee should have a set of page and line amendments to the Bill comprising: Filled Bill amendments submitted on Day 1; each of the four additional provisions; and further Filled Bill amendments.

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21694. A number of amendments previously submitted have been superseded or altered by later additional provisions or by decisions made by the Committee or by the Promoter, such as the decision not to proceed with a crossover either in the position shown in the Bill as deposited or as later proposed in AP2. Where such alterations or deletions have been made, these are shown as track changes in the bundle.

21695. While we have addressed the Committee on the charges to the works provisions contained in each of the four sets of additional provision amendments, the additional provisions also contain other amendments which we should draw to the Committee's attention as we do now. Your clerk has a copy of the Filled Bill showing the proposed amendments in manuscript. Filled Bill amendments submitted on Day 1, these consist of minor drafting amendments and the insertion of a new clause required to deal with disposal of Crown land. The purpose of the clause is to enable Crown land to be leased and used for Crossrail, notwithstanding restrictions in section 22 of the Crown Lands Act 1851 and section 3(1) and (2) of the Crown Estate Act 1961.

21696. Additional provision amendments: extension of permitted development under the Town and County Planning (General Permitted Development) Order 1995 in relation to development, which is the subject of environmental assessment in connection with the Bill. Pages 10 and 45 of the consolidated paper of amendments.

21697. As a consequence of Crossrail construction, utility companies will have to divert pipes, cables and other apparatus. Utility companies normally have a general power to undertake such works, in which case their powers are known as "permitted development rights". However, if the works form part of a larger project, then their environmental impact must be assessed and a specific planning application made. Under the Crossrail Bill the assessment of the utility company's work will form just a part of the general environmental assessment of Crossrail which will be considered by Parliament as part of its general scrutiny of the project. The amendments comprising a new clause and new schedule avoids the duplication of planning authorities having to individually assess and approve diversions which have already been considered within the Bill process.

21698. Provisions relating to the abstraction of water, new paragraph 15A in schedule 12 on page 22 of the consolidated paper of amendments and new clause after Clause 50 on page 21. Under recent general legislation, a person who abstracts water from the ground in connection with construction work must obtain statutory permission from the Environment Agency and the Agency must uphold other parties' rights to abstract water. However, the Bill already provides a special regime for the Environment Agency to consent to water

abstraction and the Parliamentary process enables those with rights to abstract water to petition against the project. A parallel regulatory regime would therefore be an unnecessary duplication of the Bill's existing safeguards. We are therefore intending to disapply elements of the general regime in favour of Crossrail's own provisions and arrangements as regards water abstraction.

21699. Alterations to the provision in the Bill regarding planning permission for development authorised by the Bill which consists of a work other than a scheduled work, pages 12 and 45 of the consolidated paper of amendments. The Bill gives deemed planning permission to developments which were assessed in the Environmental Statement of February 2005, which accompanied the introduction of the Bill. Clause 10 of the Bill is amended to take account of the new works included in the additional provisions and Supplementary Environmental Impact Assessments so that it gives deemed planning permission for work assessed either in February 2005 or in a Supplementary Environmental Statement produced since then.

21700. Alterations to the provision in the Bill regarding the application of provisions of the Bill to things authorised by an order under Section 1 of the Transport and Works Act 1992, page 12 of the consolidated paper of amendments. Clause 51 of the Bill enables an order under Section 1 of the Transport and Works Act 1992 to apply provisions of the Bill to extensions of Crossrail. It is intended to amend the clause so as to permit such an order also to apply provisions of the Bill in relation to additional railway facilities that are provided in connection with Crossrail, but which may not technically be an extension of it.

21701. Alterations to the provision in the Bill regarding approval in relation to highway accesses, page 13 of the consolidated paper of amendments. Plans to provide new or improved means of access to a highway must be approved by the local highway authority. If that authority does not respond within 28 days, then the Bill provides that they are deemed to have approved our plans. In a similar context, the local highway authority must be asked to approve plans to improve or create access to a road. The Bill does not currently provide a timeframe in which the authority must raise any objections. We want to amend schedule 2 to the Bill to provide a timeframe of 28 days in which any objections the authority may have must be made.

21702. Alterations to the provision in the Bill regarding the creation and acquisition of easement or other rights over land, page 14 of the consolidated paper of amendments. Paragraph 13 of schedule 6 to the Bill allows the Secretary of State to nominate, in a statutory instrument, third parties who can compulsorily acquire rights of way over land within the Bill limits. However, these rights currently could only relate to the relocation of apparatus on private land. They were drafted with the utility companies in

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mind. We propose to expand the power to enable designated third parties to acquire any form of rights over land. For example, we might confer on Network Rail the power to acquire rights to access work sites from private land which abuts rail tracks. This would avoid the expense of acquiring land which would only be needed for use intermittently.

21703. Power to reinstate facilities whose operation is discontinued, page 4 of the consolidated paper of amendments. Negotiations with Petitioners identified some circumstances where Petitioner's businesses can be relocated as part of the project (a central London concrete batching plant is the largest example). In response to local authority concerns it is proposed to take a power to impose conditions on the use of reinstated works.

21704. Agreements about the temporary possession and use of land, page 40 of the consolidated paper of amendments. A new clause is proposed allowing for consensual agreements with landowners to be enforced should ownership of the land in question be subsequently transferred.

21705. Entry into agreements imposing restrictions on the use of land, page 40 of the consolidated paper of amendments. The use of land can usually only be permanently restricted by agreements between the owners of neighbouring properties. The proposed new clause would allow the entry into consensual agreements with landowners to stop works being undertaken which are inconsistent with the project, but without acquiring a neighbouring interest in land.

21706. Finally, a paper of further amendments: this contains uncontentious drafting amendments and amendments to address concerns of Petitioners, such as amendments to the protective provisions in the Bill for utility undertakers. There is nothing that we think needs to be specifically mentioned to the Committee, but for assistance we have inserted in the paper short explanatory notes of the reason for each set of amendments. No doubt that will be bedtime reading for the Committee in the days to come. Thank you very much.

21707. **Chairman:** Thank you very much. The Committee now stands adjourned until Thursday 12 July at 10:00.

Thursday 12 July 2007

Before:

Mr Alan Meale, in the Chair

Mr Brian Binley
Mr Philip Hollobone
Kelvin Hopkins

Mrs Siân C James
Mr Ian Liddell-Grainger

Ordered: that Counsel and Parties be called in

21708. **Chairman:** Today the Committee wishes to announce a number of further decisions we have made on the cases presented to us. As many of you will know, following the request of the Committee, the Government has introduced four sets of amendments to the Bill which alter the proposed railway works so as to extend the impact of the Bill and all the people affected by these amendments have had the opportunity to object to them and appear in front of the Committee.

21709. Counsel will be relieved to learn that we do not intend to ask the Promoter to bring forward any further additional provisions. However, in the last five months we have heard many cases and feel that some action is required to address the concerns presented to this Committee. Therefore, I will now set out the issues we wish the Promoters to take action on and report to us before we report the Bill to the House.

21710. First, the Fairfield Conservation Area Residents Association. The Association appeared before the Committee in October 2006 concerned about the impact of Crossrail on Grove Hall Park, the only green space in the area. The Committee is satisfied that the Promoter has taken necessary precautions to minimise the disruption to the park. However, we are concerned about the possible effect on the park and we would like to see Crossrail have a positive long-term impact on this valuable green space. We ask the Promoters to liaise with the Association and the community to agree a suitable further enhancement of the park following the Crossrail works.

21711. The case of Barbara and Tony Wheeler. Mr and Mrs Wheeler appeared before the Committee on two occasions concerned about the impact of the Crossrail tunnels beneath their property. They are also affected by the placement of two worksites in close proximity to their home. The Wheelers requested that floating slab track be used in the tunnels under their house to minimise the noise of trains in the tunnels. We also heard a petition from Emma Jeffery whose property is located 15 metres above the same tunnel; she had similar concerns. We accept the Wheelers will be clearly affected by these works and we are keen to see that efforts are made to protect them in addition to the mitigation offered by the Promoters. To ensure a fair and consistent approach to the Petitioners' concerns, we ask the Promoter to ensure that floating slab track is

installed in all tunnels which are routed under residential property at the depth of 15 metres or less. We would also like to receive a note detailing the expected reduction in noise and vibration that would be experienced in residential housing when using this technology at all such points on the line. This note should indicate the depth of tunnels in each case. We also wish to make it clear that should a better technology arise before the construction of the tunnels takes place, it should be considered for use as a substitute to floating slab track.

21712. We wish also to point out to the Promoters that the Committee were minded to recommend that the entire Crossrail route uses floating slab track. Crossrail has the potential to be the jewel in the crown of London's transport system. It offers an incredible opportunity to significantly reduce the disruption experienced by London residents and workers as trains pass in the tunnels below them. However, we recognise that such a decision may have a considerable impact on the cost of the construction of the railway, so at this stage we merely ask the Promoters to explore the practicality and feasibility of such a recommendation and then report back to the Committee in October.

21713. As an aside to what I am saying on this report, just to add that during the course of the break in the last few months there was some concern about a request which was made by the Committee to the Chief Executive of Crossrail about this question of floating slab track and its cost. I want to note in the minutes that this was a request from the Committee members in private following a short discussion with the Committee and we are grateful to Mr Berryman who responded and we ask Crossrail to be aware that it was our request.

21714. The case of Eleanor Ferguson and others. We are convinced that Eleanor Ferguson and her fellow Petitioners, Mona Hatoum and Gerry Collins, and Caroline Hamilton, should be afforded the same level of comfort in the compulsory purchase of their properties as that afforded by Crossrail to the Petitioners EMI. It was not our intention that the Promoters should treat these Petitioners differently. Therefore, we ask that the properties overlooking the Hanbury Street shaft which are subject to compulsory purchase orders should be purchased at the same time as the EMI building. This must be as soon as practicable after Royal Assent and, in any case, as soon as the funding for the Bill is secured.

 Committee announcements

We find it not acceptable to purchase these properties merely nine months before construction actually starts. It has always been our view that Crossrail would be able to rent or sell these flats in due course and should not experience undue expense in the process.

21715. The National Council of the Cycling Touring Club. The Committee looks to Crossrail to continue its dialogue with the National Council of the Cycling Touring Club to ensure that the policy of the carriage of cycles is well informed. We accept that the train operating company, not Crossrail, will decide the final policy but we expect that the policy should be cycle-friendly and in line with Transport for London and London Underground policies. We would also ask the Promoters to highlight such stations on the route which would be suitable for cyclists to safely enter and exit the Crossrail service.

21716. The Great Western Allotment Association. We ask the Promoter to prepare and till the new site for the allotment. We expect Crossrail to work in liaison with the Association to ensure that the location proposed by the Promoter will provide the allotment owners with workable plots with enhanced compensatory service arrangements incorporated. That means electricity, water and footpaths. We expect the Promoter also to enter into meaningful discussion with the Association as soon as practicable to agree the terms of such services and facilities. In terms of facilities, that may mean the odd shed and greenhouse.

21717. Spitalfields Community Association and others. We note that Crossrail has taken action to engage an independent charity, Planning Aid for London, to facilitate the meeting to appoint representatives to the local liaison panel. We are grateful to Crossrail for the action taken to comply with our recommendation and we are glad that the local liaison panel is to have an ongoing relationship with Crossrail using the facilitation of the local authority. We note that it is now for the panel to consider how it wishes to operate and take this forward.

21718. GE Pensions. We agree with the Petitioners that they should have the option of entering into an Over-Site Development Agreement with the Promoters. We were encouraged to hear that further discussion will take place between the two parties on this issue and we now ask the Promoters to ensure that such an agreement is offered to the Petitioners.

21719. The London Borough of Havering. We re-emphasise the need for recognising disability-friendly policies and we are grateful to the London Borough of Havering and Crossrail for the re-design of the station to ensure that passengers can access the building readily. We remind the Promoters that we expect the same level of regard to be shown in providing access for those with disabilities across the entire breadth of the Crossrail operations.

21720. Paddington Residents Active Concern on Transport. The Committee recognises that the residents of Brewers Court will be affected by the Bill. We ask the Promoters to provide a liaison officer to actively make contact with the residents and assist them with issues during the construction phase of the project. We also ask Crossrail to adopt the model recommended by the Committee in relation to the Spitalfields residents to establish a local liaison group which would include local residents and local community leaders who will then be able to liaise with Crossrail throughout the construction period. We are also concerned about the combined effect of Crossrail and the congestion zone in this area on the people who live within it and travel through it. This area will be placed at the edge of the congestion zone and within a busy construction area for Crossrail. We strongly ask that the Promoters liaise with the Mayor of London and Transport for London to seek a sensible way forward on this matter with a view to a temporary or permanent alteration to the boundary of the congestion zone to accommodate more friendly and sustainable use of the area. We ask the Promoters to report on what progress has been made on this issue when they respond to the Committee in the autumn.

21721. Soho and Great Western Sound Studios. The Committee is concerned that the building and use of Crossrail will seriously affect an international centre of excellence in Soho. The Committee accepts that the various sound studios in the Soho area are an exceptional example of British business, talent and ingenuity. Therefore, we want to ensure that such businesses are not seriously jeopardised by the construction or operations of Crossrail. Therefore, we ask the Promoter to ensure that floating slab track is installed in all the tunnels in the Soho area. As before, we wish to make clear that should a better technology arise before the construction of the tunnels takes place, it should be considered for use as a substitute to floating slab track. We wish to see floating slab track used as a minimum requirement in such tunnels. We also insist that every effort is made to provide these studios with sufficient sound proofing. Should the business be affected by the tunneling process, we expect that the Petitioners should be able to claim compensation under the terms set out in the Bill. We are not minded to increase the provision of compensation in this case as we wish to ensure that the industry is protected in its current location. However, we agree that Crossrail must take every useful mitigation measure to ensure that this important industry is able to continue working in its current location.

21722. The London Borough of Tower Hamlets. The Borough appeared on 13 March to raise several issues. The Committee was satisfied with the response given by the Promoters. However, the Committee agrees that the existing AstroTurf pitch at the Stepney Green worksite is of benefit to the local community and should be kept on a permanent basis if possible and we strongly encourage the two parties to liaise on this matter and find a solution.

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21723. Westbourne Park Villas Residents Association. We are content with the Promoter's response regarding the concrete batching plant. We note that Crossrail has followed the Committee's request to make their south side of the footbridge DDA compliant. Whilst we accept that it is not Crossrail's responsibility to replace the bridge, we would ask the Promoters to go further in making the current bridge accessible to those with restricted mobility. We ask the Promoters to develop sensible engineering design solutions and use mirrors and good lighting to enable those using the footbridge to view oncoming persons. We would also like the Promoters to explore the use of traffic light systems and simple signage to show people with restricted mobility if another wheelchair/pushchair user is approaching.

21724. Marriott Hotels and West India Quay Development Company (Eastern) Limited. We accept that the Petitioners currently face an uncertain level of disruption during the construction of the Isle of Dogs station. We would ask the Promoters to clarify at the earliest opportunity which construction scenario they intend to follow. We accept that Crossrail will take steps to mitigate the disruption of the Petitioners and recognise that if there is a case for compensation, the code set out in the Bill will apply. We expect that this matter may be considered by a committee in the other place when there is greater clarity over the construction scenario.

21725. Canary Wharf Group plc. We recognise that these Petitioners would also appreciate greater clarity on the future of the construction project. We are not in the position to offer them a great deal of comfort; however, we have some sympathy with their arguments. Under Clause 6 of the Crossrail Bill the time limit for compulsory acquisition is set at five years from Royal Assent. Clause 6, subsections 7 and 8 allow the Secretary of State to extend that time limit. We believe that this limit should only allow one extension of a further five years. What is more, Parliament should approve such an extension only if it can be demonstrated that it is necessary. We ask the Promoter to amend the Bill accordingly.

21726. Trustees of the *SS Robin* Trust. We understand that the trustees of the *SS Robin* were in the process of making a bid for a Lottery Heritage Fund grant. We accept that negotiations are still ongoing to settle a suitable location for the ship. In the interim we would ask Crossrail and the Department for Transport to write letters of comfort to the lottery board explaining the current situation and ensure that the ship does not lose out on possible funding due to the uncertainty of its relocation.

21727. Residents of Poplar Dock. We are delighted that through much hard work and continued negotiation the residents of Poplar Dock are no longer under the threat of being relocated. We were greatly impressed by this floating community and we have strongly encouraged Crossrail and British

Waterways to find an agreeable solution. We are grateful to all involved in these discussions. This community deserves to be safeguarded during the construction period. We would encourage Crossrail to continue meaningful dialogue with the Petitioners.

21728. City Post AMP Limited and Mr Daniel Albert Charlesworth. On Tuesday the Committee heard the case of the only Petitioner appearing against the fourth set of additional provisions. We agree that the Petitioner's case is unique and that they have been considerably disadvantaged by the new provisions. We welcome the Petitioner's support of the Crossrail project and note the positive attitude with which he has embraced the works forced upon him. We also recognise that the Petitioner has experienced financial loss and whilst we accept it is usual that during the process of hybrid bills that parties pay their own costs, we intend to make an award in this unique case without prejudice. We ask the Promoter to prepare to pay the Petitioner half the costs he incurred during the negotiations of AP3. We ask the Petitioner to prepare a list of reasonable costs incurred for the Committee. We will examine this when the Committee returns in October with a view to allocating half the cost against the Promoters.

21729. Woolwich. Finally, we come to Woolwich. We are pleased that the Secretary of State followed the request of the Committee and brought forward the necessary provisions to build a station at Woolwich. However, we have been concerned about the cautionary language used by the Promoters when bringing forward this additional provision. Therefore, we encourage the Promoters to do all they can to make this station a reality. This Committee has always been firmly of the view that there must be a fully operational station at Woolwich. We have seen the evidence that demonstrates it will provide exceptional value for money and be a valuable transport link in an area of considerable deprivation. Therefore, we reiterate our view that the station at this site must remain central to the Bill. Ms Lieven, do you want to respond in any way?

21730. **Ms Lieven:** Mr Mould will.

21731. **Mr Mould:** No, in relation to the decisions that you have just made known to us, we will report back, as you say, in due course with our responses. Arrangements, no doubt, will be made for that to take place after the summer recess.

21732. There is one other matter, if I may, briefly and that is on this side, particularly Ms Lieven, myself and other members of the counsel team, we would wish not to leave today and these sittings without expressing our appreciation for the work of yourself and this Committee and, indeed, your clerk and others who have so ably and conscientiously supported you and others and assisted us during the course of these proceedings. I dare say that when

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we sat down in the Boothroyd Room in January 2006, you and other members of this Committee would have been slightly taken aback if it had been suggested to you that you would still be meeting in this room some 18 months later, but there it is, that is where we are. Certainly, on the counsel team we wish to say that we have been consistently impressed by the fairness and inclusive approach that the Committee has taken. The main purpose of these proceedings, as I understand it, has been to give petitioners affected by the Bill the opportunity to place their concerns before this Committee and to ask that this Committee look sympathetically upon the genuine problems that they expect to experience arising from what will be, undoubtedly, a project which will provide very significant advantages to the public. For my part, and I know for Ms Lieven and others who sit with me, this Committee has conspicuously, if I may say so, fulfilled that purpose.

I think it right to say that, by and large, petitioners have gone away feeling that they have had a fair and sympathetic hearing. If that is so, then the Committee, if I may say so, has clearly fulfilled its function. Sir, I wish to put on record our appreciation for that.

21733. **Chairman:** Thank you and thank you for those very kind remarks. Could I admit to you something, when we first met, prior to the first hearing, other members of the Committee were warned; my prediction was two to two and a half years.

21734. **Mr Mould:** So you got off lightly!

21735. **Chairman:** Thank you for your very diligent and mostly helpful work. We are very grateful and I will now adjourn the Committee until Tuesday 9 October.

Tuesday 9 October 2007

Before:

Mr Alan Meale, in the Chair

Mr Brian Binley
Mr Philip Hollobone
Kelvin Hopkins

Mrs Siân C James
Sir Peter Soulsby

Ordered: that Counsel and Parties be called in.

21736. **Chairman:** Today the Committee will hear the Promoter's written response to the Select Committee's decision. First of all, could I welcome everybody back. It has been a fairly tortuous summer. I hope you have had more of a recess than I did, although yours is considerably shorter than ours. Would you like to respond?

21737. **Mr Mould:** Thank you very much, sir. Before I do, I ought to note an event that occurred last Friday which the Committee will be aware of. That is, as you will know, the Prime Minister made an announcement last Friday, 5 October 2007. The Prime Minister has given Crossrail the green light with a £16 billion funding deal to secure the construction of the project. This will mean that Crossrail is funded by the Government and businesses that are set to benefit directly from the railway. The cost is to be shared equitably between the Government, Crossrail fare payers and the private sector. The Promoter intends to continue to steer the Bill through Parliament so that a single programme of construction can begin in earnest in 2010. We expect that the first services on the railway will begin to run in 2017. We are planning to build up the complete service incrementally over the following 12 months or so. As we move closer to contracts being let, we shall keep the precise timetable for delivery of the project and its different elements under review, that of course being a central element of project development, so we can secure the optimum opening strategy.

21738. Moving then to the response to this Committee's interim decisions of 12 July this year, the Promoter has provided the Committee with a comprehensive response document which gives our detailed response to those interim decisions. The Committee will wish to consider that document. I was not proposing to perform the laborious task of reading it on to the record but note that it has been provided. I think I may say, and I hope the Committee, following consideration of the document, will find that this is a fair way of putting it, that it is a positive response to the decisions that the Committee informed us of in July this year. The document has been published on the Department for Transport and Crossrail websites and letters are going to Petitioners affected by your decisions and the responses that we have given which have not already been in discussion with the Promoter regarding those matters.

21739. That is all I propose to say to you publicly in this session about that. As I say, the document has been circulated in the way that I have indicated. Unless there is anything else, I will move on to the third matter which I wanted to draw—

21740. **Chairman:** Before you do, does anybody want to ask any questions? Okay.

21741. **Mr Mould:** The third matter relates to two items of bill amendment. First of all, in the response document itself you will see that in our response to the Committee's decision as regards Canary Wharf we have proposed an amendment to Clause 6 of the Bill which relates to the Secretary of State's exercise of the power of compulsory acquisition and the extension of that power and the terms upon which any such extension may take place. An appropriate form of words is set out in Annex E to that document in relation to that matter. The second matter relates to Clause 63 in the draft bill, and the parliamentary agents for the Promoter provided details of that in a letter dated 3 October this year to your clerk. That is a relatively minor matter. It relates to the clause which provides for deposited plans and sections in relation to the scheme and it is simply to tie in the updated plans and sections to the detailed wording of Clause 63 itself. I do not think I need to say any more than that about that particular amendment.

21742. That having been said brings me to the end of what I wanted to say in relation to matters today. Unless there are any questions or other matters that you wish to raise with me?

21743. **Chairman:** Would anybody like to? No, you are very lucky this morning! Could I just say, clearly we will take this away, read it and come back in due course. There may not be another sitting of this Committee so as that may be the case—it might not be, we may insist on having another hearing—could I thank you and all of your team for the excellent job you have done in the course of this Bill, which has been quite lengthy and arduous, certainly for a parliamentary bill. We are very grateful and very grateful to those advisers who came and advised the Committee on occasions when we needed it. We are extremely grateful and, as you said, Brown is not that bad, contrary to reports in the press, and he has taken a good decision and given a good lead for us on this Bill. Hopefully one day this railway will be built to the benefit of all Londoners and those who

Promoter's response to the Select Committee's Interim Decisions

visit London. We are extremely grateful. If you could pass on to your colleagues our thanks and good speed.

21744. **Mr Mould:** That is very kind of you and I shall certainly pass on those kind words. Of course, we echo to the hilt what you have just said about the Committee's desire that the railway should be built

and I need do no more than to remind you of our appreciation which we expressed to you at your sitting in July of this year.

21745. **Chairman:** Thank you very much. The Committee now stands adjourned and we will report in due course.

The Committee adjourned *sine die*