

MINUTES OF ORAL EVIDENCE

taken before

**HIGH SPEED RAIL COMMITTEE**

On the

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

Thursday, 12 March 2015

In Committee Room 5

PRESENT:

Mr Robert Syms (Chair)

Sir Peter Bottomley

Mr Henry Bellingham

Ian Mearns

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IN ATTENDANCE:

Mr Timothy Mould QC, Lead Counsel, Department for Transport

Lisa Busch, Junior Counsel, Department for Transport

Mr Joe Rukin, Campaign Director, Stop HS2

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**IN PUBLIC SESSION**

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(At 09.44)

1. CHAIR: Welcome to the HS2 Select Committee. We start off with Joe Rukin, representing Therese Chervet and Julian Stanton, but firstly we have a short statement by Mr Mould on behalf of the Promoter.

2. MR MOULD QC (DFT): Yes. You will recall that at the beginning of his presentation of the case for Mrs Victoria Shanks on Monday of this week Mr Rukin drew your attention to some cross-sections that he and Mrs Shanks had received from the University of Warwick. Those were cross-sections that had been provided by the Promoter to the university. I said that those cross-sections were cross-sections that had been provided to Kenilworth Town Council on the day of their appearance before you—I think on 13 January—just after they had completed their presentation. In fact, having reviewed the matter, I was incorrect in that respect. I had thought that they were indeed the cross-sections that had been provided to Kenilworth Town Council, but in fact it turns out that, although they are cross-sections of the same area, they are different cross-sections. Therefore I am very happy to correct the record and also to express my apologies to Mr Rukin for the fact that I inadvertently questioned the correctness of what he said about them.

3. CHAIR: Okay. Thank you very much, Mr Mould.

**Therese Chervet and Julian Stanton**

4. MR RUKIN: Thank you very much. I am sure Councillor Illingworth would appreciate it as well. I don't intend to take up a great deal of the Committee's time—so this might be one of the shortest sessions you have ever had bearing in mind the absence of the other petitioners—as many of the issues have already been covered.

5. MR BELLINGHAM: You can go on all day, Mr Rukin.

6. MR RUKIN: Yes, I've got all day. A lot of the issues were brought up by the Denham petitioners earlier in the week and obviously the same is true of the Harefield petitioners who will be on next week. Save to say, obviously, for the record, these petitioners share the concerns about construction and noise and disruption and compensation, etc., and all the issues that I suppose I've brought up as well for a lot of the other petitioners up and down the route.

7. There is, obviously, one specific difference in terms of noise, and that is the concern about the viaduct at HOAC, because obviously, going over the lake there, there is great concern that, with the—crossing the body of water, the sound will be reflected, and obviously there is very little that can be done about that, save burying the line. And I suppose that that is actually the main issue about this area, in that you've got a tunnel to the north and you've got a tunnel to the south and here, you've not only got an overland route but you've probably got what is proposed to be the largest viaduct anywhere in the country. Now, there is one simple reason for that—and HS2 Limited, the Promoter, may well say that this is all due to engineering necessity; they've decided that this is the best option for the route, etc. The real reason that this part of the route is overland is that you have a fixed point on the line, very much like Burton Green—it has to go through there because you have to get to Birmingham International, or nearby—Handsacre—you have to connect up with the West Coast Main line—and Camden—Euston is there. They are all fixed points. The fixed point here, of course, is the passive provision for the link to Heathrow at the Denham construction camp. Basically, that's a problem with these areas—that all of the proposals that have been put forward so far by the communities in terms of lowering the line have been thrown out because the line has to be overland at the point of the Denham construction camp because that's where the link to Heathrow would be.

8. Obviously, we've had a bit of a change in that respect this week, in that, for whatever reason—it seems quite bizarre in some respects—the Heathrow link has been cut. Obviously it doesn't represent a cost saving because the cost of the Heathrow link was never included in the HS2 forecast. It was forecast at approximately £1.8 billion; that came down to £1.4 billion. However, the *Uxbridge Gazette* obtained a report from Arup that put the cost of the 11 options around £8 billion for the links to Heathrow from Denham and, of course, from Ickenham as well, as it's a delta junction—but not in the case of, say, Water Orton, where you could stand in the middle, turn around and see all three aspects of it; obviously, this would have been a much larger delta. Those were the costings that Arup, who at the point had done all of the engineering work for HS2 at the time; very little had gone out to tender that they had not done back in 2012—they put that cost at £8 billion.

9. Now, obviously, the rationale at the time, and what was in the Conservative

manifesto, was that—the plan was to link HS2 to Heathrow to negate the need for expansion of Heathrow, which has rather turned on its head this week, which is that HS2 won't need to go to Heathrow because expansion can happen without it. So, turning both of those points on their head in the written statement that Mr McLoughlin made on Monday.

10. The point is, though, that where we are now is the Heathrow link will not become part of Phase 1, it will not become part of Phase 2, but the Government want to retain the passive provision for the link. Now, I would say that if a link to Heathrow isn't going to be needed by 2033, it isn't going to be needed at all. Including the passive provision for the link to Heathrow at this stage is rather like building a house with a hole in one of the walls because at some point in the future you may end up building an extension. As such, we would like the passive provision for Heathrow dropped, because that is what stymies the potential for mitigation in this area.

11. I think, to be honest, given that almost all the other points have been raised by the Denham petitioners and will be raised by the Harefield petitioners, I won't take any more of your time this morning.

12. CHAIR: It's been a delight to have you in this morning, Mr Rukin. Mr Mould, could you update us on particularly the Heathrow spur? You're going to go back and ask a little bit more of that information, and the position as I understand it at the moment is that there remains passive provision within the Bill but that may be reconsidered at some point depending on events elsewhere.

13. MR MOULD QC (DFT): That's right. When we have the report of the Airports Commission—the Davies Commission—then the Government will think further on the matter and will look to make a final decision, and I think that's the position that the Secretary of State has taken at the moment.

14. Just before Mr Mearns comes in, can I just remind you that the comparative assessment that we have made of the relative costs and benefits of tunnelling as against the viaduct in this area have been produced on two bases—one with the Heathrow spur and the other without—and the costs without are still very substantially, in our judgment, greater with a tunnel than without. We have accepted there are a number of significant environmental advantages that come with a tunnel—we spoke of one of them

yesterday when you heard the petition of Ms Cakebread. There are some concomitant environmental disadvantages. But I think it's important to bear in mind that that is our position and you're going to be hearing, of course, from Hillingdon and I think from other authorities in more detail in presenting the case for a tunnel. So, I don't think it would be appropriate for me to say more than that at this stage.

15. MR MEARNS: We've heard second hand from other people giving evidence that there's been a change of thinking by the Government on the Heathrow spur, but we've still got to make deliberations on the basis that it's still within the Bill, and therefore I think it'd be useful for the Department to inform us officially as a Committee if there are any major changes of thinking on any element of the scheme as proposed within the Bill.

16. MR MOULD QC (DFT): Yes. Would it be helpful if I read into the record the question posed by Mr Grieve and the answer by the Secretary of State? It's a very short exchange; I'm very happy to do that.

17. CHAIR: Okay. Please.

18. MR MOULD QC (DFT): So, Mr Grieve asked the question: 'To ask the Secretary of State for Transport what progress his Department has made on proposals to connect the High Speed 2 railway line with Heathrow Airport'. And the Secretary of State's response: 'I am aware that the proposed Heathrow spur causes great concern to local residents. I would now like to make clear that we do not intend to build the spur as part of Phase 1 or 2 of the HS2 scheme. In November 2014, the Airports Commission published a high-level review of the implications of a HS2 spur on surface access to Heathrow Airport, as part of the supporting technical documents for their public consultation on the three short-listed schemes for airport expansion. This review indicated that an HS2 spur is highly unlikely to be necessary to support any expansion of Heathrow airport.'

19. So, the other point, just to remind—I don't need to remind the Committee of this, but just for the record for those who are interested in this matter, this Bill makes passive provision well within Bill limits in the form of some very limited physical works, including some provision for turnouts, but the HS2 strategy, as promulgated by the Government in 2012 and reflected in the consultation that has taken place on routes, did

anticipate the provision of a Heathrow spur on HS2 as part of Phase 2. It is to that position that the question and the response that I have just read out to you directly related.

20. CHAIR: Sir Peter.

21. SIR PETER BOTTOMLEY: It may be that we ought to consider whether the Secretary of State should come and talk with us at some stage about some of these things. If I hold a straight line on this map from where the tunnel at West Ruislip comes out to the compound at West Hyde, I get a straighter line than the present proposed viaduct. If that were to be tunnelled, either because the Promoter—the Secretary of State—decided or we recommended, or something, the railway would presumably then have to come into the open air to provide this bit of—

22. MR MOULD QC (DFT): The intervention gap at West Hyde, yes.

23. SIR PETER BOTTOMLEY: Yes. That would still be, presumably, sufficient. I think at some stage I'd personally be interested in knowing what a tunnel would be, where it would come up, what are the presumptions that are part of that, and I think at some stage it might just be worth hearing in the open, were there to be a direct connection to Heathrow, where it might go. I don't want to start blighting the whole of west London, but was the idea that complete HS2 trains would come down from the north through the Midlands and then curve off here to go to Heathrow?

24. MR MOULD QC (DFT): The idea was that there would be a northern spur to Heathrow, which would broadly speaking serve—as you've just put it—and there would also be an eastern spur. And provision in the Bill covers those two opportunities. I can't remember—I'm afraid it's some years back since I looked at this in detail—but the Heathrow service would be a small proportion of the—

25. SIR PETER BOTTOMLEY: An occasional service, in effect.

26. MR MOULD QC (DFT): It would be a small number of trains per hour or per day. I can't recall exactly. We can provide you with information. The reason I haven't gone into this in detail this week is because I didn't feel that it would be appropriate to anticipate the case that Hillingdon would be making. I wonder whether it might be sensible for you to hear these matters in detail at that point.

27. SIR PETER BOTTOMLEY: That's wise and sensible, and thank you. The reason I discuss them now is that I hope it would be helpful to those who will be appearing in front of us—especially the Promoter—to have some understanding of the sort of questions which I think this Committee might sensibly be interested in.

28. MR MOULD QC (DfT): Very helpful.

29. SIR PETER BOTTOMLEY: We have the power to write out the passive provision, if we chose to.

30. MR MOULD QC (DfT): Yes.

31. SIR PETER BOTTOMLEY: That we wouldn't do without hearing discussion about what the implications were one way or another and how Government thinking was changing. We don't have to do it in a rush, so after the election, when most of the things, presumably, will be considered—come forward. I do think that, when Hillingdon have appeared, to have a discussion about the tunnel option without having the Secretary of State or some equivalent would be odd, if I can sort of make the distinction between the Promoter and the Secretary of State—and it may be either.

32. CHAIR: The train for the northern spur going to Heathrow—was that still to terminate in Euston? Was it just going via Heathrow?

33. MR MOULD QC (DFT): My recollection is that it was to go to Heathrow, but I will make sure you—

34. MR RUKIN: I was going to say, no, the plan was that I think it was two trains an hour were going to go via Heathrow off the loop from Euston to wherever—well, Birmingham at the start. I don't recall what the service was for when Phase 2 was in operation. I think it still remained two an hour going via Heathrow, but where those trains ended up—I'm not 100% certain on what their final destination was—whether that was Curzon Street or Piccadilly or New Lane. But it was simply going to be two an hour. And I do recall that HS2 Limited's own official forecasts had—I believe it was 14 passengers per train would actually be going to Heathrow. Those were their own assumptions: that there would only be 14 passengers on each train who actually wanted to go to Heathrow. There would be some that got off at the station but wouldn't want to go to the airport.

35. A word of caution. Obviously, Sir Peter's mentioned that you could look forward to the Hillingdon proposals, but obviously this won't necessarily help these petitioners, because you would have the whole Hyde Heath, and obviously Hillingdon—from the point of view of the Denham petitioners and Harefield as well. Hillingdon would want a tunnel that went from the south up and, if there was going to be a gap, it was at the northern end, say, near West Hyde, near Denham, whereas obviously if Denham were proposing a tunnel that had to have a gap—and the question is whether you do actually have to have the gap—they would want it connecting with the Chiltern tunnel, going south, and then there being the gap before it connected up with the London tunnel. But there is the significant question of whether the third escape tunnel would be needed if you had a continuous tunnel. The two-tunnel option now—the cost is less than an extra £200 million, and that's while still including the passive provision, and I would expect that building in the passive provision for the Heathrow spur in a tunnel will significantly increase the cost of that tunnel proposal. So, if the passive provision was removed, the tunnel cost would come down, and that's a costing that no one has really seen yet—what a tunnel would cost with the passive provision removed.

36. Coming back to the other thing that Mr Mould said, obviously, yes, the route was consulted on the idea that Heathrow would be in there and the Bill was prepared with the idea that Heathrow was in there. I should remind him that the route was consulted and the Bill was prepared with a link to HS1 in there, which obviously the Committee has been instructed to completely ignore as it shall be removed though of course was in the Bill when it first was submitted.

37. Obviously, the other slight thing that I would say, especially with regard to any proposals from Denham with a tunnel connecting up with the Chiltern tunnel and coming down south, is that the petitioners do wish to have their annoyance registered that this announcement was made the day that people from Denham started appearing. And that's really just, again, not on. It does seem that the people who are affected by HS2 are the last to find out and I'm—

38. SIR PETER BOTTOMLEY: It's better in advance than afterwards, I think.

39. MR RUKIN: Well, there is that, but for people to actually find out while they were in the corridor outside I don't think was particularly reasonable.

40. MR MEARNS: I think that's a question of circumstances, though, inasmuch as— was it departmental questions that that—

41. MR RUKIN: It was a written question. I think it was submitted on the 2nd.

42. MR MEARNS: The thing is, if a Member of Parliament for the area puts in a question, you've got to expect an answer within a certain amount of time, and they got it.

43. CHAIR: I think, to be honest, both this Committee and the local Members of Parliament have been nagging Ministers in the Department for Transport to make a decision, because I've never met anybody that thought the Heathrow spur made any sense at all—certainly not anybody from the railway industry. It's somebody's bright idea that ended up in the Bill.

44. MR RUKIN: Well, it's quite odd that both the Conservatives in Opposition and Labour in Opposition when Maria Eagle was Shadow Transport Secretary advocated routes that went through Heathrow. It seems that that's the proposal of Opposition and this is the proposal of Government, whichever party that is.

45. CHAIR: I'm impressed you read the manifesto.

46. MR MOULD QC (DFT): There was consideration of a route through Heathrow; it was set out in the command paper in 2012 and it was consulted upon in 2011 and very strongly advocated by—there was consideration of a route. There was an alternative route advocated by an organisation called Heathrow Hub, which is a group that supports the expansion of Heathrow, which was very strongly advocated. They appeared in the Supreme Court in support of their case in October 2013. So, there's been a great deal of consideration of these matters. I do just reiterate, for the record, that the slides that the Committee has for this week and for next week's hearing do provide an assessment of the comparative case for a surface route here, a viaduct route here and a tunnel route, both on the basis of a Heathrow spur being provided for and not. So, I think it's fair to say there was some notice given at least of what we judged to be the position with or without.

47. I wonder whether it might be helpful to the Committee, just qualifying what I said in answer to Sir Peter a moment ago, if I just look back at the 2012 command paper and

next week, if there's a moment, I can just give you a very brief factual outline of the assumption that was made about a Heathrow service so that that's on the record before the election.

48. CHAIR: It's strange we're talking more about a provision in the Bill that looks like it's been cancelled.

49. MR MOULD QC (DFT): Yes. Well, Mr Rukin is pushing hard on a door that's opening, I think it's fair to say.

50. Before we leave this, if it's convenient, can I just respond to the point Sir Peter raised yesterday about searches—because I can deal with that? The position is that the spur was not within safeguarding, as you know, so there shouldn't be any reference to any future Heathrow spur in land searches. Land searches will show up planning permissions and commitments but not matters of this kind. However, as regards the Government's compensation schemes, because a final decision on the spur has not yet been taken—and the earliest it will be taken on the Government's current thinking is after the Airports Commission has reported—the Government's position has not changed in relation to the applicability of the Phase 2 exceptional hardship scheme, and so that scheme will continue to apply in favour of property owners who are able to show that their properties have suffered blight as a result of the Phase 2 proposals, including the then reference to a Heathrow spur as part of Phase 2. So, if property owners and occupiers who consider that they are so affected feel that they have an application to make under the Phase 2 exceptional hardship scheme, then they should continue to do so, at least until the Government has made any further decision in relation to the spur following the publication of the Airports Commission's report.

51. MR RUKIN: Just to respond to that—well, two points. Mr Mould is slightly mistaken, in that in 2011 the consultation was on the route that we have; it wasn't on a route via Heathrow at all. There has only ever been one public consultation. There have been some changes since then, such as the addition of the tunnels in Ealing and Ruislip and the joining of the two tunnels in the Chilterns, and some other changes, I believe—obviously more minor than that—but there was only one route consulted on.

52. I'd just like to briefly go back to the Davies Commission, because this issue is rather bizarre, in that when we came into this process the Heathrow link had been

suspended pending the outcome of the Davies review and the justification at the time was whether or not Davies would keep Heathrow in terms of going to an estuary airport instead. That was the basis on which the link was suspended: if Heathrow isn't going to exist in the future and it's going to become the next borough of London, then there wouldn't be a link to Heathrow. Now, Davies has done his interim report, which basically is Heathrow stays; it's just a question of whether it stays the same size or whether it gets bigger. So, the initial justification for suspending the route and now suspending it again further into the future completely is at odds with the original justification for suspending it, because it was whether or not Heathrow was going to exist in the future, and obviously Heathrow will continue to exist in the future; it's just a question of scale. We really don't know where we are, to be perfectly honest.

53. SIR PETER BOTTOMLEY: When did the suggestion of the Old Oak Common transfer for Heathrow passengers come forward?

54. MR RUKIN: It's been rumbling around for a while, but it was something that was very much ruled out in the past. I remember Philip Hammond, when he was Secretary of State, specifically said that, 'That is not going to happen; people are not going to have to wander round some drafty East London terminus and change trains with their bags'. That's pretty much exactly what he said. I'm pretty sure that Justine Greening was of a similar opinion. It's quite odd that it's sort of, again, come in through the back door. Realistically it's potentially because of cost, because obviously the Heathrow link has never been represented in the official cost of HS2. So, the idea that Old Oak Common would be used has been bubbling around, but I don't think it's ever really become official until—

55. CHAIR: I think it's cost per passenger which is the killer, because nobody gets off the train. And you can do quite a lot with £1 billion or £1.8 billion. In fact, you can spend a fraction of that at Old Oak Common.

56. MR RUKIN: Well, Old Oak Common itself is a peculiarity, because obviously there is no Old Oak Common station under the Crossrail plans, so as soon as Crossrail is complete, HS2's going to come along and completely mess it up right in the middle by adding a new station. That's always been bizarre. The only reason Old Oak Common is there is because the depot is going to be there—because I believe it's the old Eurostar

depot at North Pole.

57. MR MEARNS: We visited there last week, Joe, and it did begin to look like Transport for London, Crossrail and HS2 were actually having some proper discussions about how to combine things.

58. MR RUKIN: Because there's a consultation going—is it ongoing or is it completed now?—under the auspices of the Mayor on how exactly you bring them together with Willesden Junction, but the issue is that you've got to disrupt Crossrail as soon as it's finished, which just seems bizarre. Why there is no Old Oak Common station in the first place, bearing in mind it's such a massive junction, just seems odd, but that was the subject of a different committee.

59. CHAIR: Yes. The Crossrail Bill I think had a lot of discussion about additional stations. I thought this Committee would probably end up having some debate about additional stations and, strangely enough, we haven't.

60. MR MOULD QC (DFT): I wonder if I should just leave Mr Rukin to promote the scheme before you. At the risk of prolonging this, certainly since 2012 the Government's position has been that there should be an effective interchange between HS2 and other railway lines at Old Oak Common. That would include the opportunity to change to go to Heathrow. The idea of the spur in part was that it would allow passengers from the north to avoid having to come in to Old Oak Common and then go backwards, but to enable them to come in directly. I don't need to go over that again. But what has happened over the last two years or so has been that the thinking in relation to how that interchange would actually work in relation to Crossrail and other services through Old Oak Common has been developing in detail. Again, I'm sure it will be helpful to the Committee to have a little bit more chapter and verse on that when we come to consider Old Oak Common, and no doubt it may be helpful to have because it may bear upon the issues that Hillingdon will raise for the Colne Valley, and so I'll make sure that we include that in our evidence to you when we get to it.

61. If I can just carry on very briefly, Mr Rukin raised the issue of noise over water in relation to the petitioners that he's actually representing today. Just for the record, as you will recall, Mr Thornely-Taylor dealt with this question on the 10th of this month—Tuesday of this week—and the transcript reference is at paragraphs 368 to 385. Perhaps

I might just be able to say this: that yesterday one of the petitioners had an exchange with Sir Peter in relation to temperature inversion, and the relevant paragraphs in relation to that matter are paragraphs 371 to 372. Sir Peter's recollection, if I may say so, on that was correct as to what Mr Thornely-Taylor had said.

62. I have one other announcement to make, if I may, just before you close, but I think that's all I need to say in response to Mr Rukin's clients this morning.

63. MR RUKIN: I would just like to say thank you, and obviously—you mentioned the subject of extra stations. I think far more likely what you're going to have as you get further south is an argument to have one fewer station—or fewer stations—and get rid of Euston and terminate at Old Oak Common. I believe that's going to be quite a subject when it comes along.

64. CHAIR: Anyway, thank you very much for that. Now, we were going to have other petitioners at 9.30 who we have not heard from.

65. SIR PETER BOTTOMLEY: Mr Mould I think wanted to say something.

66. CHAIR: Do you want to say something about that?

67. MR MOULD QC (DFT): Do you mind if I just mention that we've updated the register? You remember that I announced to you that the register of undertakings and assurances had been published before Christmas.

68. MR MEARNS: Before you start, Mr Mould, is this pertinent to Mr Rukin's petition?

69. MR MOULD QC (DFT): No; this is a—

70. MR MEARNS: Well, can we, in that case, dismiss Mr Rukin?

71. MR MOULD QC (DFT): That's a matter for you, I think, sir.

72. CHAIR: Yes.

73. MR RUKIN: Enjoy the election.

74. CHAIR: Are you a candidate on this occasion or not?

75. MR RUKIN: No. That was just a publicity stunt to get leaflets to everyone in the constituency for 800 quid.
76. MR BELLINGHAM: Will we not see you next week?
77. MR RUKIN: No.
78. MR BELLINGHAM: Or the following week?
79. MR RUKIN: I'm done now.
80. CHAIR: Okay. Alright. We may see you after, then. We'll see you in June.
81. MR RUKIN: Yes. When are you back?
82. MR BELLINGHAM: We don't know.
83. MR MEARNS: That's a great question.
84. CHAIR: Right. Mr Mould.
85. MR MOULD QC (DFT): Yes. So, we will be publishing the second iteration of the draft register of undertakings and assurances on 12 March, which is today. I'm told it'll be before midnight via the HS2 website. It will detail all undertakings and assurances offered to petitioners up to 12 February of this year. It now contains 552 undertakings and assurances in total. Since the last and, indeed, the first publication of the register, 200 additional undertakings and assurances have been offered. A change log will be published alongside the register listing any relevant amendments to the previously published information and it would be useful if petitioners who have been offered undertakings and assurances up to that date—that is to say, 12 February—could check the register to ensure that it matches their understanding of what they've been offered and if they detect any inaccuracy then no doubt they will let us know. HS2 Limited intends to issue further regular updates of the register to keep the public informed and the next update is due to be made public before the summer recess in a few months' time.
86. CHAIR: Thank you very much. I call petitioner 624, Carole Davis, who should have been here at 9.30. Petitioner 625, John Davis. Petition 1612, Carole and John

Davis. What we will do is we will go into private session for 10 minutes with Mr Walker just to discuss about future programme. If you could loiter outside. If they turn up around 10.30, we'll reconvene; if they don't, then we'll call it a day.