

House of Lords
MINUTES OF EVIDENCE
taken before the
UNOPPOSED BILL COMMITTEE
on the

Buckinghamshire County Council (Filming on
Highways) Bill [HL]

Thursday 27 March 2014

Before:

Lord Sewel, Chairman of Committees, with the assistance of his Counsel, Mr Peter Milledge.

MR EMYR THOMAS of SHARPE PRITCHARD

appeared as the Parliamentary Agent for the Bill

There also appeared:

MISS NAZNEEN AHMAD, Solicitor of England and Wales, Buckinghamshire County Council

MS SARAH WIDDOWS, Road Space Management Team Leader, Network Resilience,
Buckinghamshire County Council

MS SARAH DAVIS, TMA Support Officer, Road Space Management, Buckinghamshire
County Council

(10.00 am)

I. **THE CHAIRMAN:** Good morning. Welcome to this strange creature called the Unopposed Bill Committee, which is basically me. I am Lord Sewel. I am the Chairman of

Committees. On my left is Peter Milledge, my counsel. A particular welcome to Mr Thomas. This is your first time, is it not?

2. **MR EMYR THOMAS:** That is right.

3. **THE CHAIRMAN:** Okay. Well, it is really over to you straight away. If you could take us through the Bill, introduce it and describe its main provisions, we will then have a sort of question-and-answer session.

4. **MR EMYR THOMAS:** First of all, may I introduce the council's officers who are here today? On my immediate left is Sarah Widdows, road space management team leader of Buckinghamshire County Council. To her left is Nazneen Ahmad, solicitor to Buckinghamshire County Council with responsibility for the promotion of the Bill; and to her left is Sarah Davis, the Traffic Management Act support officer for the road space management team.

5. First, I would like to set out briefly the background to film industry in Buckinghamshire. The first thing to say is that the overall objective of the Bill is to assist the council in continuing to encourage the film industry to produce films in Buckinghamshire by allowing the council to close highways for the purpose of filming, and enabling objects to be placed on the highway and to be used for those purposes. The Bill itself is preceded in private Acts promoted first by the London Boroughs and Transport for London in 2008, by Kent County Council in 2010 and by Hertfordshire County Council in 2014.

6. I will touch briefly on the Bill in a moment. Before doing so, I will set the scene as regards filming in the county. Buckinghamshire has a long tradition of film-making and television work and the county council supports the film industry, which it considers to be an important part of Buckinghamshire's economy. Buckinghamshire is located within the so-called "super-region" of south-east England, which accounts for approximately 60% of the UK's film and TV production. Its proximity to London is also an advantage. It is home to 22

production companies which serve different sectors of the industry, including feature films, animation, TV digital production and corporate films. One of these is the Pinewood Studios Group, which, as you know, is a leading provider of studio and related services to the film and television industry. The studios date back to the early 20th Century and are home to some of the most successful feature films and TV shows ever made, including the James Bond and Harry Potter franchises. Adjacent to Pinewood Studios is Black Park, a popular film location, offering large areas of heath and woodland. This 500-acre site, owned by the council, is used extensively for filming. Recent productions include “Casino Royale”, where Ugandan rebel camp scenes were shot in the park, “Snow White and the Huntsman” in 2012, and “Jack Ryan” last year. Recently, Kenneth Branagh used Black Park for the forest sequences of his forthcoming film, “Cinderella”.

7. Buckinghamshire is also home to the National Film and Television School, which is located in Beaconsfield. The school employs 30 industry professionals, including Stephen Frears. Its 220 or so students produce around 100 films per year in and around Buckinghamshire. The school has notable alumni including David Yates, who directed one of the Harry Potter films, and Nick Park, the creator and director of the Wallace and Gromit films.

8. Filming is not only good for the council, it is good for the local economy as well. For instance, a considerable proportion of a film budget is spent on local facilities such as hotels, restaurants, retailers, transport companies, florists, construction materials, along with location fees and directly employed local people. It is estimated—although the source is now a little old—that for every £1 spent on production, around £2.50 goes into the local economy. It is important that Buckinghamshire retains its position as an attractive place for the film industry and as a place that offers genuine competitive advantages. That, I hope, sets

the scene in terms of why the Bill is desirable. I will next turn to the legal position in respect of why the Bill is needed.

9. The current position at law is that it is an offence to obstruct wilfully the free passage along the highway. Coupled with that, there is also a statutory duty on the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority. What constitutes an obstruction is a matter of fact and degree in each case, but it is safe to say that if a film-maker prohibited people from proceeding along a road, either on foot or in a vehicle, for anything longer than a brief period, then it would be likely to amount to an obstruction. If the stopping up or interference with the highway is authorised by statute, then that will provide a defence to any prosecution for obstruction. Utility companies have such powers, as do the police and local authorities, but the powers are always drafted so as to allow interference with the highway for specific purposes.

10. Why is it important to allow the closure of highways? It is important to do this as it is not just a perception that film-makers may go elsewhere to shoot a film if proper powers are not in place to allow the council to close roads. Quite recently, for instance, Vodafone wanted to film an advertisement in Buckinghamshire and wanted to close the road in order to do so. The council explained that it did not have the power to close the road in the way Vodafone wanted and Vodafone went elsewhere. There are similar examples of other production companies approaching the council and asking for roads to be closed, the council explaining that it does not have the power to do so, and the company taking its valuable business elsewhere. The council is obviously concerned that Buckinghamshire could lose its locational and competitive advantage and supply-chain economic benefits unless it acquires similar legislation to that enjoyed in London, Kent and Hertfordshire.

11. The provisions of the Bill have the effect of extending, with modifications, the existing powers of the highway authority to close roads for special events. Those provisions are contained in the Road Traffic Regulation Act 1984.

12. The special events provisions were inserted in 1994 by a Private Member's Act, which was promoted specifically to enable the Tour de France to be hosted in England for the first time. The relevant provision of the 1984 Act allows closures to facilitate the holding of a relevant event, to enable members of the public to watch that relevant event and to reduce the disruption to traffic likely to be caused by a relevant event. "Relevant event" is defined as a sporting event, social event or entertainment which is held on a road. The Bill has the effect of categorising the making of a film as a relevant event for the purposes of the 1984 Act, and would therefore allow the council to make closure orders. It also goes a little further than that, in the same way in which the London, Kent and Hertfordshire Acts do, by allowing what will be known as film notices to be issued where it appears to the council that it is expedient that the closure should come into effect without delay. This is particularly useful in the film industry, for example, because of the unpredictability of the weather.

13. The 1984 Act contains restrictions on the existing powers to make special events orders, and these are adapted somewhat as far as film orders are concerned. The existing restriction, which allows special events orders to continue in force for up to three days, is altered to allow for seven days for a film order. Similarly, a restriction on the number of orders that can be made in any year on any stretch of road is relaxed to allow up to six film orders. Under the existing rules, only one special event order can be made per annum, but that number can be increased with the consent of the Secretary of State. The Bill also contains restrictions on film notices. No film notice can last for more than 24 hours, and the film notice must be posted at each end of the road at least 24 hours before it comes into effect.

14. Like the Hertfordshire Act, but unlike the Kent and London Acts, Clause 5 of the Bill provides that the contravention of a film notice would be an offence. This is bit of a belt and braces provision to some degree. It is already an offence to contravene a special events order, so the principle is nothing new at all, and the effect of a film notice is exactly the same in terms of what activities are and can be prohibited.

15. I turn next to Clause 6. Before describing the clause, I should mention that the council is here seeking a small amendment to the Bill, namely a deletion from Clause 6(1). It appears on page 3, line 12, and, after “to place” the council requests that the words “or use” be omitted because they are rendered redundant by the final dozen or so words of Clause 6(1). Clause 6 enables the council to give permission to film-makers to place objects on the highway temporarily for the purpose of film-making. The power is likely to be particularly useful as an alternative to a full-blown closure order or notice. It will allow the council to authorise equipment such as static film cameras, lighting rigs or camera tracks to be placed on the roads for filming.

16. Of course, the Bill does not exist in a vacuum. Certain other provisions contained elsewhere in the Road Traffic Regulation Act 1984 will also come into play when the council considers an application for a film order or a film notice. I therefore bring to your attention Section 122 of that Act. It imposes a duty on the local authority to secure, as far as is practicable, “the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway”. Section 122 provides that the council, as highway authority, has to consider on a daily basis, not just when considering road closures but in exercising all its functions under the 1984 Act. The council would certainly be bound by that duty when considering whether to make a film order or a film notice. Section 122 is there to protect the interests of the

public and to safeguard the main purpose of the highway. The council could not issue a film order without giving consideration to this duty each time.

17. Another important consideration I would like to touch on is that the council has already in place a code of practice for location filming in Buckinghamshire. This is already available on the council's website. It includes provisions about litter removal, historic, cultural and protected locations, night filming, noise and nuisance and parking, and includes a section about residents and businesses requiring consultation. The existing code has been adapted from Film London's film-makers code of practice, and other local authorities use the same one. These include Berkshire, Oxfordshire and Hampshire. The council considers that an advantage of the code is that it gives the citizens of Buckinghamshire an idea of how the council approaches film-making. It also sets out the factors which the council will take into account in its decision-making. It also lets film-makers know how the council is minded and what it looks for in respect of periods in which it might permit the closure of roads.

18. In addition to the existing location filming code of practice on the website, the council has prepared a revised draft code, a copy of which I understand has been provided to you. This has updated the existing code of practice so that it deals specifically with filming on the highways in Buckinghamshire. In addition, it would be a condition on any film order or notice made by the council that the film-maker comply with the terms of the code of practice. That is set out in condition 19 of the terms and conditions, which are attached at Appendix 2 to the revised code of practice.

19. Finally, in order to understand whether or not there was support for the proposed Bill, the council held a consultation exercise during the summer of 2013, lasting six weeks. A large number of bodies were consulted. In total, 19 responses were received to the consultation. Nine were positive, seven were positive while raising some points, one was neutral and two were negative. It was considered by the council that none of the concerns

raised was significant enough to prevent the council from proceeding with the promotion of the Bill.

20. I think I have covered everything, so will pause there for a moment and see whether I have done so to your satisfaction.

21. **THE CHAIRMAN:** Thank you very much indeed, Mr Thomas. That was a very thorough and comprehensive explanation. I wonder if we could deal with the issue of consultation. We have a copy of the revised code in front of us. Could you take us through the process of consultation as outlined in that?

22. **MR EMYR THOMAS:** Yes absolutely. The code of practice sets out the consultation process that will be undertaken with the community. This is set out in Section 5 of the code of practice, which explains that successful filming relies on local residents and businesses receiving adequate notice of the proposals. “Adequate notice”—the experts next to me can elaborate on this—obviously depends to some degree on the scale of filming that is proposed by the film company. The film company will be required to send letters to local residents and businesses, and also, I am instructed, the parish council, outlining fully the intended filming. The letters should include the date, the time and exact location for the filming; the date of the letter; the name of the location manager who is responsible for the shoot and his contact details; local authority contact details, so that if there are any concerns these people can be contacted immediately; the number of crew or production personnel expected on location; clear details of any stunts or dressing of the highway planned; clear details of lighting plans; clear details of parking proposals; and, where appropriate, the time of completion and return of the SAG forms; I will not dwell on the SAG forms.

23. Section 27 of the code of practice also elaborates on Clause 5 slightly. It says that the applicant is responsible for notifying by letter any residents, businesses, schools and hospitals

affected by any closure. Again, the following paragraph sets out certain of the details that need to be included in the letter that is sent to those bodies.

24. In addition, before any road closure takes place, section 27 explains what other steps the film company would have to take, but that is slightly outside the remit of consultation.

25. **THE CHAIRMAN:** I wonder if Clause 5 really does deal with consultation. Does it not deal with informing people rather than consulting them?

26. **MR EMYR THOMAS:** It might help if one of the officers explained when these letters would ordinarily be sent. Maybe Ms Widdows could elaborate on that.

27. **MS SARAH WIDDOWS:** It would depend a lot on the scale of production. Hollywood would obviously come in well in advance of their filming activities. The larger production companies are extremely good at engaging the residents and parishes very early on because they want them on board in the first place. Quite often they will use properties within the village to enhance their filming. For smaller-scale productions that may only be there for a day or so, we would expect at least two or three weeks' notification. If they needed a road closure it would be longer than that for us to be able to prepare the notice or order. We inform the parish council directly of any filming activities proposed in the villages.

28. If we received objections, we would ask the film production company to engage with the residents or the parish in the first instance to see if they could overcome the objections. If they could not, our residents and communities are our priority and we would take their objections seriously.

29. **THE CHAIRMAN:** I can see how this is certainly adequate for requiring a company to engage with local communities and local residents. I am not quite sure how that relates to you, as a local authority, consulting the people who are affected by the decision prior to you deciding to make an order.

30. **MS SARAH WIDDOWS:** With Section 14 and Section 16A at the moment, for events or public utility works, we receive that application and, before we make the order, we send it out to the police authority, the emergency services, our parishes, our district councillors and county councillors to comment on, particularly on diversion routes and duration of the closure. We take on board their comments that come back, and we try to work around those comments or, if it is not possible to take their requests into consideration, we will explain why we cannot do so. Ultimately, with the filming, we can say no.

31. **THE CHAIRMAN:** Would it be possible for the code of practice to capture your consultation—what you do and how you consult people—so that people, if they wanted to, would know that there is a way of making representations and how to do so.

32. **MS SARAH WIDDOWS:** Absolutely.

33. **THE CHAIRMAN:** If that could be modified, I think that would be helpful. The other matter on consultation is that there are bound to be people who are disproportionately affected. I can imagine that a disabled person, if the road is stopped up for a week, might be able to make it half way down the road, but that would be a great inconvenience for them. Is there any way in which you could capture the fact that you be particularly sensitive to those people who are disproportionately affected?

34. **MR EMYR THOMAS:** In respect of the disabled, paragraph 28.2 of the revised code of practice says, “Residents are to be subjected to the minimum amount of disruption during the filming, with ingress and egress being possible between takes. Particular importance is placed on the ingress and egress of disabled and vulnerable people and those with care responsibilities”. In being granted any order or notice, as mentioned, the film company would have to sign up to this code of practice and agree to comply with this provision.

35. **THE CHAIRMAN:** I think that deals with my concern. Well done, thank you.

36. The other matter, which I suppose is slightly mischievous, is that the order would last seven days and you can do six orders a year. What is there to prevent the council doing six orders in series, to block the road up for six weeks?

37. **MR EMYR THOMAS:** I refer back to the duty under Section 122, to which I referred a moment ago. This is the duty imposed on the council to secure as far as is practicable, “the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway”. The council would not be able to issue one film order or notice without considering that duty, let alone a second, third or even a sixth consecutive one on the same stretch of the highway. Obviously, it would be a balancing exercise.

38. **THE CHAIRMAN:** Normally, you would expect it to be just for one seven-day period.

39. **MS SARAH WIDDOWS:** I feel it is highly unlikely that we would ever consider that duration of filming. However, because this is an unknown quantity, we do not know what requests we would get, but it would be subject to full public consultation and we would take into account any needs. But it is unlikely and there has not been a historical request to have any kind of film production lasting that long on the public highway.

40. **THE CHAIRMAN:** I think that deals with my concerns. Peter, do you have any?

41. **MR PETER MILLEDGE:** I had only one thing to ask Mr Thomas, in connection with film notices where the council considers that it is expedient to have a restriction or prohibition coming into force without delay. You told us that one of the instances where this might happen might be where there is a change in the weather: the sun comes out and filming can start.

42. It occurred to me, having looked through the responses to the council's original consultation exercise before the Bill was introduced, that you might have different interests competing for the same window. Take, for instance, a rainy August—something well known in the UK. The sun comes out in the last week of August for a couple of days, and you have got a farmer wanting to get his harvest in, which involves trundling his wagons of grain up and down the same stretch of road very intensively for that period.

43. You also have the film-makers, who want to get out on to their set. How would you go about resolving that sort of conundrum?

44. **MR EMYR THOMAS:** In respect of a film notice, it can only last for 24 hours anyway, so the week would not be—

45. **MR PETER MILLEDGE:** So, the sun comes out—"Let's go for this day"—and that is the day on which the farmer wants to harvest his crop, which he has not been able to harvest for the whole of August so far.

46. **MR EMYR THOMAS:** I think this would come into the balancing exercise that the council would undertake when considering the application for the film notice, weighing up the interests of the farmer and the benefit of the production proceeding.

47. **MR PETER MILLEDGE:** And who, in practice, would make that decision? I know that it would be a delegated decision.

48. **MS SARAH WIDDOWS:** That would be me and my team. Our traffic manager would have the ultimate say. We are very used to dealing with our farming community. Very recently we had Network Rail needing to close a bridge for six months to reconstruct it, and we had one very concerned farmer who was worried about how he was going to get his harvest home.

49. We have acted as mediators between the works promoter and the farmer. The works promoter is accommodating the farmer to bring his harvest home. We have to look

after our local community, so if the film company had to come back and wait for another day that may be sunny but when it was not imperative that the farmer gets his harvest home, then that is what we would consider.

50. **MR PETER MILLEDGE:** So the NFU, which commented, can feel reassured that you will have their members' interests at heart in making these decisions?

51. **MS SARAH WIDDOWS:** Absolutely.

52. **THE CHAIRMAN:** As a former Agriculture Minister, I wish you the best of luck in dealing with irate farmers.

53. **MS SARAH WIDDOWS:** We are used to it.

54. **THE CHAIRMAN:** I do not think there is anything else at all. That has been a very satisfactory exposition of the Bill and where it is going. As you say, it follows very largely other legislation in this area. I am happy for it to proceed with the amendment that you have indicated.

55. **MR EMYR THOMAS:** Thank you.

56. **THE CHAIRMAN:** We now move on to the somewhat theatrical formal part of the proceedings. May I ask you to approve the preamble, please?

witness sworn

57. **MS NAZNEEN AHMAD:** I do swear by almighty God that the evidence I shall give before this Committee shall be the truth, the whole truth and nothing but the truth, so help me God.

58. **MR EMYR THOMAS:** Is your name Nazneen Ahmad?

59. **MS NAZNEEN AHMAD:** Yes.

60. **MR EMYR THOMAS:** And are you a solicitor of England and Wales, employed by Buckinghamshire County Council, with responsibility for the promotion of the Bill?

61. **MS NAZNEEN AHMAD:** I am.

62. **MR EMYR THOMAS:** And have you read the preamble to the Bill?

63. **MS NAZNEEN AHMAD:** Yes.

64. **MR EMYR THOMAS:** And is it true?

65. **MS NAZNEEN AHMAD:** Yes.

66. **MR EMYR THOMAS:** Thank you.

67. **THE CHAIRMAN:** Well, thank you and that concludes our proceedings. I will report the Bill to the House with the amendment.

The Committee adjourned at 10.29 am.