

MINUTES OF ORAL EVIDENCE

taken before

HIGH SPEED RAIL COMMITTEE

On the

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

Tuesday 7 July 2015 (Afternoon)

In Committee Room 5

PRESENT:

Mr Robert Syms (Chair)
Sir Peter Bottomley
Mr Henry Bellingham
Ian Mearns

IN ATTENDANCE

Mr Timothy Mould QC, Lead Counsel, Department for Transport
Mr Robert Latham, Chair HS2 Euston Action Group
Mr Meyric Lewis, Counsel, Remavon Limited

WITNESSES

Sir Keir Starmer QC MP
The Rt. Hon. Mr Frank Dobson
Mr Blake Gorst

IN PUBLIC SESSION

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(at 14.00)

1. CHAIR: Order, order. Welcome to the HS2 Select Committee. This is probably the last meeting of Ian Mearns, who has done well over 12 months on the Committee. I'd like personally to thank Ian for his excellent attendance and we all know rather more about Gateshead than we did before. There are three names nominated on the Order Paper, which provided there any objections, it will mean we will a little reinforced to do the last leg of this particular task. Today we hear from the Euston Action Group and Frank Dobson and Sir Keir Starmer, and then from Remavon Limited, who are based at Old Oak Common. Now, Mr Mould before we start with Euston Action Group, you're just going to update us on the negotiations between TfL, Transport for London, and HS2 to do with Old Oak Common?

2. MR MOULD QC (DfT): I am indeed, thank you. As you recall from last Thursday's meeting, the Secretary of State has reached agreement with the Greater London Authority and Transport for London, in regards to a number of HS2 petition items relating to Old Oak, and the protection of key Transport for London assets, potentially impacted by the HS2 proposals. In particular, the Secretary of State through his nominated undertaker has agreed to work with TfL, the GLA and the Old Oak Common and Park Royal Development Corporation to progress the following matters.

3. Firstly, to design and part-fund the western-eastern pedestrian, and eastern highway links, that connect the Old Oak Common HS2 station with the surrounding area. The Secretary of State has also agreed to support Transport for London and the Development Corporation in applying to secure the necessary permissions to complete the links. Subject to relevant funding and permissions being secured by Transport for London and the Development Corporation, the Secretary of State through his nominated undertaker, will work with TfL and the OPDC to build the links with appropriate safeguards for the safe, timely, and economic delivery of the HS2 works. In any event, the Secretary of State will ensure that the design of the station does not preclude those links.

4. The second item is this: the Secretary of State through his nominated undertaker has agreed to work with TfL, the GLA and the OPDC to progress the following: to undertake a study to assess the feasibility of different forms of southern access from the

HS2 station at Old Oak Common to Wormwood Scrubs, and to make passive provision for any works identified by the study, subject to the agreement of financial terms or approval of a business case.

5. The third item is to undertake a study to assess the feasibility of over-station development at the Old Oak Common HS2 station, and to incorporate any enabling works recommended in that study into the HS2 designs, again subject to the agreement of financial terms or approval of a business case.

6. The fourth item is the establishment of a station design panel to involve Transport for London, the Development Corporation, the Greater London Authority, and other parties in the development of the design for the Old Oak Common HS2 station.

7. The final matter relates to other interests, to enter into further protection undertakings in regards to Crossrail, Central Line and Green Park Way, the Ruislip depot access, and Old Oak Common Lane.

8. CHAIR: Thank you very much for that, Mr Mould. Mr Latham?

9. MR LATHAM: Thank you, sir. Many thanks for inviting us to make the presentation on why, if HS2 is to be built, the main terminus should be at Old Oak Common with the possibility of some trains coming through to Euston on existing tracks. We have two such distinguished witnesses, such as Keir Starmer and Frank Dobson, I'm going to be very brief. All I would do is to introduce one of those who have been involved with this report, who are sitting behind me: Louise Fletcher, Stanley Johnson, Peter Jones, Sir Tim Lancaster, Steven Plowden, Mohammed Salif from the Drum Street Traders, from whom I think you'll be hearing a lot more when we come to the Euston petitions; Tim Stockton, Geoff Travers; and Richard Percival. The procedure we intend to adopt with your agreement is to ask Frank Dobson to make a short introductory statement, and Keir Starmer will then take the Committee through our paper and the slides, sir?

10. MR DOBSON: If that's alright? First of all, we're very grateful to the Committee for agreeing to consider our representations about the possible relationship between the proposed interchange station at Old Oak Common and Euston station. I'd like to highlight, very briefly, five major points.

11. The first being, HS2 proposed the interchange station at Old Oak Common because they recognised from the start that it had the advantage over Euston of being on the route of Heathrow Express and Crossrail.

12. Second, passengers getting off at Old Oak Common will get quicker connections to most of central London than by going on to Euston. For example, it will be quicker to get to Tottenham Court Road Station by Crossrail than by public transport from Euston, though the latter is only three quarters of a mile away.

13. Thirdly, Not only will the purpose-designed and purpose-built station on the brownfield site at Old Oak Common be better for passengers; it would also cost less than the proposed bodge-job at Euston, whenever we finally hear what the form the bodge is going to take, especially as Euston would only be able to cope with the extra passengers if an additional £25 billion is spent on Crossrail, which is not included on the present estimates. This makes nonsense of the claim that HS2 would shift the balance of transport investment away from London.

14. Fourthly, using Old Oak Common would avoid decades of disruption of classic services in and out of Euston, on a scale and complexity far exceeding those that have caused the recent scandals at London Bridge.

15. Finally, should anyone seek to cast doubts on the advantage to passengers of using Old Oak Common, I think I can do no better than to quote the originator of the HS2 scheme, Lord Adonis. Last September, he wrote in the magazine, *Modern Gov*, and I quote, ‘HS2 includes a direct interchange with Crossrail, the fast, high capacity east-west underground line through London, opening in 2019, which will convey passengers to the economic heart of London, Heathrow, West End, City and Canary Wharf in a fraction of the time and with far less congestion than travelling via Euston, King’s Cross, St Pancras and the Victoria, Northern and Circle lines’. Thank you.

16. CHAIR: Thank you very much Mr Dobson. Sir Keir?

17. SIR KEIR STARMER QC: Thank you very much. Can I add my thanks to the Committee for giving us the opportunity to make this presentation today at this stage of your proceedings. It really is very much appreciated, so thank you.

18. The object of the exercise this afternoon, so far as we are concerned is to try and highlight the inter-relationship between Euston and Old Oak Common. Although I have got information about Euston and some slides that give information about Euston, we are not trying to make a detailed case about Euston because obviously you'll get to that at a later stage in your proceedings. We're simply trying to highlight the inter-relationship between them.

19. The core proposition as Robert Latham has already set out is that Euston is unsustainable as the main London terminus for HS2 and that if HS2 is to be built, the main terminus should be Old Oak Common with the possibility of some trains coming through to Euston on existing tracks. Before I get to the – you have, I hope, our written submissions and some slides. I don't obviously intend to go through them by reading any part of the written submissions. I will simply highlight some of the issues that arise from them. But before I do that can I just note that the promoters in their submissions make much of the history in choosing Euston. I won't give a detailed response to that at this stage – and in many respects, that's a matter for the Committee to form its own view on in any event. But if I may just make three broad points.

20. MR BELLINGHAM: Before you move on, would it be helpful to get the map on the screen in front of us so that we can – I know we've got it in the folders, but maybe we could do that?

21. SIR KEIR STARMER QC: Which map?

22. MR BELLINGHAM: Well, do we have one showing both the petitioner's property – well, Old Oak Common and Euston? P7354 hasn't quite got Euston; it goes as far as Marylebone? Anyway, I think if we could have a map of that kind on the screen it would be quite helpful, because it would help your speech come alive.

23. SIR KEIR STARMER QC: Yes. Is that sufficient for these purposes?

24. MR BELLINGHAM: I think that's good, yes. Those of us who don't live in London or understand London that well, can we just be told where Euston is in relation to Marylebone? It's a way to the east, I realise that, but how far?

25. SIR KEIR STARMER QC: Yes. Euston is just to the east – I think it is three

miles from memory, between Old Oak Common and Euston. I don't think on this map – yes, we're just getting Euston in. Here, you can see Euston on the right-hand corner of the screen.

26. CHAIR: Just to the east of Regent's Park?

27. SIR KEIR STARMER QC: Yes, east of Regent's Park, immediately north of the A40.

28. MR BELLINGHAM: Yes.

29. SIR KEIR STARMER QC: Then you have Old Oak Common. This is a point I will come back to, you see the bend of the line up and around to get into Euston, which is relevant to submissions I'll make in a moment about the ease of travel from Old Oak Common into central London. There's another slide that perhaps illustrates that better. Is that alright?

30. MR BELLINGHAM: That's excellent.

31. SIR KEIR STARMER QC: I'll leave that up for the time being until I get to the next slide because it's quite useful as a background document. But just, as I say, dealing with the history of choosing Euston, three broad points at this stage.

32. Firstly, a great deal has changed and is changing in relation to the plans for both Old Oak Common and Euston. In particular, in Euston, there isn't a final plan.

33. Secondly, the focus today is on the role of Old Oak Common and the promoters accept that there is a major role for Old Oak Common based in their view on the major contribution it could make because of its potential for good, fast and convenient onward connections. So to some extent, this is really an exercise in exploring the full potential for Old Oak Common rather than a discussion about which terminus is the right terminus. What is actually the potential for Old Oak Common if one looks at the situation as it develops?

34. Thirdly, of course, there is the cost of HS2, which is an ever-present issue.

35. With that, can I go then to our submissions, and can I start by putting up slide A1176(2) please? This is just for convenience, this is the second page of our

submissions. Without reading it, the point we're trying to get across here is as follows. Firstly there have been – paragraph 3.1 – nine attempts to identify an acceptable solution for bringing HS2 into Euston which is very obviously a densely populated, high cost area. The proposal, really, being to bring a high speed, 21st Century railway into a conventional station with everything that that entails in that part of London, so a number of attempts already. There was a plan in paragraph 3.2, is the reference, in March 2014 for a level deck station at Euston. That was abandoned in November as not being a fundable solution. Then paragraph 3.3 sets out the working proposal for a three-stage development at Euston.

36. Can I just ask for slide A1177(2) to go up to just walk the Committee through what this means? You have there – this is a close-up of Euston Station with the trains coming in from the top left hand corner. The current proposal is for a staged development. Stage A – which is obviously to the side of the existing station and then to the top right-hand corner – will involve a construction of six, 400 metre long platforms, which will be needed for Phase One, and the construction proposed between 2017 and 2026. Stage B(1) which is then next to the two lower parts of 'A' will provide for five further 400 metre long platforms needed by 2033, and construction will take place from 2026 to 2033. Then B(2) is the re-development of the existing station; that is currently unfunded, and we're told by Network Rail that they'll be seeking funds for this work as part of future control periods. Now, when construction would start for B(2), nobody knows, and it could be either before or after 2033. So you can see not only have there been a number of plans already abandoned. We now have this phased proposal, which is just about the worst of all worlds because it's phased over a long period of time, with no real idea of when B(2), the chunk in the middle, will start or end.

37. Just to illustrate that, could I ask for slide A1177(3)? This is, if you like, a time over impact indicator and you see that for Euston and surrounding area, the timeline of construction is very long indeed. I think, exceeding anything anywhere else in the country, over – as it were – a minimum of 16 years; more likely 20 years, so far as Euston is concerned, on the current phased approach. I'll remind the Committee, that is the current proposal is unlikely to be the final proposal. There will be – or there may be further proposals on the table. But it is a very long period with serious impact, as you can see along the bottom. So, to sort of draw back from this, bringing this railway into

Euston is a headache and a half, whichever way you look at it, and hence the number of proposals that have been put on the table and then taken off the table as people have realised it simply isn't feasible to proceed in the way that's proposed.

38. Can I turn then to the impact?

39. CHAIR: Presumably, any major construction would start to impact on the West Coast Mainline, other traffic?

40. SIR KEIR STARMER QC: Yes.

41. CHAIR: You're going to have a knock-on impact elsewhere?

42. SIR KEIR STARMER QC: Yes, one of the points I was going to make later, but I can certainly make it now is this: that if one looks at the promoter's objectives of dealing with capacity and business in the north, what you actually achieve by this is disruption to the existing services for a very long time, as you go through this very long construction exercise.

43. MR DOBSON: If I may, it would be on a remarkable scale, because there would be excavation to 3.5 metres below the existing tracks, coming into Euston.

44. SIR KEIR STARMER QC: And that in a sense is not merely a Camden issue: it is of great concern, obviously to people living in and around the Euston area, but it is the consequence of deciding that, simply because the conventional railway came into Euston; a new railway must come into that station as a terminus and bringing with it everything that follows.

45. As far as the impact is concerned, to say it would have a hugely damaging impact on local communities is a gross understatement. Depending on when stage B(2) actually takes place, the period is anything between 17 and 20-plus years, impacting literally on thousands of households and residents, and I've got some numbers I'll show the Committee in just a moment. But what the means in human terms is that some children will be born in the area, and grow up knowing nothing other than construction works. Literally, they would leave school before construction works were finished. Or to look at it another way: anybody planning to retire in 2016 would probably live out their entire retirement with the construction works going on around them.

46. The mitigation and compensation proposals have not been put forward in any way by the promoter yet, no substantive mitigation proposals, but I do want to take you if I may to slide 1177(4) and then 1177(5)? The slide that's up at the moment has four dotted lines which I'll explain in just a minute if I may, but the reason I've got this slide before going to the next one is just to allow the Committee to see what lies beneath what will in a minute be a shaded area. Some members of the Committee may be familiar with the Euston area? Others may be not so familiar. It is a densely populated, very busy part of London to say the least. That just gives a sense of the roadways, the communities, the businesses and the houses that all come within the area, within the dotted line.

47. If we go to the next slide please which is 1177(5)? This has the disadvantage of covering up the roads, so you don't get a sense of what is involved. The green area is the existing station cuttings and demolition, so that's the immediate area for demolition. Then what we've used with blue, orange and yellow are the compensation arrangements for a rural area.

48. MR BELLINGHAM: Under the green side of it, are any houses demolished under the green?

49. SIR KEIR STARMER QC: Yes.

50. MR BELLINGHAM: How many are we talking about here?

51. SIR KEIR STARMER QC: 200 –

52. MR BELLINGHAM: 200?

53. SIR KEIR STARMER QC: 234.

54. CHAIR: Houses or flats or both?

55. SIR KEIR STARMER QC: Both, predominantly flats, predominantly social housing.

56. SIR PETER BOTTOMLEY: Households?

57. SIR KEIR STARMER QC: Yes, indeed. So that's the green. The blue is what

would be the rural safeguarding zone, so the safeguarding zone if this was rural. The brown is the voluntary purchase scheme zone if it was rural. The yellow is the zone where people would be eligible for homeowner payments. Now, this is for illustrative purposes; this isn't a quarrel about the compensation schemes, no doubt that will come later, when we get to the Euston evidence. So it is for illustrative purposes, and I'm not trying to take a point that shouldn't be taken, it's simply to demonstrate the wide impact by reference to a zoning that applies further up the line.

58. But what that means in practical and human terms is as depicted in the boxes. The number of households that are impacted to a point where, if this was rural, they would be eligible for something. It's very wide indeed, and the numbers in the boxes in the blue, the orange and the yellow, are separate for each category. If you put the figures together and take as it were a rough look at the number of households affected, the number of residents affected, the total households are 7,183; and the total residents is 16,703.

59. SIR PETER BOTTOMLEY: You will explain to us at some stage why people to the east are as affected as people to the west would you?

60. SIR KEIR STARMER QC: Yes, I will. Just on this, and to some extent, dealing with that, the next slide is 1177(6). That, as the title, it's the construction impact on the Euston area, what actually is going to be the impact for the duration of the building of the station. As the legend suggests, there you've got pure demolition in mauve; you've got construction compounds in orange; utility trenching in yellow – you see that there's a lot of that going to the east of the station where various utilities are going to have to be completely re-diverted.

61. SIR PETER BOTTOMLEY: Other utility works tend to be rather briefer than most construction works?

62. SIR KEIR STARMER QC: Yes, I am sure that's right. Then you've got the HGV routes in green; the light blue and dark blue are the proposed station and tracks. Really the purpose of this point of the exercise is to make the broad points: one, Euston is a major headache; two, the impact is huge and for a very long time so far as Euston is concerned.

63. SIR PETER BOTTOMLEY: As partly it would be if Euston were rebuilt anyway?
64. SIR KEIR STARMER QC: Yes, that's right.
65. SIR PETER BOTTOMLEY: Euston in my lifetime has had two major rebuilds?
66. SIR KEIR STARMER QC: Yes.
67. SIR PETER BOTTOMLEY: Going from steam to diesel, then having other things put in more recently?
68. SIR KEIR STARMER QC: Yes, but this is a redevelopment at a very, very high price.
69. SIR PETER BOTTOMLEY: Okay.
70. MR LATHAM: I think the big difference is the amount of spoil that's going to be removed from the area; it's not simply rebuilding a station –
71. SIR PETER BOTTOMLEY: I didn't mean to interrupt, I'm just trying to keep a sense of what matters most, and what is the kitchen sink.
72. SIR KEIR STARMER QC: Yes.
73. SIR PETER BOTTOMLEY: And the fact that Euston would be coming up for redevelopment, full stop, I think one might want to take as a given. It's a question of what the impact HS2 makes to that is the main reason that you're here.
74. SIR KEIR STARMER QC: That's right. There are plans to redevelop Euston that predated HS2. Euston could be redeveloped without HS2. It's the HS2 aspect that causes so much of the impact.
75. MR DOBSON: The proposals prior to HS2 were entirely within – were that to be the case, then the yellow line rejigging of the utilities under the roads wouldn't be necessary.
76. SIR KEIR STARMER QC: I suppose the last thing I'd say on that, the fact that a station might need redevelopment is not in our submissions a good enough reason to

have this degree of disruption, impact, over a 20-year period, or more.

77. Finally before leaving Euston and moving up the track to Old Oak Common, I perhaps remind the Committee that the government currently proposes to introduce additional provisions, I think early in the autumn, in relation to the latest plans for Euston, I think possibly September is when that is likely to happen.

78. Can I then turn to Old Oak Common and start with A1177(7) which I think the Committee will be familiar with, presumably the evidence you've been looking at earlier this week –

79. MR MEARNS: We have actually visited Old Oak Common.

80. SIR KEIR STARMER QC: In which case I'll pass swiftly over that site, you're familiar with it. Our submission is it offers a practically viable and much less costly alternative. Can I start with the question of connectivity, because that's obviously a very important issue and it's touched upon by the promoters in their response. Perhaps ask for slide A1176(1)? This just sets out the background – I'd ask the Committee to look at this material in due course, but really the paragraph that's most relevant here is paragraph 2.3. I won't read it to the Committee because I suspect that having visited, etc., you're fully familiar with everything that's written in paragraph 2.3 in any event, but things have clearly moved on quite considerably as far as Old Oak Common is concerned and we've tried to summarise it there.

81. To illustrate it in slide 1177(8), this slide shows the existing and planned connectivity and the proposed and possible connectivity for Old Oak Common. The green and yellow boxes in the top left hand corner are designed to mislead. There is no green or yellow. I think that the green highlights bold, and the yellow highlight's blue. Then, transferred across to the slide, it's the bold black that is the existing and planned links; and it's the blue that are the proposed and possible links. Just by looking at that slide you can see the potential for Old Oak Common.

82. Can I just for illustrative purposes go to A1177(10)? This really, I hope, picks up on a point Mr Bellingham made which is unless you look at a map like this, particularly to the right of Old Oak Common, you make the assumption that Old Oak Common is further up the line, and it would be sensible to come down the line all the way to Euston

and therefore Euston ought to be the terminus. Unless you have the area, or have a map like this, that's what you think the line – you tend to think of it as a line going up or down. If you look at this, what you see for HS2 – and this is why we make the case and I'll show you a slide in a minute – why in truth, connectivity from Old Oak Common when you're looking at central London or the City of London is much better. What actually happens with HS2 into Euston is, it loops up and around into Euston. Whereas, from Old Oak Common picking up Crossrail, it goes straight across the middle of London; it's that area to the right of Old Oak Common that we say explains the case we make for Old Oak Common, and undermines the case for Euston.

83. SIR PETER BOTTOMLEY: Remind me how you get from Old Oak Common to Waterloo?

84. SIR KEIR STARMER QC: To Waterloo, I think if I can – can I ask that by going to slide 1177(9)? This is modelling done by Pan-Camden and it indicates where the advantage in terms of connectivity and time is, depending on which station you get on and get off at. So if you get off at Euston, there is a time advantage for anywhere in the green zone, and I think – I'm just trying to look for Waterloo –

85. SIR PETER BOTTOMLEY: It's slightly obscured by Westminster.

86. SIR KEIR STARMER QC: It's just under 'G'. So, basically, for Euston, anything in and around the Euston area itself; or anything where you're dropping straight down on one of the –

87. SIR PETER BOTTOMLEY: Essentially the Victoria Line helps Euston and the Jubilee Line is better from Old Oak Common?

88. SIR KEIR STARMER QC: Crossrail is better from Old Oak Common; and the Jubilee Line –

89. MR LATHAM: An interchange at Bond Street from Crossrail to the Jubilee Line?

90. SIR KEIR STARMER QC: Yes, that would be the quickest route. But what this shows – and it's because of the way the lines come in, is that for Euston the green is the advantage; there's broadly neutral in the light brown; and the advantage Old Oak Common for the pink/red area, through the middle. So given that connectivity is

obviously a major issue, what this shows, we say, is that in truth, if you're going anywhere through the middle band of London or out to the city, it's advantage Old Oak Common. That's really that point that Mr Dobson was making: intuitively you'd think that Euston to Tottenham Court Road would be a quick journey; Euston would beat Old Oak Common. In fact, it doesn't, because it's slower from Euston down to Tottenham Court Road, notwithstanding it's only three-quarters of a mile, than it is from Old Oak Common, because once you're on Crossrail, it's very fast across that route.

91. Could I ask for A1176(4)? We accept – this is sub-paragraph 3 – that is Old Oak Common is to be the main terminus, it will require reconsideration of the station; but make the point that a greatly expanded and reconfigured Old Oak Common would probably be cheaper than the expansion and extra platforms that are required for Euston. If I could go from that to three other slides, just to make good that point. Slide 1177(10) which – sorry I went to this slightly earlier just to deal with a point so you've seen that; and (11)? Although (10) not still up and I don't ask to go back to it, as you'll see from the papers you've got, what slide (10) was the Mayor's Vision 2050 of the future local network based on Old Oak and then this is the TfL – or a TfL planning slide for regional connectivity. We accept, obviously, that both in relation to the Mayor's proposals and the TfL planning, that would obviously be subject to local views, needs and priorities, and we're cautious and respectful of the fact that we will in due course be presenting on behalf of Euston. This is in relation to another part of the line further up, not covered by the petitioners before you today.

92. The potential is really shown by slides 1177(12) –

93. SIR PETER BOTTOMLEY: An increase in estimated journeys, or total number of journeys?

94. SIR KEIR STARMER QC: I think it's total, but can I check that? Then, 1177(12)? This I'll skip very quickly because I suspect you're very familiar with this. 1177(13) may be something you haven't seen before, which is just to, as it were, put Euston – the nominal 400-metres, times 200-metre station into Old Oak Common and to see the space available at Old Oak Common compared with Euston. 1177(14), again, giving an idea of the flexibility that is available at Old Oak Common.

95. Can I just, having dealt with connectivity, can I just flag up one or two other

advantages? There is this potential advantage, and that is that if HS2 is to go ahead, it could probably go ahead a lot more quickly and be finished a lot more quickly without Euston. Euston is likely to be the part of the line that holds the whole project up, because it's going to take so long in relation to Euston. Separately, existing services, if Euston is the terminus, disrupted for a very long period, if Old Oak Common not so. If Euston is to be re-developed, it could be re-developed without the extensive damage, disruption and pollution.

96. Can I turn then finally to costs? As the Committee may be well aware, the House of Lords Economic Affairs Committee report that came out on 25 March 2015, asked the government this, it's paragraph 31, and it's after the paragraph dealing with the re-development of Euston Station. I will just read it to the Committee if I may? 'The government should estimate the overall reduction of cost of HS2 of terminating the line at Old Oak Common in the London Borough of Hammersmith and Fulham, including any necessary redesign of the station at Old Oak Common to make this possible, and calculate the effect on the cost-benefit analysis'. So that's the House of Lords Committee saying the government ought to give us the cost reduction of Old Oak Common versus Euston. As you know, the government's response to that came out last week. That question has not been answered, and it's a question which we say in our respectful submission, ought to be relevant for this Committee, whatever the government makes of the House of Lords report. There was a reason for the question; it is actually a very important question. It's not yet been answered, and with one eye on cost, it deserves a proper, considered answer.

97. Doing the best we can, we have put our case – at paragraph 5.1 of our submission, which is slide 1176(4). At (vi), that's the text – going over the page – but properly depicted by slide 1177(16) please – which on our calculation gives a reduced overall capital cost of £1.5 billion – or at least £1.5 billion. But as we say, the question, having been asked by the House of Lords Committee, it really is important, we say, that there's an answer to the question. If it's right that disruption at Euston is likely to be as we suggest, over the period we suggest, and it's right that there is in fact a cost reduction, and no disadvantage, and many advantages of Old Oak Common, it is important, we would respectfully suggest, that that question is answered sooner rather than later, so the Committee has a sense of what the cost reduction or differentiation is.

98. MR MEARNNS: I suppose the one problem with that calculation though, Keir, is that it is a generally accepted fact that Euston does need to be upgraded significantly or rebuilt, because it's not exactly what you'd call the most aesthetically pleasing place to catch a train is it?

99. SIR KEIR STARMER QC: As I say, there were plans to redevelop Euston before HS2. I don't think anybody could attempt to make the argument that Euston is one of the best stations in the city, but that re-development could happen without HS2 or at least with HS2 coming through on existing tracks, with classic, compatible trains, which are going to have to be used in any event.

100. MR MEARNNS: I suppose the point I am making, is there is a £1.6 billion figure there, but there's not really, technically, all of that, because you would at some stage, have to remodel or reconstruct Euston anyway because it's –

101. MR LATHAM: Well, one figure we are aware of – and HS2 are very discreet with their figures – is of a budget for Euston is £2.5 billion, but that does not include one penny for rebuilding the existing station, which is why any money for a new station has to be new money.

102. SIR PETER BOTTOMLEY: That's rational, isn't it?

103. MR LATHAM: Indeed.

104. SIR PETER BOTTOMLEY: It's a bit of information which we would have anticipated.

105. MR LATHAM: I think the Hybrid Bill, certainly if you look in the Environment Statement did contemplate a complete rebuild of the station; it was not going to leave us in the situation where for £2.5 billion, you would have half a station. The other comment I was going to make really responds to Sir Peter, is that Camden did agree 'Euston: A Framework for Change' in 2009; and but for HS2 we would see Euston Station being redesigned. I understand that it was last built, I think, in 1964, and I'm told that it's already leaking. The effect of HS2 is that it will be leaking for another 15-20 years before anybody gets around to redeveloping it.

106. MR MEARNNS: I think it's been leaking for more than just recently.

107. MR MOULD QC (DfT): I don't think our Bill prevents leak remediation work at Euston Station.

108. MR DOBSON: We've faced a major problem: as originally proposed, which was to bring in High Speed 2, take in 75 metres of land to the west of the station, and to totally redevelop Euston, the original estimate for that was £1.2 billion. A few months later, that was revised to £2 billion, and therefore abandoned. The revised proposal of the, sort of, 'lean-to shed' version, option 8, again which didn't touch the existing station at all, that was going to be £1.4 billion. Quite frankly I don't think anybody in the area believes any estimate produced by High Speed 2 or anyone else. As another example, those of you who are familiar with coming in to Euston, there's a huge cutting there. With this proposal for going 3.5 metres below the existing operating level, for a long time, High Speed 2 officials said it would not be necessary to rebuild – knock down and rebuild the retaining walls. Everybody in the area said, 'Of course it will', and now they've accepted at least the wall to the west will have to come down. That's hundreds of millions of pounds, no doubt about that. So our problem is, we can't really make firm claims for any saving because we haven't much idea – and it would appear neither do HS2 – as to what actually doing things at Euston would really cost.

109. MR MEARNS: I didn't mean to put you off-track, as it were, sorry, but I think that we've got a figure there, which is a potential saving of £1.6 billion, but I think the point that I'm making is that with or without HS2, Euston needs mending with a new one.

110. SIR KEIR STARMER QC: That's right. What we've tried to avoid is too much detail in this presentation, because obviously we will get to Euston some time later in the year with the Committee when it will be easier to go through the precise detail. This is really for illustrative purposes. The point, really, to sum it up, we're making today – and it is this inter-relationship between Old Oak Common and Euston – is that if one considers the difficulty; the impact in terms of numbers and time in relation to Euston compared with Old Oak Common, there is a very powerful argument for the role of Old Oak Common to be much expanded to a point where, if HS2 is to go ahead, it should only come through to Euston on existing tracks with the benefits that we tried to at least headline during the course of this afternoon; and without the disadvantages to Euston.

111. I hope it is acceptable to do it in a headline way because, in a sense, we're intervening slightly earlier than we would normally have done as petitioners who are in fact impacted further down the line, with the Committee not having got to that point yet.

112. CHAIR: Literally on a number of occasions, we've kept saying, 'When are we going to hear what's going to happen at Euston?' Because I would quite like to have dealt with the plans for Euston early in the process, in case they need to be changed, with additional provisions, and if they're right at the end, then if they're not right, then it will delay the whole Bill.

113. SIR KEIR STARMER QC: Thank you very much for this opportunity.

114. CHAIR: Do you want to cross-examine either witness?

115. MR MOULD QC (DfT): No thank you.

116. CHAIR: Mr Latham?

117. MR BELLINGHAM: Could I ask for a clarification, Sir Keir? We were certainly led to believe that tunnelling in an urban environment is more expensive than tunnelling in a greenfield country site, would you say that was the case? What's the view of the experts on that, maybe we could ask Mr Mould briefly?

118. MR MOULD QC (DfT): I don't think we are able to give you a straight answer to that question, because I don't think it admits of a simple answer. If Mr Smart tells me I'm wrong about that, he will no doubt nudge me, but I think the safest way of approaching the cost of tunnels is to cost up a particular proposed tunnel and then to see what that cost looked like. Often, of course, the question will be the relative costs of tunnelling between point A and point B as against an alternative solution of making that journey. I think broadly speaking, the evidence you've had from us is that where a tunnel solution is proposed as an alternative solution, a tunnel solution tends to be more expensive.

119. MR BELLINGHAM: In this case, of course, we're actually talking about stopping the line, at a point further west. So you're not looking at either/or, you are looking at stopping it.

120. MR MOULD QC (DfT): Yes, there are rather more – as I shall touch on in a moment – fundamental objections to stopping the railway at Old Oak Common.

121. MR BELLINGHAM: I am aware. I am just surprised that figure is as low as it is, actually, that £300 million.

122. MR MOULD QC (DfT): We don't accept it.

123. MR BELLINGHAM: We are talking about figures that do need a lot more work on them, probably.

124. MR MEARNS: Could I ask one more question as well, Mr Mould, before Mr Latham comes back in? I'm just wondering, because we have actually seen a proposal from HS2 that HS2 will come in to west London via Old Oak Common and then into Euston. Has any modelling been done to feed HS2 directly into Crossrail?

125. MR MOULD QC (DfT): Do you mean run HS2 trains on the Crossrail tracks?

126. MR MEARNS: Yes.

127. MR MOULD QC (DfT): No.

128. MR MEARNS: Because you've got the convergence of an existing, under construction line at Crossrail and HS2 at Old Oak Common; it wouldn't be beyond the wit of man or railway engineers to actually see the two lines converging at that point, so that HS2 trains – some of them could converge onto Crossrail?

129. MR MOULD QC (DfT): It would destroy the Crossrail railway, because Crossrail railway assumes that you run – I think it was 24 trains an hour to Old Oak Common. That railway is, to use the colloquial expression, being sweated to ensure that we get the maximum benefit from metropolitan rail travel from that railway. I mean, the whole basis for promoting Crossrail was to provide huge capacity gain for metropolitan rail travel.

130. MR MEARNS: Every two and a half minutes?

131. MR MOULD QC (DfT): If that, yes. I don't think there's any dispute between us and these petitioners that the right way to get HS2 passengers off HS2 and onto

Crossrail is at Old Oak Common interchange, and that passengers should interchange from HS2 trains onto Crossrail trains. The frequency of service on both those lines coming into and going out of Old Oak Common Station, mixed into Crossrail tracks, would destroy both the business models for both those railway lines.

132. MR MEARNS: Okay.

133. SIR PETER BOTTOMLEY: I think they're arguing that tunnelling from Old Oak Common to Queens Park and then running on existing lines, I think was what I was picking up – but that may be more of a detail for later on.

134. MR MOULD QC (DfT): I will say something about that soon, but it is an intolerable proposal.

135. MR LATHAM: Sir, what I was going say – and I've been passed a note which reads this: 'We've used HS2's tunnelling numbers which don't discriminate between rural and urban costs', which I must admit, surprised me a bit. In response to Sir Peter, the cost of tunnelling to Euston, we've computed at £620 million; whereas the tunnelling to Queens Park would be £300 million, but that's probably a point of detail. Our ask is that the Select Committee ask the promoter to investigate the option of a main terminus being at Old Oak Common with the possibility of some trains coming through to Euston on existing tracks. In many ways, perhaps we're echoing the question which was raised by the House of Lords Economic Affairs Committee, which Keir has referred to and if the government is not going to answer the House of Lords, then we would ask the Select Committee to put the same question.

136. CHAIR: Thank you very much, Mr Latham; thank you gentlemen. Mr Mould?

137. MR MOULD QC (DfT): Thank you. This Bill envisages a major role for Old Oak Common as an interchange station, serving Crossrail, the Great Western Mainline and HS2, which will realise in principle all the benefits of connectivity that these petitioners have shown you on the slides. This Bill also sees as entirely complementary to that, the need for a central London terminus station to serve HS2 and sees Euston as the right location for that station. That is a judgment that the promoters of this Bill have arrived at, after a considerable and prolonged period of investigation and optioneering, both to establish the need for both a central London terminus station and an interchange

station; and also that Euston is on balance the correct solution for that. That is a process that began in 2009 and culminated in the government's decision in 2012 as the promoter of this railway, which is set out on the screen in front of you. It was the subject of a national public consultation exercise, that ran for over six months in 2011; and the fruits of that consultation, which included a detailed analysis of the case for stations in London, including whether Euston was the right place for a central London terminus and there were many, many consultation responses on that issue.

138. If we can go to the next slide please? The deposit of this Bill in late-November 2013 included, in support of it, an Environment Statement as the Committee know, and as part of that exercise, there was a detailed report which appraised the options and selection process for the need for a London station and explained the role of Old Oak Common and the role of Euston as part the Bill. There was further public participation on that exercise under the Standing Orders of this House, a summary of which was reported to the House at Second Reading. The Second Reading for this Bill in April 2014 established the need for a central London terminus station and established the selection of Euston as the location for that; and the instruction to this Committee reflects that state of affairs. That is the position so far as the role of the Committee and the principle of this Bill is concerned today.

139. Having said that, I will go on to make some brief submissions about the substantive matters that have raised before you by these petitioners. The first is this, that the case for the railway to terminate at Old Oak Common is one which has not only been considered and rejected by the promoters of this Bill, but is also not supported by Transport for London as the strategic transport authority for the Greater London area. In particular, that authority has considerable concerns about the delays to passenger journeys, for upwards of 50% of HS2 passengers, if they were forced to terminate their journeys at Old Oak Common. I will take as an example the journey by Sir Peter a few moments ago. Under the Bill scheme, with Euston as the central London terminus for HS2, the journey from Birmingham to Waterloo is 60 minutes. With the railway terminating at Old Oak Common, that journey increases to 75 minutes. That's a 15-minute increase in journey time. If you take another journey, one might consider a substantial cohort of those passengers would wish to take, the journey from Birmingham to King's Cross under the Bill scheme is 55 minutes; with Old Oak Common as the

terminus station for HS2 that journey increases to 75 minutes, that's 20 minutes. That's nearly a half of the estimated journey times between Birmingham and London on the HS2 railway. That gives you an indication of the scale of delay to passenger journeys on a railway that is being promoted for two main reasons: firstly, for capacity; and secondly, for connectivity.

140. SIR PETER BOTTOMLEY: I don't want to argue with either of you, but to illuminate things in my own mind. It is accepted that for about two out of five passengers on HS2, Old Oak Common would be the right station to get off at?

141. MR MOULD QC (DfT): Yes. And for the remainder, Euston is the right terminus to get off. In other words, for the majority, yes.

142. The effect at terminating the railway at Old Oak Common and, effectively forcing passengers onto Crossrail to make journeys into central London would be to bring Crossrail to its capacity under Phase One of HS2 but Crossrail would be completely beyond capacity under future growth on the HS2 railway. Although theoretically, Phase One passengers could be accommodated on Crossrail, the quality of their journey would be decidedly inferior to that which is proposed railway is to try to make capacity gain for journeys from the Midlands and the North to London so as to improve not only the speed of journey but also the quality of the journey for those who make that journey.

143. There would be further disadvantages in terms of the choice of onward journey for passengers, if we were to terminate at Old Oak Common; and we would be left with a railway that would be significantly less resilient. Those are the findings of Transport for London; they match our own findings in relation to the modelling work that we have done.

144. MR BELLINGHAM: Can I ask for some clarification, Mr Mould, because you mention the number of connections would be significantly less. Which ones are we talking about? What specific connections?

145. MR MOULD QC (DfT): If you terminate at Old Oak Common you would be able to take Crossrail, which takes you on a broadly east / west alignment through London, or you would be able to get onto the Great Western Railway and you would be able to go into Paddington station. If you are able to interchange at Old Oak Common but also to

go into Euston you have the advantage of all the connections that there are at Euston Station: Victoria Line; the Northern Line; we're going to have a fast new interconnection at Euston to the Metropolitan Line, the Hammersmith and City Line, the Circle Line at Euston Square; there will be all the bus services that are available at Euston; there will be a fast interconnection to St Pancras and to King's Cross. So one only has to run through that list to see the degree to which terminating at Old Oak Common disadvantages the passenger. And that of course translates into the business case.

146. MR BELLINGHAM: Well certainly, just if I can come back on that, I would have thought that that wouldn't apply to the bus connections.

147. MR MOULD QC (DfT): Well, Central London bus services.

148. MR BELLINGHAM: Well, I'm thinking about people who want to go south or people who want to go slightly further north by bus.

149. MR MOULD QC (DfT): Well, the choice of bus services into Central London from Old Oak Common, I think one can say without any detailed modelling, are going to be decidedly inferior than the choice of bus services from Euston Station.

150. SIR PETER BOTTOMLEY: You don't use the roads for anything other than short distances in London.

151. MR MOULD QC (DfT): Well, quite. And, as I say, these are very much headline points but those points are reflected in the business case modelling that has been done really all the way through. But certainly if one goes back to some of the early modelling that was done one finds that the effect of terminating at Old Oak Common is that the business case for the railway is significantly inferior than if one has the combination of the Old Oak Common interchange and a Central London terminus.

152. MR MEARNES: Given that the rationale behind the building of HS2 is not just about speed but it's about capacity as well and bringing additional passengers into Central London and out of Central London up to Birmingham, what modelling has been done at Euston Station for the connectivity onto the Northern and Victoria lines in terms of those additional passenger numbers or anticipated additional passenger numbers?

Because I must admit, having passed through Euston quite a lot, particularly on the Victoria Line from King's Cross, I've never noticed that it's a particularly quiet station in terms of the numbers of people waiting to get on and get off again.

153. MR MOULD QC (DfT): Those connections have been intensively modelled all the way back to 2009. They were actually one of the focuses of the concerns that were raised by, amongst others, Camden who brought a judicial review of the government's decisions in 2012 who were concerned that there hadn't been a proper consideration of the capacity of the underground network through Euston to accommodate. But obviously that challenge was unsuccessful. But what we have done is we had established then, and it remains the case now, that we are able to accommodate, through the works that are proposed under the Bill – and this will remain the case under the amendments that are to be brought forward later after the summer in the form of additional provision – we have established that Phase 1 of the railway can be properly accommodated. The cohort of passengers looking to change onto the Northern Line and to the Victoria Line can be properly accommodated onto those tube lines. Those lines are already going to require substantial improvement to increase capacity of passengers passing through those stations on Northern Line and Victoria Line trains during the lifetime of the development of this railway line, and certainly up until 2033 when Phase 2 is projected to come into operation.

154. MR MEARNS: I have an additional question which you said there was a major public consultation exercise carried out in 2011, I think it was?

155. MR MOULD QC (DfT): Yes.

156. MR MEARNS: Now, the one thing I would say about that is, in response to consultations of that nature, people who are passengers or who have been consulted about future modelling quite often respond based on their experience and it's difficult for them to envisage what the changes intended might actually impact on their journeys; so therefore people in responding to that consultation know what it's like going in and out of Euston now because it's a station that they already use but they wouldn't know what it's like to make connections via Old Oak Common because those connections don't currently exist. Has there been any thinking done about actually trying to build that into the modelling?

157. MR MOULD QC (DfT): Fundamental to the modelling of the operation of stations and where people choose to get off and get on trains is to fold into the model an understanding of what people's existing behaviour is and then obviously looking to predict how that behaviour might change when the opportunities that are provided to them increase. But it would be wrong to underestimate the level of work that both the promoter and those responding to the consultation in 2011 actually put into that consultation exercise. And a substantial number of local authorities, including Camden, put forward detailed submissions supported by very detailed technical assessments of the likely performance of Euston Station as against other alternatives. And those were then fed into the government's consideration of what its policy should be in the light of its own work and also in response to the position.

158. MR MEARNS: I mean, the crucial question of passengers coming to, say, somewhere like King's Cross St Pancras or Euston is: what is your ultimate destination and what is the optimum way of getting there?

159. MR MOULD QC (DfT): That kind of thing is central to the way these models work. They are attuned to working out very clearly, based on existing flows and predicted changes in the network, what people's various origins and destinations are. And indeed that approach, I think you heard earlier that the petitioners have sought to deploy modelling information which has been provided by HS2 – there's essentially a degree of commonality there in the approach that's been taken.

160. What I just want to touch on, if I may, is the final point which is this: these petitioners who advance, effectively, the case for rewriting this Bill so as to terminate the railway at Old Oak Common rather than Euston, they acknowledge that there is a need for some residual connection between Old Oak Common and Euston for HS2 trains. They suggest that that could be dealt with by an alternative which effectively involves taking the trains via existing tracks between Queen's Park and South Hampstead on the West Coast main line. Now, the fundamental objection to that is this: the effect of that would be to close down the prospects of accommodating any growth in traffic on the West Coast main line after 2026. So effectively the very year when this HS2 railway is due to come into operation, the effect of their proposal would be to suppress any future growth on the West Coast main line. Now, that is actually fundamentally contrary to the whole purpose of promoting this Bill. This Bill is

promoted fundamentally to release capacity on the existing railway line and in particular on the West Coast main line; and their proposal would have the totally perverse consequence of cutting across that fundamental purpose. Nothing could be closer to a proposition that's contrary to the principle of this Bill than the proposition that has been put before you today.

161. MR MEARNS: So the crucial point there would be it would affect other development of additional services to places which aren't served by HS2?

162. MR MOULD QC (DfT): Exactly. As I say, it cuts across the very principle of this Bill. And that's not just a legal submission; that's the substance of it. Not only would it do that, it would involve, on our modelling of that, a year-long closure of the Bakerloo Line; it would involve actually an additional cost of some £680 million – I can provide the Committee in due course with a breakdown of that – and it would involve delays to programme in terms of construction. It would actually also involve an increase in train-related noise effects on neighbouring communities coming into Euston Station. Those are some of the headline points that we have on.

163. CHAIR: At the moment we have got Phase 1 of the project going into a very busy London terminus where there's limited space, where we know already it's difficult to redesign the railway and keep the West Coast main line going.

164. MR MOULD QC (DfT): Yeah.

165. CHAIR: And then a few miles away you've got a massive space with lots of the railways interconnecting which, if I were a property developer, which I'm not at the moment, would see massive opportunity to develop as a centre for offices and shops and goodness knows what else. And although one would accept the argument that Euston is better connected today, in 30 years' time Old Oak Common may well be better connected because people will start to move investment into that area because there's lots of opportunity.

166. MR MOULD QC (DfT): Well, our modelling looking forward on that sort of time frame tells us that there's not a choice between Old Oak Common and Euston: we need Old Oak Common and we need Euston. And those benefits which you've identified, which were the subject matter of some of the debate we had last week and have been

sitting in the background of those agreements we've reached with TfL and the GLA, those are all about the role of HS2 and an interchange station at Old Oak Common in catalysing regeneration. And you know that the Mayor has just introduced that delivery vehicle in order to accelerate that process in the form of the Old Oak Common and Park Royal Development Corporation.

167. So it's not a choice. The misunderstanding, with respect, that these petitioners labour under in relation to the transport planning case for this Bill is that they see there as being a choice or a conflict between Old Oak Common and Euston. There isn't: the two are completely complementary to each other. But the reason why this Bill has been drawn in the way that it has with Euston as a fundamental component of the principle of the Bill is precisely because a Central London station is necessary and the right place for that station, as has been endorsed by this House at second reading, is at Euston.

168. SIR PETER BOTTOMLEY: I think it's fairer to say that they accepted that it might lead to Euston but they reckoned you could do it on classic lines going through. And forgive me all because I've got to go off to Westminster Abbey for a memorial to Oscar Romero, who I'd known. And the issue seems to be that everyone accepts that you need Old Oak Common and probably Euston, but let's say *and* Euston for the avoidance of doubt, and that knocking Euston out would be a really major change, which it probably is, and the purists would say it goes beyond what this Committee could do unless we came to the view that what HS2 are proposing was so irrational that presumably under judicial review the judge will have seen that as well.

169. But what we don't know yet – we have to assume – is that when the promoters and the government come forward with their revised thinking on Euston that there will be a robust case for doing what's going to be done.

170. MR MOULD QC (DfT): But the case for Euston in transport planning terms is the case I've just outlined to you. The case for mitigating the impact of constructing, of giving effect to that transport planning case through the construction of an HS2 station as part of the redevelopment of Euston, that is of course a matter which, as the petitioners acknowledge, the Committee will hear petitions about later.

171. But can I just foreshadow a couple of points on that? The fundamental principle on which this Bill, and the amendments that are to be proposed, rests is that we are

seeking to minimise any effects on the operation of existing services through Euston whilst the HS2 scheme is developed.

172. SIR PETER BOTTOMLEY: And on the communities that Keir and Frank have been –

173. MR MOULD QC (DfT): And on the communities. And in order to give you an illustration of how we're already working on that basis, well, there it is: the Secretary of State and Camden Council have already made good progress in providing re-housing in the local area for those 270-odd predominantly social housing households on the Regent's Park Estate and in the vicinity. You'll be hearing more about that but that work is already in progress. We're already making good progress in terms of accommodating impacts on local schools in the Euston area. There are other things that need to be done but the recognition is there that Euston is an area which is subject to very significant effects from the construction of HS2, and it's the task of this Bill and the promoter to seek to address that.

174. And that is reflected also in the compensation regime. Because both the statutory and the discretionary express purchase regime that you've heard about applies in Euston just as much as it does elsewhere along the route, as does the need-to-sell scheme. The only aspect of the discretionary compensation policy that doesn't apply in Euston is the rural support zone. And the thinking behind that is that the market is much better able in an urban area to accommodate the blighting effect of the railway than it is in an area such as Northamptonshire or other such areas.

175. MR MEARNES: On knock-on effects though, Mr Mould, I think it's important to make the point because if the local housing authority prioritises people who have to be relocated because of potential demolition and they get priority for re-housing, there's then an opportunity cost for other households who can't get access to those properties in the immediate area.

176. MR MOULD QC (DfT): I take your point but we're looking to keep that opportunity cost to a minimum because what we have been able to do is to provide new build re-housing for many of those tenants. That's already in place. I won't pretend that each and every one of those units is going to be provided with a unit that is new, if you like, but a substantial majority of them already are. So I very much take that point;

it's one which is on our radar, yeah.

177. CHAIR: Mr Mould, we're waiting for an additional provision on Euston in September, is that correct?

178. MR MOULD QC (DfT): Yes.

179. CHAIR: And will we know in advance of September what that's likely to be or will we have to wait for publication of the AP?

180. MR MOULD QC (DfT): I can't give you a precise answer on that but let me see if I can provide you with an answer on that before you complete your current sittings so that we can, as it were before the end of – possibly in the next fortnight I think, isn't it – see if we can give you an answer. But certainly the intention is to promote that additional provision after the summer.

181. CHAIR: Okay. Brief final comments. Is it you, Mr Latham, or Sir Keir?

182. MR LATHAM: Sir, if I could reply briefly and if we could just flash up slide A117(9) again. The critical part of our presentation is our argument that Old Oak Common serves most destinations in London better than Euston, including Waterloo. I know Mr Mould has disputed that. All I can say is that for the last three years we have been trying to seek common cause with HS2 to agree our modelling and we have faced a closed door. And we would certainly welcome a dialogue with both HS2 and Transport for London to agree this.

183. May I say I also put down a question at our local community representation group two months ago asking whether there had been any survey of where travellers on HS2 in London were going to come from or go to, and I have still to receive an answer as to whether there is any such survey. And it seems to me that there does need to be a sharing of this information so there can be a rational approach to this.

184. Could I add this? The world has shifted on since 2012. The potential for Old Oak Common is much greater now than it was then and we are asking the Committee to ensure that Old Oak Common can achieve its full potential which is more than is currently planned.

185. Secondly, the problems of running a high speed station to Euston have been a problem that has bedevilled HS2 and, as you have recognised, sir, they still haven't come up with a solution.

186. Can I say that you heard the response from those behind me when it was suggested that HS2 could actually minimise the impact both to existing rail users and local residents, because it is seen that there is a direct conflict between the two. Last week HS2 made a presentation on their Code of Construction Practice and the question we have asked for two years is: what works will be executed outside core working hours so that existing services will not be interfered with? And we had no answer to that.

187. We have not touched on compensation. I would simply say this: I'm here because I'm directly affected. I live in Silsoe House which is directly adjacent to the line and if I were in a rural area I would be included in the safeguarding zone and I could serve a blight notice. I am not eligible for any compensation scheme whatsoever. Perhaps unwisely, I downsized 18 months ago. I could not even claim under the need-to-sell rule because I moved after March 2010. And on the current proposal I would be 80 by the time that these construction works finish. And it's those problems which HS2 have failed to address, which is why we say that this Committee should reconsider the role of Old Oak Common. And many thanks for receiving our presentation, sir.

188. CHAIR: Thank you. Do you want to add anything to that?

189. MR DOBSON: Just one query which is the modelling of Old Oak Common – when was that last done? And did it make allowance for the abandonment, at least for the time being, of the proposed link from Old Oak Common to the Channel Tunnel link? Presumably it was included in the early modelling. Has there been any assessment of the change?

190. MR MOULD QC (DfT): The modelling for the Bill was undertaken in advance of the government's decisions in the 2012 command paper.

191. CHAIR: So no answer?

192. MR MOULD QC (DfT): Well, which at that stage included the link. So that's the answer.

193. CHAIR: Okay.

194. MR DOBSON: So it's wrong now.

195. CHAIR: Well, I think things are changing. Certainly things are evolving at Old Oak Common more than one might have thought a few years ago. Any final comments?

196. SIR KEIR STARMER: No, thank you.

197. CHAIR: Okay. Well, thank you very much, gentlemen, for coming along and raising some important issues. We now move to Remavon Limited at Old Oak Common.

Remavon Limited

CHAIR: Welcome back, Mr Lewis. Can we get a map up?

198. MR LEWIS: Thank you, sir. Sir, you'll have seen that there are various points of detail in the petition, but there's one key point on Remavon's – that's how it's pronounced – behalf which I'm going to be urging on the Committee today, and that is that, as you may have seen from our submissions, the timing of the draft Safeguarding Directions for HS2 left the company in a position where it was forced to re-negotiate a renewed lease of its premises at a significant undervalue. And I've given the figures in the papers but essentially they went from taking £130,000 a year right down to £50,000 a year for the first two years of the renewed lease; and then for a mere further period of two years at a rent of £100,000, again rather than the £130,000 which they received up until the time when the lease expired.

199. And, sir, what I would say about the figures there: even at the time when the lease was renegotiated there was a passing rent of £130,000 which the company received and it was anticipated on a normal renewal in the absence of HS2 that they would have received £150,000 a year in rent on the lease. But, again, they have suffered a substantial loss in simply the money they receive from their lessees. And they also estimate in terms of future losses that they will suffer further loss amounting to, it is estimated, another £1 million.

200. Now, HS2's response to the company's predicament is to insist – and this phrase

appears in the promoter's response document – they say that the draft Safeguarding Directions did not cause the losses that the company has suffered. But the company simply does not accept that; there's no other explicable factor which caused the tenant to say 'we're not paying as much as we otherwise would have had to' for their renewed lease if it weren't for the fact that at the time the property had been subject to the draft Safeguarding Directions.

201. HS2 also point out to the company – and I don't know if this is intended to be helpful whereas the effect of it, I think it's fair to say, is very frustrating to the company – that they have no recourse to statutory blight procedures and being a business rather than residential property they've no remedy under any of the discretionary proposals for compensating people who are adversely affected by the advent of HS2.

202. So, sir, the company is left in a position that it's suffered significant losses as a result of HS2 with the promoter effectively saying that that's effectively just their tough luck. As it's put before you in the exhibits, and it's been put in the petitioner's exhibits, really the company falls through the cracks of the compensation regime and the compensation provisions put forward by HS2 themselves.

203. And so, sir, just by way of finishing before calling our witness, Mr Gorst, the petitioner simply doesn't accept the significant losses the company has suffered, and will continue to suffer, were not a direct result of HS2. It's a double negative there, sir, yes, but their prime case is that the prime cause of their losses was the safeguarding which was imposed on their property and then lifted. And, sir, there's a volume of correspondence produced by HS2 apparently intended to show that the company has been told the same thing time and again as to their lack of remedy in this situation. And, again, I've made the point about the frustration which the company has suffered in its dealings with HS2. But their remedy ultimately of course, sir, as they do, is to appeal to you to rectify the company's position and that's by way of saying that the Bill before you should not pass into law unless the company is given satisfaction for the losses it suffered and will continue to suffer in the future.

204. And so that's my short opening, sir. Mr Gorst is sitting to my right so I'll introduce him to the Committee. Will you give your full name please, Mr Gorst?

205. MR GORST: Blake Nicholas Gorst.

206. MR LEWIS: Thank you very much. And what's your relationship to or your responsibilities for Remavon, the petitioner company?

207. MR GORST: I established the company in 1993 and it's a family company. The shareholders are actually my daughters.

208. MR LEWIS: Thank you for that. And what's the nature of the business undertaken by the company?

209. MR GORST: It is a property investment company.

210. MR LEWIS: Thank you. And we know that Remavon is the freeholder owner of the property. Can I ask that the petitioner's slide suffix 4 is shown please? That's A1175(4) please. Thanks very much. That's just a convenient way of identifying where the property is. What this slide shows – the hatching dates back to October 2012, so it's the time that the safeguarding consultation was undertaken. The darker hatching, just to fill in, is actually what will be Old Oak Common as proposed. But what we can see there is a green shape – thank you for pointing that out – and that's the company property, is it, Mr Gorst?

211. MR GORST: It is.

212. MR LEWIS: Thank you for that. And again we've got a before and after situation. If I could just ask if someone could kindly flick up the next slide along as an example. Thanks very much. And we can see again in the red hatching in the bottom right of the picture there, that's the company's premises no longer affected at all by the line of HS2; is that right, Mr Gorst?

213. MR GORST: That's correct.

214. MR LEWIS: Thank you very much for that. Now, the company's leasehold arrangement, if I can ask that slide 1175(8) to be flashed up please just so that we have that in the background. That's the skeleton of the factual background but I'll just ask you to talk through it quickly please, Mr Gorst. The leasehold arrangement was 15 years from 1998 to 2013, is that right?

215. MR GORST: Yes.

216. MR LEWIS: And I note actually the second bullet down it says 'term 25 years'; that's a mistake, is that right?

217. MR GORST: That is right.

218. MR LEWIS: So we're sorry about that. So if people either correct that or notionally. 15 years from 1998 to 2013. And the passing rent at the end of the term at 2013 was £130,000; is that right?

219. MR GORST: Yes.

220. MR LEWIS: And then, as we saw on slide 4, we had the draft Safeguarding Directions published in October 2012. But the lease was due to terminate I think in August 2013, is that right, Mr Gorst?

221. MR GORST: Yes.

222. MR LEWIS: So what happened with the progress of negotiations? When did they commence and when did they conclude?

223. MR GORST: The commencement would have been autumn 2012 at the time of the safeguarding. The tenant was aware that the property had been safeguarded and therefore became unlettable. They knew we had nowhere to go in respect of finding a new tenant. No tenant would take a building which is quite significant in area with the uncertainty of the HS2 overhanging its future. To move into a property of this nature incurs significant capital cost in terms of conversion and accommodation costs. No one would've risked that without a certain future. This building lacked the certain future.

224. MR LEWIS: Well, thank you. You've covered there my follow up question which was what the stance they adopted in the negotiations was which is great, so we've cleared that out of the way. Thank you. And in terms of the passing rent I've mentioned the figure of £130,000 up to August 2013. That was correct, was it?

225. MR GORST: Very approximately correct, sir.

226. MR LEWIS: Yeah, thank you. And the terms which the tenant came back with, these are the figures set out on the second to last bullet on this slide; is that right?

227. MR GORST: Yes.

228. MR LEWIS: If you can see from where I'm pointing here there is £55,000 odd per annum. Thank you for that. Yes, it's the bullet beginning 'terms agreed' on that basis.

229. MR GORST: And, Mr Lewis, it is in fact £110,000 just to be technically correct.

230. MR LEWIS: £110,000. So again, I'm sorry, there's another typographical error on that slide here.

231. MR GORST: The initial rent Teacrate was prepared to pay was £55,000. That, as you said, was for two years. The rent then went up to the current rent of £110,000. That will continue until December 2017.

232. MR LEWIS: Yeah. Thank you very much for that. So all of those figures are in. And so again, as it's recorded at the bottom of that slide, the site was removed from draft safeguarding on 9 July 2013, and that was too late for you given the way the negotiations had progressed; is that correct?

233. MR GORST: It was. Would you like me to comment on the removal of the safeguarding?

234. MR LEWIS: Yes, if you would please.

235. MR GORST: This property is well distant from the line of HS2. It should never have been safeguarded. HS2 had five years to propose the land required for the new line. It safeguarded not only this property, which is 151 Scrubs Lane; it also safeguarded Teacrate's property which is adjacent at 149 Scrubs Lane. Teacrate is my tenant. Big Yellow – I may have mistaken that – are in 149. Big Yellow said to HS2 'you do not need our site so please withdraw it from safeguarding'. HS2 did so and at the same time withdrew 151, our property, from safeguarding.

236. MR LEWIS: Well, I do have a follow-up question for that. In the promoter's response document – and it's repeated in some of the correspondence we've seen – your company was told that the change in safeguarding or not came about as a result of operational reasons and in the light of representations which they had received in the

process of consultation. Have you ever been told what the reason was why there was a change and for some months your company's premises was subject to the draft safeguarding and then subsequently they were removed? Have you ever been told the reasons for that?

237. MR GORST: No, I have heard nothing.

238. MR LEWIS: So carrying on please with the slides, if we could have the next one along which is 1175(9) please? The third bullet point down makes the point about rateable values there. Third bullet point says that it was formerly £129,000 a year rateable value, well over the cut off for blight thresholds. And that's currently been reviewed upwards to £164,000. Is that right?

239. MR GORST: Yes.

240. MR LEWIS: Thank you. And then in the context of the negotiations again which we were talking about, what was the consequence of the company's exposure to a rates liability of that sort in terms of the degree to which or the extent to which you had to accept the terms which the tenants were offering on the renewed lease?

241. MR GORST: The consequence of Teacrate not renewing its lease would be a liability to meet the rates payable in respect of the property. The rate liability was then based on £129,000 per annum and this went up within the last two weeks to £164,000 per annum. Now, the initial rate liability at the end of the lease in August 2013 would've been approximately 50p times 129 which is some £64,000. This company, in its last three years of trading, has made profits of between £40,000... Well, the three years are £40,000, £39,000 and £59,000. It could not have afforded to pay the rates and the ancillary costs of ownership of an empty property and it would have been bankrupted.

242. MR LEWIS: Thank you. That's the consequence for the company in the light of that. And in terms of the no HS2 world, if the lease as anticipated had expired in August 2013 and the passing rent, as you've covered, was approximately £130,000 a year, have you taken any advice on what the appropriate level of rent would be for continuation in the future in terms of a renewed rental arrangement?

243. MR GORST: I have indeed. I had instigated discussions with DTZ, the chartered surveyors, who had handled this property from the outset in 1998 and had addressed the subsequent rate reviews. So the property was well known to them. The new rent at August 2013 I was targeting at £150,000. Clearly it would have been a negotiation with Teacrate but I don't believe that at £150,000 I was far from the market price we would've achieved. If you look at the rent from the outset of the lease and the two subsequent rent reviews, this property can be said to be in a good location with increasing values over a steady period. If I now refer to the rateable assessment by the district valuer two weeks ago of £164,000, that underpins in my view my confidence of £150,000 in August 2013.

244. MR LEWIS: Thank you for that. And what term would you have anticipated a renewed lease being agreed for?

245. MR GORST: In the commercial world we live in there has been a tendency for leases to reduce in length. Not long ago leases were typically 25 years. You will see that when I let this building in 1998 I let for a 15 year term. If Teacrate are settled in this building, and they are, I would see no reason why they would not have taken a further term of, say, 10 or, hopefully, 15 years.

246. MR LEWIS: Thank you for that. In terms of the losses you've suffered at the top bullet point on the slide which is up, that's been calculated at around £200,000 or more than £200,000; and that's simply on the basis of the difference between what you would have been getting if you'd got about £150,000 for the number of years over which Teacrate have been prepared to stay in at the figures of £50,000 and £100,000. Is that right?

247. MR GORST: Roughly that is so.

248. MR LEWIS: Yeah. So that is how one gets to the £200,000. And in opening, on instruction from you, I said that you've anticipated that you'll suffer further losses which you've estimated to be about £1 million. How do you get to that figure, just in very simple terms if you could please, Mr Gorst?

249. MR GORST: In the compulsory acquisition of property it is customary for each party to retain expert surveyors in this specialist field. The blight effect on this

investment made it effectively unlettable and the consequence is that it would have become very difficult to sell. When let to Teacrate, which is a good covenant and the subsidiary of a major group called PHS, I would value the income on a year's purchase of 7%. That is a multiplier of 14. With the blight caused by the HS2 safeguarding, the property would appeal to very few buyers. Previously it would have appealed to a great number of buyers because the White City effect on Scrubs Lane has been significant. The growth in values in Scrubs Lane has been encouraging and that the rateable value has gone up significantly leads me to be convinced it's continuing.

250. Now, with the blight caused by HS2, the lease term, instead of being a proper investment institutional lease of say 15 years, was for what we would call a fag end. And our fag end is running until December 2017. An investor will say 'well, where do we go then?'. This property has got HS2 hanging over it. It's already reduced its rent from £131,000 to £55,000. It's made it so unattractive I can't see many buyers out there wanting it. You would therefore say that the year's purchase could be based at, say, 10%. That is a multiplier of 10. So the previous value based on 7% is at least £1 million more than the value I'm left with today, solely due to HS2.

251. Now, as I've said, I would instruct surveyors experienced in compulsory acquisition and I would use DTZ. Given this set of circumstances, they would have the expertise to confirm 'yes, you've lost £200,000; yes, you've suffered a very severe diminution in value and it is in order of...'. I am a chartered surveyor with 50 years experience. I would say that it's in the order of £1 million, but I'm not putting that forward as an expert because I would retain the expertise of DTZ to put that to this Committee in proper form, or to negotiate with HS2.

252. CHAIR: Order, order. I'm afraid we're going to have Division in the House so I'm going to have to adjourn for 15 minutes.

253. MR LEWIS: I see.

254. CHAIR: So we'd better go.

Sitting suspended for a Division in the House

On resuming—

255. MR LEWIS: Mr Gorst has just been explaining his estimate of the £1 million

additional losses which are anticipated by the company and I might have prefaced that question by saying, Mr Gorst, and as you acknowledged yourself, yes the company isn't making a compulsory purchase compensation claim at this point, you're just helping us with the outline of the figures there, that you've done that for us, thank you. Only a couple of questions left for you, please.

256. In the course of the discussions, and I mention this point in opening, the stance of HS2 has been that it is not acceptable that the losses suffered by your company can be, as they put it, directly attributable to the HS2 scheme; what's your comment on that assertion on their behalf, please?

257. MR GORST: With disrespect, it is cloud-cuckoo land. This was an investment let for 15 years. I intended to re-let it and retain the investment. The rent of £131,000 was, in my view, bound to go up. The district valuer, in assessing the rateable value at £164,000 last month has conformed my belief that £150,000 was realistic in August 2013. Because of the safeguarding, I had to accept pretty well any rent that Teacrate would have offered. The rent I managed with DTZ, to negotiate, was £55,000 temporarily, increasing to £110,000. Now, for HS2 to suggest I did that voluntarily, I think, is outrageous.

258. MR LEWIS: Well, to flip that question round the other way, what other factors could have caused the loss?

259. MR GORST: There were no other factors. The area is improving. White City is the subject of major redevelopment, including BBC moving, etc, etc. We are the nearest distribution depot to the West End of London, with huge attractions for distribution. There is no nearer high bay warehouse to the West End than 151 Scrubs Lane. The rent, therefore, would have continued to increase.

260. MR LEWIS: Thank you for that; just a couple more matters, please. Picking up – just before we leave this slide, we see there, do we, last bullet point – this is that Remavon having fall through the cracks, of the system, is that fair comment?

261. MR GORST: I think entirely fair. If – may I just refer to the outset of the problem, when we were given, as owners of property, the Department of Transport Consultation; the opening paragraph by the Right Honourable Patrick McLoughlin, said,

‘The Government believes that compensation for property owners affected by the HS2 proposals must reflect the significant impact that comes with the construction of a high speed rail line’. The Government believes that property owners affected should be compensated. I have had now, how many years of complete refusal and a response from the HS2, who mistakenly safeguarded this property, that is very hard to swallow. I could carry on one point if you would like me to.

262. MR LEWIS: I’m not going to cut you off.

263. MR GORST: Sir, we had a letter from HS2 last evening, after 17.30, because there has been an attempt to negotiate an avoidance of this Select Committee hearing. The letter stated, ‘To exceed your client’s application for compensation, and therefore to relieve him of the risk associated with ownership of these premises in Scrubs Lane’, they would not make an exception. They said there is neither statutory blight regime, nor Secretary of State’s discretionary policies. It is quite outrageous to say that because I have – I run the risk of owning this property, they will not compensate me. If they want to know what risks I took, I acquired a leasehold interest, I acquired the freehold interest. I refurbished the building to make it one of the best high bay units in this area. I let it to a young company. The young company matured and was taken over by PHS. The property has been immaculately maintained. I’ve taken all of the risks known to man in property real estate investment terms and I’m very happy to go on swallowing the risk.

264. What I could never have anticipated was HS2 incorrectly safeguarding the investment and destroying its value. That risk came about entirely due to HS2’s actions, and that they are now saying they are not of the view, of the mind, to compensate me, is something I really find very difficult to accept.

265. MR LEWIS: Thank you for that. We’ve just got two more slides to go; if we can flick over to 10, please. Take this very swiftly. The point you’ve just made, second bullet, HS2 since continually denied that Remavon has sustained any loss as a result of the safeguarding issues; we’ve covered that. And again, the point you were just making, bottom bullet there, HS2 have refused to compensate Remavon for its losses. Final, final slide then please, which is the next one along, 11. Thank you, that’s the one. And so that’s your case, is it, Mr Gorst, that the proposal shouldn’t be allowed to proceed unless provision is made fully and properly to address the impact on Remavon?

266. MR GORST: Indeed, thank you.

267. MR LEWIS: Thank you very much indeed. If you'd wait there please, for any questions.

268. MR GORST: Please.

269. CHAIR: Any questions, Mr Mould?

270. MR MOULD QC (DfT): A couple, if I may. Can we just put up A11758, please? Mr Gorst, in the third bullet on this slide, you recite that there was a safeguarding consultation, which began in October 2012, which included your property within the proposed safeguarding zone, it's right, isn't it? So, from that date onwards, you were aware that the promoter of the HS2 railway saw a need to protect your property from development through safeguarding, with a view to safeguarding a line for the railway scheme, you were, weren't you?

271. MR GORST: Yes.

272. MR MOULD QC (DfT): And you remained aware of that until the date in which you came to negotiate the new lease terms with your tenant, in the early months of 2013?

273. MR GORST: Yes.

274. MR MOULD QC (DfT): And if we just look at penultimate bullet on this page, you see that the terms which you negotiated with your tenant, were for an extended lease, expiring on 31 December 2017?

275. MR GORST: Yes.

276. MR MOULD QC (DfT): That date, I take it, was a date that was settled between you and your tenant on the common assumption that the property would, indeed, be required for the railway, at or around that time?

277. MR GORST: It was the longest lease they would enter.

278. MR MOULD QC (DfT): And was that – did you understand that to be because they took the view that, as the property then was proposed to be safeguarded for the railway, that it was likely that they would be required to vacate for the needs of the

railway at around that date?

279. MR GORST: I can't speak for them; it is possible that they felt it had a safe life until December 17, but I cannot speak for Teacrate, it was not specifically raised.

280. MR MOULD QC (DfT): Did you seek to persuade them to take a longer term?

281. MR GORST: I was very much wanting them to take a far longer term.

282. MR MOULD QC (DfT): Thank you. And, at the time, did you assume that the property would be included in safeguarding when the final safeguarding directions were published?

283. MR GORST: Yes, I did. I had no reason to suspect HS2 had unprofessionally safeguarded a property that they did not require for the construction of HS2.

284. MR MOULD QC (DfT): Well, you put it that way, you will appreciate that I don't accept that that is a fair way of explaining it, but I'll deal with that in a moment. Now, the other question I have on that bullet is this; you negotiated a new rent of £55,000 per annum, to 17 February 2015, and then, I think, subject to your correction today, £110,000 per annum until lease expiry from that date, until the end of December 2017?

285. MR GORST: Correct.

286. MR MOULD QC (DfT): What was the logic please, of the uplift in rent from February 2015 onwards?

287. MR GORST: This was the best deal that could be negotiated with Teacrate. It was the offer they put, which TDZ considered I should accept in all the circumstances.

288. MR MOULD QC (DfT): So there was no more – there was nothing more to enlighten us on that, than that basic commercial principle?

289. MR GORST: I can help no further. In my view, the rental value was significantly more, but the safeguarding destroyed the rental value...

290. SIR PETER BOTTOMLEY: The safeguarding prospect?

291. MR GORST: The safeguarding at that time, Sir. It was safeguarded.

292. SIR PETER BOTTOMLEY: I don't think it was safeguarded.

293. MR GORST: Yes, it was, Sir. It was safeguarded from autumn until July. We exchanged leases in the spring of 2013.

294. MR MOULD QC (DfT): Well, Mr Gorst, it was proposed to be safeguarded, it was included in a draft safeguarding plan which had been put out to the public for consultation, which you aware, as it set out in the third bullet on this page. But that remained a proposal rather than a decision, didn't it?

295. MR GORST: If you were experienced in property, you would know that a draft safeguarding is the kiss of death. It does not matter whether it's draft or confirmed; it is safeguarded.

296. SIR PETER BOTTOMLEY: Can I just break in for a moment; I think we need to accept that the safeguarding consultation is about whether something would be safeguarded, not whether it had been safeguarded, but I think it's an unimportant point. The important point is, what was the affect on the owner of the property and the incentive to the person leasing it to negotiate a contract which had to be done during the period whilst HS2 were deciding what to do. So, I wouldn't advise to you, Mr Gorst, without giving straight advice, advise you to rest on the fact it was safeguarded. We can see the impact were as though it were safeguarded.

297. MR MOULD QC (DfT): And I had one other question; you've told the Committee that you, an experienced chartered surveyor, you know a little of the regime for compulsory purchase, and land compensation.

298. MR GORST: I have experience in compulsory acquisition following work with the Greater London Council a long time ago.

299. MR MOULD QC (DfT): Thank you. As you've just said, a few moments ago, you were proceeding on the assumption that the property would remain in safeguarding once the safeguarding directions had been confirmed, you therefore were assuming, I take it, that the property would, in due course, be subject to compulsory acquisition, for the purposes of the railway?

300. MR GORST: No, safeguarding did not necessarily mean it would be compulsorily

acquired.

301. MR MOULD QC (DfT): What I'm asking is, was that your assumption that it would be, or were you agnostic on the point?

302. MR GORST: It did not lead me to believe it would be compulsorily acquired.

303. MR MOULD QC (DfT): So you assumed it would be safeguarded, but you didn't assume that it would follow that it would be compulsorily acquired?

304. MR GORST: Correct.

305. MR MOULD QC (DfT): Alright, thank you.

306. SIR PETER BOTTOMLEY: Can I just ask – I missed bits before, in what way was it necessary – if – if the person who had the leasehold had not said, 'We want a reduction', what could they have done? Could they have walked away from the premises? Was there a break clause in the lease?

307. MR GORST: Sir, the lease was to expire in August 2013.

308. SIR PETER BOTTOMLEY: That's not 25 years on from –?

309. MR GORST: No, it's 15 years; there was an error in the –

310. SIR PETER BOTTOMLEY: Oh, sorry, I missed that –

311. MR GORST: It was corrected when you were out.

312. SIR PETER BOTTOMLEY: So, it's common ground that you could be exposed as having vacant premises from three months after the safeguarding consultation started?

313. MR GORST: Correct.

314. BOTTOMEY: So, your choice was, as on page 73642, either finding the least worst deal to go on getting income, or having empty premises?

315. MR GORST: Correct.

316. SIR PETER BOTTOMLEY: And that's accepted by HS2?

317. MR MOULD QC (DfT): Yes, the tenant could have walked away.
318. SIR PETER BOTTOMLEY: So Mr Gorst was in a situation where he either had to make a decision to accept that he had empty premises, or he would have to negotiate the best deal he could, either with this tenant or another one?
319. MR MOULD QC (DfT): At the time when the lease – forgive me, for answering the question – the time when the lease was – these negotiations took place, which I think was in February of 2013.
320. SIR PETER BOTTOMLEY: Or to start in February, I think.
321. MR MOULD QC (DfT): Start, yes. The tenant would have been...
322. SIR PETER BOTTOMLEY: So the results of the negotiation would carry on from February 2013, yes.
323. MR MOULD QC (DfT): So, if we take February as our reference point, our position is that looking forward from that time, both the landlord and the tenant, or one or the other of them...
324. SIR PETER BOTTOMLEY: Well the landlord I –
325. MR MOULD QC (DfT): Could have looked forward, at that stage and said, 'My lease expires on 20 August of this year, and I am therefore able to – one of my choices is that as from that date, I will be able to –'
326. SIR PETER BOTTOMLEY: Sorry, I thought we'd agreed that the occupier could give notice to leave in February 2013?
327. MR MOULD QC (DfT): He couldn't have given notice, as I understand it...
328. SIR PETER BOTTOMLEY: Sorry, he could – when could he have left, sorry?
329. MR GORST: He could've vacated at the end of the lease, in August 2013.
330. MR MOULD QC (DfT): Yes, that's what I just said, yes. He couldn't have given notice.

331. SIR PETER BOTTOMLEY: And HS2 may have known that they were going to come forward with their decision on the safeguarding consultation in June, but how would the owner have known that?

332. MR MOULD QC (DfT): Well, he could've asked the question.

333. SIR PETER BOTTOMLEY: He could've asked the question, he's asked various questions which he didn't get answered, on other things.

334. MR MOULD QC (DfT): Well – sorry, I'm giving evidence on his behalf, perhaps Mr Gorst – it's true, isn't it, that in late February you asked that question in relation to another of your properties in your portfolio? You asked whether the property and when the property – the decision was likely to be made on whether to confirm the safeguarding?

335. MR GORST: I'm not aware of asking in connection with another property in my portfolio.

336. MR MOULD QC (DfT): Well, I'll just find that reference.

337. SIR PETER BOTTOMLEY: While people are looking at this, which may or may not be determinative of any view we may come to, or any view that HS2 ought to come to, the situation is that six months in advance of being left with prospect of an empty premises, was it rational that someone in Mr Gorst's situation, or his company's situation, should have made the best decision they could?

338. MR MOULD QC (DfT): Well, I don't question the rationality of it. I'm not suggesting that Mr Gorst – I'm not questioning the motives that he had agreed the terms that he did, the question is, whether, in the light of those facts, this is a case where the promoter should compensate.

339. SIR PETER BOTTOMLEY: Well, another way of looking at it, forgive me, colleagues, for coming late to the issues, if had not done all he could to mitigate the losses, and he had then made a claim against HS2, couldn't HS2 have said, 'Why didn't you mitigate, why didn't you take the rent that you could?'

340. MR MOULD QC (DfT): Yes, that's right. The position is that – yes, there was a

choice.

341. SIR PETER BOTTOMLEY: It seems to me, if he's made a rational choice and he's done the best he can to mitigate his losses and any losses he'd be paid, if HS2 had had to pay him out, the situation is – it's bit jobsworth to – not you, as the advocate, but reading the papers we've got, that he's left lumbered.

342. MR MOULD QC (DfT): Well, I haven't yet developed the answer because I don't think – that's not really the – yes. Well, it's one I'd like you to consider, certainly. All I can do is tell you what we think are the relevant factors here, but – the property I have been instructed you made an enquiry on is 132-142 Hampstead Road, London, NW1; you wrote on 21 February 2013, 'Dears Sirs, please let me know if the above property is required for the line or is safeguarded'.

343. MR GORST: I was probably seeking some comparable evidence, it is not a property of mine but I may have seen reference in the property press to someone in the same boat as me, but I'd need time to find out the exact facts why I wrote that letter, but I do not own that property.

344. MR MOULD QC (DfT): No. It's a very modest thing, I'm just seeking to establish that certainly, you appear at that time, in whatever – albeit in that guise as representing somebody else rather than your own properties, to have been alive to the fact that the safeguarding arrangements were subject to change.

345. MR GORST: I can't – I don't recall that enquiry that I made. I don't believe it to be relevant; I suspect I was fishing to find it there was some comparable situation that might assist my case, that's my – that's what I suspect to be the case, but I'm not categoric about that.

346. MR MOULD QC (DfT): No further questions, thank you.

347. CHAIR: Can I ask, Mr Gorst, you've had – you had to accept a lower rent, and a short extension of the lease, but as the safeguarding was lifted and in long term, the property may be actually quite valuable, I mean, probably when we're all dead, but you know, isn't it going to be advantageous that the lease comes up again in 2017 because you can probably get the rent back up?

348. MR GORST: Sir, the answer is I would hope in 2017, to secure a new tenant, but the uncertainty of the blight of HS2 on Scrubs Lane with generation of traffic etc, etc, will make it far from easy to find the tenant that I would have been able to find had it not been for HS2.

349. SIR PETER BOTTOMLEY: So, the answer to the Chairman's question, is, yes, you will be able to find a new tenant in two years' time.

350. CHAIR: Because you basically had two points; one point was about rent, the second was about the value of the property.

351. MR GORST: Sir, this property is blighted by the future development of HS2. Come December 2017, I would be fairly optimistic of securing a new tenant, but I've got against me this wretched HS2 overhang. Had it not been for HS2, I am confident I could readily find a new tenant for that property.

352. SIR PETER BOTTOMLEY: I think it's rational for us to concern ourselves between 2013 and 2017.

353. MR MOULD QC (DfT): Can I ask you just to reflect on that, with respect? I mean –

354. SIR PETER BOTTOMLEY: So you want us to go beyond 17?

355. MR MOULD QC (DfT): Yes, because, if I may say so, I mean, the Chairman had foreshadowed what I was going to ask you to think about; shall I make my short submissions now and then –?

356. CHAIR: Yes.

357. MR MOULD QC (DfT): Let us assume, as you put to me, that the shadow of the railway through the draft safeguarding direction was the principle reason why this landlord was unable to secure a rent higher than that which he has told you about.

358. SIR PETER BOTTOMLEY: Or at the same level.

359. MR MOULD QC (DfT): Well, let us assume that – so, clear away the argument about what was the reason why things happened. The position is that his investment has

been taken out of the safeguarding, was taken out of the safeguarding when the safeguarding directions were concluded, in July 2013. Incidentally, the reason why the property was included in safeguarding in the consultation, because at that time, it was felt that the property might be needed for construction purposes for the railway, and that was – one of the purposes of consultation is to review those matters because generally people don't want to be in safeguarding, for obvious reasons.

360. SIR PETER BOTTOMLEY: Do we happen to know, by the way, whether the petitioner – the consultation said...

361. MR MOULD QC (DfT): He did ask his MP, Mr Slaughter, to write to the Secretary of State, during consultation period and Mr Slaughter did so, and that was treated as a representation, but that was more focused on the rateable value limit that governs the eligibility of small business owner occupiers to claim under the blight regime.

362. As I say, from July 2013 onwards, his property investment has been freed from the safeguarding direction. Now, in those circumstances of course, there is no likelihood of his property being required for the purposes of the railway; this is an area, just to reinforce the point put in a question, this is close by Old Oak Common station. It lies within the Old Oak Common and Park Royal Development Corporation Development areas, as I understand it, so there is a good prospect that in the coming years, from 2017 onwards, that this property will experience, as an investment, a significant increase and that that increase in value will be contributed to, in no small part, by the coming of HS2, for reasons that the Committee has already heard about over the course of recent days.

363. Now, his company will be able to realise that increase in value, and therefore to realise the return on investment, once that process of uplift in property values through coming of the railway and regeneration of the area begins to take effect in coming years.

364. Now, just contrast that with the position had he remained in safeguarding. Had his property remained in safeguarding, he would have expected to have been subject to compulsory acquisition, because the purpose of safeguarding is to foreshadow those lands that are required for the purposes of constructing and operating the railway. Had his property been compulsorily acquired, he would not have been able to recover any payment of compensation in advance of acquisition, because as an investment property,

it falls outside the scope of the blight regime, but following on from compulsory acquisition, he would have expected to have received the open market value of the property, but in world which is free from HS2, so on that basis, he would not have received, by way of compensation, any uplift in value of his property that flowed from the coming of the HS2 railway.

365. So, the right context for this is to say that he, having been freed from safeguarding, is able to realise that component of value, which he would not have realised, had he not been compulsory acquired, and in either of those scenarios, the question is, what would have been his entitlement to recover the loss of rent that he says he has suffered, as a result of the shadow of the scheme? Now, he might have had a case, had he been subject to compulsory acquisition, to recover some or all of the loss of rent within the shadow period, but had his property increased in value between 2012/2013 and date of acquisition, that loss would have likely to have been subsumed within the compensation paid to him, under the compulsory purchase. Whereas, in the scenario where he finds himself, it is, we would suggest, very likely indeed that any losses that he has sustained and he has spoken to you about, during the course of the years from 2013 to 2017, will be considerably outweighed by the increase in value that he will enjoy as investment owner of this property through the general increase in values coming from the railway.

366. So, there's a risk here...

367. SIR PETER BOTTOMLEY: This is an apples and pears argument, really.

368. MR MOULD QC (DfT): Well, the risk here – and this is the key point, the risk here that if, in those circumstances, he receives exceptionally, and it would be an exception, he receives exceptionally, as an investment owner, a payment of compensation by – to make good the loss of rent that he says he's suffered, he will find himself, probably, in a better position as someone who retains his property, than someone who was compulsorily purchased for the needs of the railway, so he will be in a better position outside safeguarding than someone who finds themselves subject to compulsory acquisition, following have been kept in safeguarding, and that, I suggest, is not correct.

369. CHAIR: Point is, Mr Mould, is Mr Gorst isn't an insurance company, and he has

family who have interests, and uplift in value doesn't pay bills, you actually do need cash to throw through a company, so the first issue is that there may have been an effect for the extension of the lease in terms of the value of the rent, then it seems to me that the second issue is that, if in 2017, another tenant can be sought, or the rent can be fixed at a higher rate, then you can put a value on the premises, which may, in the short term be lower than otherwise it would have been, even if in five, 10 or 15 years it's a good investment property.

370. MR MOULD QC (DfT): Yes.

371. CHAIR: So, there seems to be two issues; one is what to do about the rent, and the second is, at what point can you crystallise what the short term value of the company – the property may well have been affected by the safeguarding the impact of the railway.

372. MR MOULD QC (DfT): Well, that brings us back to the fundamental question of whether there is a justification here for an exception, because it's absolutely clear, and there's no quarrel with this, under both statutory regime and under the policy arrangements that are in place, investment owners of commercial property are not entitled to claim compensation, unless their properties are compulsory acquired, that has been the policy of the law...

373. SIR PETER BOTTOMLEY: Can we start from the other way round; how many other properties can you name, affected by the scheme, that are in the same situation as the one that Mr Gorst –

374. MR MOULD QC (DfT): I can't name one at the moment, and I –

375. SIR PETER BOTTOMLEY: Presumably, if there was another one known to those behind you, that you've been told?

376. MR MOULD QC (DfT): Yes, I'm sure that's right.

377. SIR PETER BOTTOMLEY: So, let's work on the basic assumption that by chance, HS2 have one property that's been affected by consultation over safeguarding, where the lease ended in the period between the start of the consultation and the conclusions from the consultation? That seems to be a reasonable working assumption.

378. MR MOULD QC (DfT): Yup.

379. SIR PETER BOTTOMLEY: So, we're not talking about how other people are affected, this is not setting a precedent to other people if no one else is affected.

380. MR MOULD QC (DfT): No – well, I can't point to one, but I don't accept that that means that on behalf of the promoter, I shouldn't assert the principle.

381. SIR PETER BOTTOMLEY: There are many things you should say to us, which is fair to say, but aren't necessarily acceptable in the circumstances – what you say is acceptable, the result may just be plainly unfair. And if the situation's plainly unfair, it's up to the petitioner to say so and for us to take a view on it.

382. MR MOULD QC (DfT): Well – and I'm not at all seeking to quarrel that, but all I seek to do with these cases, as you know, this is a similar sort of case to some of those that you've had earlier in relation to residential property where people have sold and so forth, but all I seek to do is to suggest how this should be reviewed in the context of the existing statutory regime and the policy, and I do ask the Committee to reflect on that. I can put it no higher than this, reflect on the fact that, if you compare the position of this petitioner, who finds himself free from the threat of compulsory acquisition, and therefore able to enjoy the fruits that will come to his investment in future years, with someone who someone who finds themselves subject to compulsory acquisition, and a positive situation where each of them suffered loss of rental income as a result of the shadow of the scheme, if this petitioner is compensated for that loss, he will be in a better position, very likely, than someone who is in a similar position, safe for this...

383. SIR PETER BOTTOMLEY: That's your guess on change in capital value?

384. MR MOULD QC (DfT): I suggest it's a fairly likely scenario.

385. SIR PETER BOTTOMLEY: But it's still a guess on a change in capital value.

386. MR MOULD QC (DfT): Well, it is, but on the other hand, I think everything you've heard suggests that values in areas surrounding the stations are going to appreciate quite significantly.

387. MR GORST: Could I make a comment?

388. MR MOULD QC (DfT): That's all I ask...

389. CHAIR: Mr Gorst, you want to make a comment?

390. MR GORST: I would like to make a comment. This property is a high bay warehouse. It is used for the distribution of packing cases which people use when they move offices. Teacrate cover the country, they instigated the business and they're successful at it. There is no possible benefit of HS2 to a distribution warehouse. Everything goes by road. If you took a load of freight to Old Oak Common and said, 'I want this to go on the HS2 to Manchester', or wherever it's going to go, you would be laughed at. It has no benefit whatsoever. This property is suffering from diminished value because of the overhang of this huge railway line, and the work is going to take years and years and years, but don't think it has one iota of benefit from proximity to HS2.

391. SIR PETER BOTTOMLEY: Why don't we work on the basis that if we're going to not get carried very far by Mr Mould's arguments, we're not going to get carried very far by yours? I think we should leave capital values out of this completely.

392. MR GORST: Thank you.

393. MR MOULD QC (DfT): I don't think I can add to my point; in a nutshell, here, the petitioner retains the asset.

394. CHAIR: Alright, Mr Lewis?

395. MR LEWIS: Well, sir, the Committee has quite clearly got what the problem is; Mr Gorst is in, what appears to be, a unique situation here, where he has suffered...

396. SIR PETER BOTTOMLEY: Certainly rare, anyway.

397. MR LEWIS: Certainly rare, thank you for that, and in terms of future losses, what is foreseen, and this hasn't been challenged, I think this is in my summary of arguments on behalf of the petitioner, as from 2017, assuming HS2 goes ahead, the local roads will be chocked with traffic for some long while, so the extent to which it's suggested that suddenly the company's asset will increase in value from that point onwards, to an extent that he's actually going to end up profiting from HS2, is something I'm sure Mr Gorst

doesn't accept. And so, yes, I've covered the point about the uniqueness or rarity of the situation; there's no floodgates argument here, the lawyers' phrase about everyone being concerned that other people in similar positions will come along to HS2 with their hands out, but Mr Gorst, on behalf of the petitioner, really does seek a remedy for the harm caused him.

398. CHAIR: Thank you very much indeed. I think that's it for today. If you could please withdraw from the room so we can gather our thoughts. Order, order.