

HOUSE OF COMMONS
MINUTES OF PROCEEDINGS
taken before the
STANDING ORDERS COMMITTEE

on the
HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

Wednesday 15 January 2014

Before:

Rt Hon. Lindsay Hoyle MP, Chairman of Ways and Means (Chair)
Rt Hon. Dawn Primarolo MP, Second Deputy Chairman of Ways and Means
John Hemming MP
Christopher Pincher MP
Jonathan Reynolds MP
Mr Robert Syms MP
Mr Charles Walker MP

ALISON GORLOV, of WINCKWORTH SHERWOOD, appeared as Parliamentary Agent for the Bill.

There also appeared:

CHRISTIAN BONARD, Route Wide Environment Manager, HS2 Ltd.

PAUL GILFEDDER, London Area Planning Manager, HS2 Ltd.

PETER MILLER, Head of Environment, HS2 Ltd.

JAN PODKOLINSKI, Lead, Hybrid Bill Preparation Team, HS2 Ltd.

MICHAEL CARPENTER, Speaker's Counsel, was also in attendance.

Ordered at 2.08 pm: that Counsel and Parties be called in.

1. **CHAIR:** Hello and welcome, everybody. Everyone has a seat, which is a good start. We were a little worried about that. I am Lindsay Hoyle. I am Deputy Speaker, but my other title is Chairman of Ways and Means, which is why I will be chairing today's proceedings. The other Deputy Speaker is Dawn Primarolo, who is sitting to my right. Other members of the Committee are around the table. I would like Alison Gorlov to introduce her team.
2. **ALISON GORLOV:** On my left is Jan Podkolinski, an engineer who is project managing HS2's exercise. I apologise in advance because I do not know everyone's job title.
3. **CHAIR:** Don't worry.
4. **ALISON GORLOV:** Peter Miller is heading up the environmental team, and to his right are Christian Bonard and Paul Gilfedder, who will prompt him and contribute as the occasion calls.
5. **CHAIR:** So they are part of Peter's team—is that what you are saying?
6. **ALISON GORLOV:** Yes.
7. **CHAIR:** Right. That makes it easier. I think we all know where we are. I invite any Committee members with a strong interest in the Bill to declare it, please.
8. **CHRISTOPHER PINCHER:** I would like to declare that my constituency, Tamworth, is significantly affected by both phases of the HS2 proposals.
9. **JOHN HEMMING:** I should also declare that my constituency, Birmingham Yardley, will be significantly affected in the sense of people using HS2, and I am likely to use it myself.
10. **CHAIR:** The Committee would like to consider the matters before us in three main sections. First, we will consider those Standing Orders where non-compliance was found on the basis of time. Secondly, we would like to consider those Standing Orders where it was suggested that it was impossible or impractical to comply with the Standing Order. Finally—the bit that might have a little more interest—we will then consider the matter of non-compliance with Standing Order 27A and the missing pages from the environmental statement. Are we all happy with that procedure? Okay.
11. I would like now to invite Mrs Gorlov to begin our discussion of those Standing Orders where non-compliance was found on the basis of time. I will take questions afterwards.
12. **ALISON GORLOV:** We start with Standing Orders 12 and 12A. Standing Order 12 is concerned with street notices that must be placed in the streets and roads that are going to be broken open as a result of the works, and 12A concerns notices that must be placed at either end of a footpath or bridleway that it is proposed will be stopped up or diverted.

13. In the case of Standing Order 12, I refer you to the first part of appendix 3, which I daresay some people might have had an opportunity to read a bit of. The reasons for non-compliance were not all the same. Standing Order 12 requires that one should apply to the authority with control of the street or road for directions as to how they want the notices to be placed. That had to be done by 10 November. They then gave directions seven days later, and the notices had to be posted and maintained in place for a period of 14 days. In the case of some of these streets or roads, all the work is in a particular area. Written application for directions was not made until 15 November because it was discovered at a late stage that a category of the affected roads had fallen out of the frame. That needed to be referenced—the work involved took some extra days—so the directions were not sought until later.

14. However, it did not actually make any difference. More than seven days were allowed—it took at least seven days for directions to come through—and the notices themselves could not be posted until after the Bill was introduced, as it was on 25 November. The notices were all maintained in place for 14 days—in fact, I think that in almost all cases it was for longer—after they had been posted. You can see the details of when they were posted, and for how long they were monitored to ensure that they remained in place, in the table in paragraph 6 of the appendix.

15. As you will see from paragraph 7 of the appendix, the proofs given to the examiners were correct in terms of the time for which the notices were actually displayed—we told the examiners what had happened. The notices were not displayed in accordance with the dates required by the Private Business Standing Orders, but that had no effect at all, of course, on the notice of the Bill, and we would ask that the Standing Orders should be suspended so far as is necessary.

16. **CHAIR:** Any questions anybody? Okay, may I invite you to continue discussing those Standing Orders where non-compliance was found on the basis of time?

17. **ALISON GORLOV:** That was Standing Order 12.

18. **CHAIR:** That was 12. Let us move on to the next.

19. **ALISON GORLOV:** 12A is another case where the notices were displayed. They were displayed after 25 November, for precisely the same reason as in the case of Standing Order 12. The Bill was introduced on 25 November and notices could not pre-empt that. In the case of a private Bill, of course, they can. That notice was late because, again, the footpath notices had to be in place on 20 November, in the case of a private Bill. Again, they were late, they were posted for the right amount of time and they were posted after the Bill had been introduced.

20. **CHAIR:** Any questions?

21. **MR WALKER:** When did you discover that the Government were non-compliant with Standing Orders? Was this after the event, after legislation had passed through?

22. **ALISON GORLOV:** It does not quite work that way. Perhaps I should have opened by explaining how we got to 25 November. First, perhaps I could take you to the Standing Orders that we are trying to comply with. These are Standing Orders relating to private business and they have a fixed timetable, to which private Bill promoters must adhere, except in the most exceptional circumstances when they can convince the House that they should be allowed to proceed outside the timetable. These Standing Orders are a must for private Bill promoters. A hybrid Bill is not subject to these Standing Orders on their face. A hybrid Bill is made subject to the Standing Orders by order of the House. As a public Bill, like any Government Bill, a hybrid Bill can be introduced at whatever time suits the Government. On this occasion, a great deal of forward planning is needed, as you will appreciate, because of the volume of work to be done and the pure logistics of depositing the Bill and writing and sending notices. That alone needs to be well-planned far in advance.

23. This was looked at with a view to seeing whether compliance with the private business Standing Order timetable would be possible, and it was hoped that this could be done so far as possible. In fact, HS2 were very doubtful that they could produce the Bill within the time scale the Government wanted. I will not say that there was a degree of horse trading, but there was some discussion between HS2 and the Secretary of State to establish what could be managed. I would say that the date struck was something of a compromise. It was later than the Secretary of State wanted, earlier than HS2 thought they could manage—and they managed it. So the answer to your question is that the dates do not apply to a hybrid Bill because they are incapable of applying. They are not required to apply, but because we have applied the Standing Orders to this Bill we have to explain why we did not comply with them.

24. **MR WALKER:** But when the Bill was brought forward by Railtrack—

25. **CHAIR:** HS2.

26. **MR WALKER:** HS-whatever-it-is, they knew that were not going to be compliant?

27. **ALISON GORLOV:** They didn't. At the point at which they first started preparing for the Bill, the Government's objective was to introduce the Bill as soon as possible. That gelled into wanting it to be at the end of last year. One then hopes that one can meet the private business timetable. The forward planning took place in May when a lot of the work was still being undertaken. At that stage there were doubts about when the Bill could be produced. The date that was hit upon, 25 November, was the compromise between the two preferences and everything was planned to 25 November. Once one has planned for a date, one is pretty well stuck with it because, of course, things like newspaper notices have to be booked—if only it were lorry drivers having to move paper. All that has to be planned in advance, and therefore one fixes the best date one can and then works to it.

28. **CHAIR:** Charles, are you happy?

29. **MR WALKER:** Yes.

30. **CHRISTOPHER PINCHER:** The summary that I am reading tells me that Standing Order 12 states that notices are to be displayed in streets beginning no later than 20

November. I would like to be clear when that date of 20 November was struck. When did it become clear that the Bill would be deposited on 25 November? At what point, therefore, was it clear that the Government was going to be in breach of its own Standing Orders?

31. **ALISON GORLOV:** The Government is not in breach of its own Standing Orders, Sir. First, these are not the Government's Standing Orders; they are, of course, the Standing Orders of this House. The Standing Orders apply only to the extent that this House determines. This House says that the Standing Orders shall apply. This is not an exception for HS2; it is the way that the hybrid Bill procedure is conventionally operated. The House applies the Standing Orders and, the Standing Orders having been complied with to the extent that is possible in the context of the hybrid Bill and its timetable, the Government comes to the examiners, and ultimately to you, to seek a dispensation. I will not say that it is a rubber stamp—of course it is not a rubber stamp—but it has to recognise that the Government brings in a public Bill when it finds that it can and when it thinks that it is expedient to bring in that Bill; the Government is not bringing in the Bill for the purpose of complying with the Standing Orders.

32. That said, having got to a timetable that was around about the end of the year, one certainly tries to comply with the Standing Order timetable, so far as possible, not because it makes one iota of difference to the public—it does not, and I will explain why in a moment—but because it is very much easier not to have to come here to explain the timetable changes. The truth of the matter is that the purpose of the Standing Orders is to make sure that the public are properly notified. The timetable slots into time periods when these notices, for example, have to remain in place. Those time periods have been adhered to. The notices have to be posted and have to stay there for 14 days, and they did stay there for 14 days. All we are looking at is a different start date.

33. **JOHN HEMMING:** It strikes me that, at the point at which the House decided to apply the Standing Orders to this particular Bill, it was impossible to satisfy them all because the timings were already set. Perhaps the lesson for the future is that, when we pass a motion to apply the Standing Orders, we should allow a variation on the time that it ends, which is reasonable—90% of this is about the five to eight days' difference between one document and another.

34. **ALISON GORLOV:** That is absolutely right, Sir. Nobody would dream of asking a Committee of Parliament for a rubber stamp, but you might very well feel that that was the position we were in because what else can you do when the Government produce a Bill when they produce it and the timetable had simply gone by?

35. **CHAIR:** Are there any further questions? Do you want to continue to Standing Order 13?

36. **ALISON GORLOV:** Are you satisfied with Standing Order 12A, Sir?

37. **CHAIR:** I think we are. There are no further questions.

38. **ALISON GORLOV:** That is the only thing. I think I have explained the stuff about the timing in Standing Order 12A.

39. Standing Order 13 states that notices to owners, lessees and occupiers of land proposed to be subject to compulsory acquisition have to be given on or before 5 December. As explained in the notes, between 25 November and 27 November 14,760 Standing Order 13 notices were dispatched in a variety of ways. The make-up of those notices is as shown in paragraph 2: 1,458 by hand; 11,328 by recorded delivery; and 1,974 by international signed for, which is the nearest one can get to recorded delivery for post outside the United Kingdom.

40. On 4 December it became clear that some of the addresses were formatted wrongly. They were addresses, I think, to Singapore, and the postage system apparently did not operate as it should have done, and so the notices started to come back. As a result, 97 notices were re-served.

41. There were notices that were returned as undelivered. This was at the time when we saw the examiners on the 17th. We have had 185 undelivered notices, 22 were marked “not called for” or “refused”. Parliamentary notices quite often are marked in that way because people think something that says, “This is not a circular” is a demand for a debt or a county court judgment. Believe me, that really does happen. They are re-served. We re-serve them by first class post, nobody thinks that they are special delivery and they are taken in the front door. They somehow materialise and they receive the notices.

42. **CHAIR:** It would be easier to do that in the first place.

43. **ALISON GORLOV:** Well, unfortunately the Standing Order doesn’t allow it, because the Standing Order says it has to be a letter that is registered, so one has to deal with it by recorded delivery.

44. We had 38 cases where things have moved on since the original referencing inquiries. People had moved or there were other changes, and that has been recorded in the book of reference. Where there was a new interest, additional notices were served. There were 23 cases where it was not possible to effect service, because people had gone away and whereabouts were unknown. In those cases the notice was delivered personally to the property where it was believed the interest was held. Of course, it could be that the people concerned simply did not have an interest in the property. We just don’t know. With the remaining 102, there were incomplete or incorrect addresses which as a result did get a return. They looked complete, it turned out that they were not, and new notices were prepared and served either personally or by post.

45. So all those notices were served after 5 December. However, this is not special to a hybrid Bill. It is quite the norm that notices come back, that things move on, people change address and one has to re-serve notices. We did serve all the notices on the 5th. It is undoubtedly the case that the ones that were not correctly addressed were, you could say, not served. We attempted to serve them but we have re-served notices in all the cases where notices have come back.

46. **MR WALKER:** So what was the deadline for serving these notices?
47. **ALISON GORLOV:** For compliance with the private business Standing Order, 5 December.
48. **MR WALKER:** 5 December. And you sent them out on what day?
49. **ALISON GORLOV:** Between the 25th and the 27th.
50. **MR WALKER:** Would it have been possible to have sent them any earlier?
51. **ALISON GORLOV:** Well, it wasn't, as it happens, but it would not have made any difference, because we would have sent them in exactly the same way we actually did. It is to be expected that the ones where there were incorrect addresses, which are the ones I think one would say, possibly, were not properly served, would have come back anyway.
52. **MR WALKER:** Why were the addresses incorrect? You said it was the Post Office, not formatting them properly or reading them.
53. **ALISON GORLOV:** For some of them, the formatting was not what we would conventionally use in this country, and when they got the formatting as we would do it, the postal service simply didn't recognise it.
54. **MR WALKER:** Who sent out the notices, though? Who sent them out?
55. **ALISON GORLOV:** HS2.
56. **MR WALKER:** Right, so HS2 didn't format the addresses properly.
57. **ALISON GORLOV:** They formatted the addresses in a way that didn't suit Singapore, I think it was—.
58. **CHAIR:** I was just going to say, you are suggesting they were done in another country, hence why they were not compatible with what the Royal Mail use.
59. **ALISON GORLOV:** That seems to have been the position. That is correct, isn't it, Tim? Yes, I am being told that is indeed correct.
60. **CHAIR:** So we used Singapore, who didn't know the format of Royal Mail, hence that caused the problem.
61. **ALISON GORLOV:** If that is what caused the problem, my suspicion is that it was something like a mechanical sorting service, and they couldn't cope with it.

62. **MR WALKER:** So it was the Post Office's fault?
63. **ALISON GORLOV:** Well, arguably we ought to have known the layout—
64. **MR WALKER:** It was the lorry driver's fault previously, and now it's the Post Office's fault.
65. **ALISON GORLOV:** No, no, no. It is not that at all.
66. **MR WALKER:** Who is responsible for getting addresses right when you send a letter to someone saying, "We are going to compulsorily purchase your house"?
67. **ALISON GORLOV:** I am not trying to avoid this. We should have got it right. We were sending a letter to somewhere. We should have made sure that the layout was right. It wasn't. We got it wrong. We admit that and we re-served.
68. **CHAIR:** So you will learn from that?
69. **ALISON GORLOV:** We will learn. That is absolutely right, sir.
70. **MR SYMS:** You said that 14,760 were served.
71. **ALISON GORLOV:** Those are my instructions, yes.
72. **MR SYMS:** How many were right? What percent?
73. **ALISON GORLOV:** My mental arithmetic is not quite up to that.
74. **CHAIR:** As near as dammit 98%.
75. **ALISON GORLOV:** 98%. It is a pretty high percentage, isn't it? We very nearly got it right in percentage terms.
76. **JOHN HEMMING:** I think the substantive issue is whether any of these delays mean that anyone who wished to object found themselves unable to object because there was insufficient time. That is really the substantive point.
77. **ALISON GORLOV:** I would say no. The House has yet to fix the latest date for petitions. That has not been fixed. These people will have missed at the most three weeks, perhaps, of knowing that the Bill was in existence.
78. **JOHN HEMMING:** But in practice the deadline has not been reached yet.

79. **ALISON GORLOV:** There is no deadline yet, so I would have thought that they cannot be disadvantaged.

80. **CHAIR:** Okay. There are no further questions. Do you have anything else to add? If not, we will move on the next section.

81. **ALISON GORLOV:** The next time issue is Standing Order 27, which is to do with the deposit of plans. Standing Order 27 requires that plans, sections and the book of reference in relation to a works Bill should be deposited on or before 20 November. This is the same point as before about posting the notices. The Bill was introduced on 25 November and the deposits could not pre-empt that.

82. **CHAIR:** Any questions? Shall we go to the second part?

83. **ALISON GORLOV:** The next time one, I do not suppose you want to hear about just yet. This is the environmental statement, and there is a question about its status.

84. **CHAIR:** We want to move on past that. We are coming back to that.

85. **ALISON GORLOV:** Indeed. The next ones are Standing Orders 32, 33, 34, 36 and 37. These require the deposit of maps, plans and sections, and in some cases the book of reference. I can take you through the individual requirements. They are slightly different for each, but broadly speaking we are looking at different deposits.

86. **CHAIR:** Do we need to go through them? Do Members wish to go through them? No, I do not think we need to.

87. **ALISON GORLOV:** Different deposits of the plans, sections and book of reference with the people mentioned in appendix 7—again, they could not be got there before the Bill had been introduced.

88. **CHAIR:** Can we move on to one that is of more interest?

89. **ALISON GORLOV:** We have got a couple of impossibles. First of all, we have the *Gazette* notices. This is Standing Order 11, and it is appendix 2 of your note—the statement. The requirement is that notices should be published in the *London Gazette* and also, in this case, in the *Edinburgh Gazette*. Notices are required to state various things that are specified in the Standing Order, including the time within which objection may be made by the depositing of a petition.

90. If I might digress to talk about Standing Orders for private business, there is a fixed timetable. Under Private business Standing Orders Bills have to be deposited on 27 November, and there is a fixed date for the deposit of petitions, which is different in each House. The notice for a private Bill does not state the time within which a petition has to be

deposited; it states the date by which a petition has to be deposited. That is taken to be compliance with Standing Order 11 in the case of a private Bill, and that is relevant here. In the case of a hybrid Bill, there is no petitioning date. The dates will be fixed by the House. The period from Second Reading to the close of petitioning will be fixed by the House, so there is no time period, except a default that in the House of Lords, if there is not an Order in the House specifying the petitioning time, the last date for petitions will be the 10th day after First Reading. The notice therefore cannot state a date, and except for this default for the House of Lords it cannot state a “time within which”. All it can do is say that the time for depositing a petition will be fixed by order of the House. And that is what the petitions said: “The Bill will be introduced as a public Bill. In the House of Commons, an Order will be made when the Bill is read a Second time in that House and committed providing for objection to the Bill to be made by depositing a Petition against it in the Private Bill Office in accordance with the provisions of such Order (which will specify the latest date for depositing such a petition).” And similarly in the House of Lords.

91. **JOHN HEMMING:** I presume there is no Standing Order that says that when a date is fixed there should be notices in the *Gazette*.

92. **ALISON GORLOV:** No.

93. **JOHN HEMMING:** So it seems reasonable to me, perhaps, that when a date is fixed, there should be notices in the *Gazette*.

94. **ALISON GORLOV:** That would be an issue for the Standing Orders. There is not a requirement. People are on notice to look out for what is going on in the House. That was possibly rather an onerous requirement in years gone by, but of course now it is all online.

95. **CHAIR:** Any further questions? If not, shall we move on?

96. **ALISON GORLOV:** The next impossibility. I must remind myself. We are back to Standing Order 12. It requires that the notices of what is going on in the streets and roads should be placed “in” them. Well, in some cases the street or road was a motorway or a motorway slip road and there was no way the Highways Agency was going to let us put notices there, even if we had been minded to try to do so.

97. The directions from the Highways Agency first of all prohibited the posting of notices in places where they might cause a distraction, so that wrote off the motorway, and so what was done was to find a place that was the nearest possible point and display the notice there.

98. Then the other category where it was impossible for notices to be given in accordance with the Standing Order was where there were private streets, and to place the notice in the street would be a trespass unless the landowner approved. The landowner would not give consent, the street authority would not give consent, so we could not go there, and we did not. We went to the nearest available point and specified which street the notice related to.

99. **CHAIR:** Any questions?

100. **JONATHAN REYNOLDS:** Do these Standing Orders predate the development of a motorway network?

101. **ALISON GORLOV:** Oh, yes—oh, yes.

102. **CHAIR:** Horse and carriage.

103. **ALISON GORLOV:** There is a two-volume book that was prepared by a gentleman named Clifford, who was a Clerk in this House. It is very useful for people like me, but it is a bit sad. It is a detailed history of how the Standing Orders were put together, and it has got an analysis of how they started. I think that I am right in saying that they started around 1826 and the last big revamp—I stand to be corrected—was some time around about 1894. The language really has not changed very much since.

104. **CHAIR:** Horse and carriage, and steam carriage, was about as far as we got.

105. **MR WALKER:** Mr Chairman, can I ask you a question? How often does this Committee meet to discuss these Standing Orders? When did we last get together?

106. **CHAIR:** 2008.

107. **MR WALKER:** Right. So this is not a regular occurrence.

108. **CHAIR:** It is before my time as well. And anybody serving on this Committee. Right, let us move on—12A.

109. **ALISON GORLOV:** 12A requires—again, this is in appendix 3—that notice of the stopping-up or diversion of a footpath or bridleway should be displayed at the ends of the paths to be stopped up or diverted. Several problems here. First of all, there were 818 places requiring notices to be posted. In 36 cases, access could not be gained, and of course this is private land. The physical footpath had gone in some cases; we did not really know where it was. In some cases, the definitive map, which is the map showing legally recognised footpaths and bridleways, showed a footpath in one place, and there was clearly another footpath that was actually used and that was visible in another place. So we stopped up both of them and the signs simply had to go somewhere, but whether they were at the ends of the paths is unlikely.

110. The other thing that caused a problem was where the path went through a field that was cultivated, or, in one case, in the middle of a golf course fairway. It seemed rather more sensible to put the sign somewhere as near as possible, but somewhere slightly less obstructive. So those notices were not placed at the ends of the stoppings up or diversions.

111. **CHAIR:** Any questions? If not, we will move on.

112. **ALISON GORLOV:** The next one we have is Standing Order 55—perhaps I will first deal with Standing Order 48. Would that be sensible?

113. **CHAIR:** Yes, that's fine.

114. **ALISON GORLOV:** I don't know if this is exactly the impossibility, but we say that it is impossible if the Standing Order means what we thought it didn't.

115. Standing Order 48 specifies the information that has to appear on the deposited plans. It requires the information to relate to specific works. Standing Order 27(6) lists the works that require a plan. That list includes sewers and waterworks, neither of which is defined.

116. Standing Order 48(1) says that the plan required to comply with SO 27 has to show the centre line of every work that is proposed to be authorised. A question arises as to what sewers and waterworks have to be shown as works. The reason there is that question is that you would think you would know waterworks or a sewer when you see it. The problem is that virtually anything is a sewer. A sewer can be anything from the large Victorian brick arch sewers that we all know about, and as Isambard Kingdom Brunel would know about, down to a six-inch pipe. One often doesn't know what the six-inch pipes are. The sewerage undertakers haven't got a clue; one digs down and you find it.

117. The standard practice is for plans only to show large sewers—ones that one knows about. You have to draw a line somewhere, and the line that is drawn in practice is 1 metre; anything smaller than a metre does not get shown. It might be known about, but it probably wouldn't be. I am willing to bet that some larger than a metre aren't known about either. But anything that we know about, it is larger than a metre and gets shown with a centre line as a work.

118. We raised this with the House in the hope that someone would kindly say that that practice is absolutely fine and no one has taken issue with it. I suspect that no one really realised it, but this is the practice, and it has been for 40 years, to my personal knowledge.

119. If one looks back at private Bills, which is, after all, what this was all drawn up for, and at private Bill plans, even in the 19th century, there would have been a great many more sewers than actually shown. You don't find sewers on the plans, and they ought to be there. So it is quite clear that at a very early stage, a view was taken as to what was meant to be covered by "sewers" and "waterworks".

120. I mentioned a moment ago that there was the mystery of the Standing Orders written by this chap, Clifford. It goes back through what they used to say. The Standing Orders used to describe waterworks and sewers as public waterworks and sewers, which gets you some way towards the large ones.

121. If it is the case that this Standing Order captures waterworks and sewers—by waterworks I mean water pipes, and by sewers I mean those that are small, unknown and cannot be traced—it is incapable of compliance, because you are not going to know they are there. The

plans would be completely illegible. It is quite impracticable and serves no useful purpose to attempt to pick it up on the plans.

122. It is, in fact, picked up later. The standard protective provisions for water and sewerage undertakers include provision for what happens when a water pipe or sewer is found to be in the way and how one alters or protects it. So it is all of it taken care of and the apparatus is properly protected. If, therefore, the Standing Order does capture all of this other apparatus, we would ask for it to be suspended on the basis that it simply cannot be complied with.

123. **CHAIR:** Thank you. Are there any questions on that? If not, we will continue.

124. **ALISON GORLOV:** Thank you, sir. Then we go on to Standing Order 55. This again is about what needs to go in plans and sections. It is appendix 8, for the statement.

125. Each work has to have a section and the section has to have a datum line. And scheduled work has to have a section. The requirement in the Standing Orders is that the datum line should refer to a fixed point somewhere near the work, and that that fixed point should be related to an Ordnance Survey benchmark. The Ordnance Survey benchmark can then be related to OS Newlyn. In that way, one can establish the level of the work proposed to be constructed. Mr Podkolinski could explain why it is that tiered way, if you would like. It is all to do with using old surveying tools as against GPS equipment.

126. The difficulty is with relating the works to an Ordnance Survey benchmark. If you walk around a place, you will probably see signs showing where the old benchmarks were, but unfortunately the Ordnance Survey ceased maintaining the network in 1972. It was in 2000 that they adopted the system of surveying based on GPS, which is much more accurate—it uses radio signals—so the Ordnance Survey do not need the general benchmarks. They say that there are approximately half a million benchmarks, or were originally. They are left, decaying and degrading, and nobody knows if they are at the correct level because they have not been maintained. It would, therefore, be very misleading to use them, and they have not been used.

127. Instead, HS2 took local fixed points—manholes and similar things—that were not going to move and related the sections to those, and those could be related to Newlyn. The result is that we have a set of sections where one can determine the level, if one wants to do it in that way, rather than check up using GPS apparatus, but it is not strictly in compliance with the Standing Order because what that requires is now impossible to do on any accurate basis.

128. **CHAIR:** Okay. Are there any questions? If not, it proves that the Standing Orders do need to be looked at. Okay, can you move us on?

129. **ALISON GORLOV:** We now come to the requirements of Standing Order 27A. I do not know if the Committee has had an opportunity to look at those large files of evidence. Mr Miller will take us through them in a moment. The first thing that you need to have looked at, I hope, is the guide to the ES, which is document 27A(1). That sets out why the document is there and gives you some idea of its structure. The reason we have to look at this today is because some pages in the environmental statement are missing in the document—

130. **CHAIR:** When you say some pages, can you—

131. **ALISON GORLOV:** Eight hundred and seventy-seven pages, Sir, are missing in some of the ES documents. Confusingly, the missing pages are not all missing from the electronic copies; there are some differences between the electronic copies and the hard copies. The missing pages all come from volume 5 of the environmental statement. That is why I directed you first to the structure, because if you look at it, you will see that there were several volumes. Volume 5 is the volume of backing technical material; it is not itself the main report of the environmental statement, which can be found in volume 2 of the environmental statement. It is backing, background information.

132. Incidentally, I say it is a volume; it is not. It is a heap—a very large heap—of individual booklets of varying sizes, from a quarter of an inch to about 3 inches thick. I gather the total number of pages in all that pile of material that forms volume 5 is 36,500. That slightly puts the 877 pages into perspective.

133. **CHAIR:** It adds up to more than some. You start off with “some”, and if you put the two together that should give you—

134. **ALISON GORLOV:** Oh yes, I am not disguising that 877 is a high number. Absolutely. I am not belittling that at all. The ES has to be deposited in compliance with Standing Order 27A by 4 December. The document that has to be deposited must contain, to quote the Standing Order, “the information referred to in part 4 of schedule 4(2)”.

135. The regulations referred to in the print of the Standing Orders have been amended. It is now the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The regulations have changed but the schedule has not. The schedule is straight out of a European directive and it lists the details that have to appear in an environmental statement.

136. It is a very simple list of one-line items. It does not stipulate in great detail what has to appear. The schedule of information in part 2 of the IA regulations starts with a description of the development “comprising information on the site design and size of the development”. It continues: “A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects. The data required to identify and assess the main effects which the development is likely to have on the environment.” And so it goes on, with those very short paragraphs of what is required. It is not a detailed specification as conventionally understood. One of the others is an outline of alternatives. All that has to go into the ES.

137. Part 1 fleshes that out a little bit and one is required to include in the ES as much of the part 1 material as is relevant. One that is probably the most relevant today is the requirement to include—sorry, I think part 1 is not the most relevant. I beg your pardon. Part 1 is fleshing out what we have to put in. The most relevant paragraph, I think, for our purposes is paragraph 3 of schedule 2. That is the requirement to include “the data required to identify and assess the main effects which the development is likely to have on the environment”. The data would be the background material.

138. If, therefore, the ES did not contain all the required material, it was not a full ES and it was not deposited in time, because the ES that was deposited in time did not contain all that information. The examiners were not happy to reach the conclusion that a document lacking 877 pages was in fact a complete environmental statement for the purposes of a Standing Order. That is why it comes to you today.

139. Before we investigate how one ought to look at this environmental statement, I should add that the incomplete documents were all replaced by 16 December. That was done by sending out USB sticks with the corrected documents.

140. **CHAIR:** Just for the record, that is 17 days' difference between what should have been in the document and receiving the statement.

141. **ALISON GORLOV:** I am not sure if that is quite how one would compute it. I suppose actually it is 12 days' difference.

142. **CHAIR:** Twelve days.

143. **ALISON GORLOV:** Yes, 12 days, because one could have looked at the document between the 4th and the 16th.

144. **CHAIR:** That is fine. Just so that we know.

145. **ALISON GORLOV:** I beg your pardon. I am just being reminded. When did we deposit the environmental statement?

146. **PETER MILLER:** On the 25th.

147. **ALISON GORLOV:** I beg your pardon, Sir. You are right. It was deposited on the 25th, so yes, it is more than that. It is 21 days. In fact, it is not as simple as that. I am looking at my own notes. I am reminded. It is between the 29th and the 16th, because that is when the deposit was finally effected. We did not deposit the document until 29th November. Some people got it earlier. So we are looking at the period between the 29th and the 16th.

148. I beg your pardon. I am so sorry, Sir. I have completely muddled myself and I must not muddle the Committee. Let me go back. We deposited the document on the 25th, so there was a period between the 25th and 16th December when it was in an incomplete state. However, notification of that was sent out on the 29th, so people were alerted to the fact that there was an issue. The corrected documents were all distributed by the 16th. The problem had arisen as a result of print production errors, and you can imagine that there was great gnashing of teeth.

149. **CHAIR:** I am now confused. What date did the original document go out to people?

150. **ALISON GORLOV:** 25th November.

151. **CHAIR:** And the whole corrected document was out by?

152. **ALISON GORLOV:** 16th December, people having been notified.

153. **CHAIR:** The period that elapsed to see what was missing was—

154. **ALISON GORLOV:** The 25th to the 16th.

155. **CHAIR:** Are we sure of that?

156. **CHRISTOPHER PINCHER:** That is what it says here.

157. **CHAIR:** I was just checking. There is a lot of conversation going on.

158. **ALISON GORLOV:** I am sorry to confuse matters, but it is pretty complex. The documents started to be deposited on the 25th; some people got them on the 25th. The crucial date, though, is the 29th, because that is the date from which the consultation period started to run.

159. **CHAIR:** For the key purposes, it was from the 29th to the 16th, which comes back to where I said 17 days.

160. **ALISON GORLOV:** Yes.

161. **CHAIR:** Thank you.

162. **ALISON GORLOV:** I am so sorry, Sir.

163. **CHAIR:** Don't worry. I would sooner get it right. Are we all clear on that, then? Okay. Please continue.

164. **ALISON GORLOV:** It is probably material now to turn to what was missing from these pages. As I said in opening, these were all from volume 5. They were the backing material. I do not belittle that at all, but they were the material that one looks at after one has read the report. That is quite important. We have been through the pages with great care and we do not think the lack of these pages had any effect at all.

165. **MR WALKER:** Well, you would think that, wouldn't you?

166. **ALISON GORLOV:** We would think that, wouldn't we, but perhaps I might explain why.

167. **MR WALKER:** May I ask a quick question, because I have to go and chair a Committee? Where were the documents printed?

168. **ALISON GORLOV:** I am afraid I do not know that.

169. **JAN PODKOLINSKI:** At various printers.

170. **ALISON GORLOV:** At various printers. They had to be printed at various locations. The difficulties arose from two things. One was that they were printed at various locations. Also, they were slightly different formats, which accounts for some of the problems with the E columns.

171. **MR WALKER:** Were they printed in the UK?

172. **ALISON GORLOV:** Yes, they were all printed in the UK.

173. **JOHN HEMMING:** My concern is the impact on people who wanted to respond to the consultations. That is the key issue here. What impact is there there?

174. **ALISON GORLOV:** Indeed, Sir. That is exactly the way we looked at it. We did at one point, with the examiners, look at the legalities of this because it was a legal issue and it had been raised by lawyers, so we discussed it, but rather than being legalistic, one does indeed look at what happened and what was the effect on everybody. We think there was no effect at all.

175. **JOHN HEMMING:** But when is the deadline? The clock started ticking from the 29th. When did the clock stop ticking?

176. **CHRISTOPHER PINCHER:** It is still ticking.

177. **JOHN HEMMING:** It is still ticking. What is the deadline on that at the moment?

178. **ALISON GORLOV:** 24th January, Sir.

179. May I just make it clear, though, that in saying that we don't think that this has had any effect on anybody, that is not purely because there is still time to pick up the slack, as it were, and make good what might have been mistaken? You see, we don't think anybody would have mistaken anything as a result of these missing pages. If I could just take you through some of them I can explain why.

180. **JOHN HEMMING:** What would be the problem with extending the deadline?

181. **ALISON GORLOV:** Well, it would delay the passage of the Bill and could do so quite considerably. That would be highly prejudicial in all sorts of ways. It would be very

inconvenient for the Government but it would be very prejudicial to third parties. Landowners, for example, who are no doubt suffering as a result of the uncertainties created by this scheme, would find that the agonies were prolonged for months.

182. **JOHN HEMMING:** So this is delaying the Second Reading?

183. **ALISON GORLOV:** It would delay the Second Reading, Sir, yes.

184. **JOHN HEMMING:** When is Second Reading scheduled for at the moment?

185. **ALISON GORLOV:** We don't have a date yet, Sir.

186. **CHAIR:** I am very worried about that statement. First of all 17 days, and you made this quite bold statement saying that it would affect landowners and Second Reading. If we don't have a date for Second Reading, we cannot be sure of that.

187. **ALISON GORLOV:** Well, I think we probably can, Sir.

188. **CHAIR:** If we've not got a date, how can we? It is totally reckless. We might not have it until next year. The House may decide to leave it for another 12 months. Then what will you say?

189. **ALISON GORLOV:** No, sorry, Sir, it isn't quite like that. There isn't a date fixed for Second Reading. There is a planned date to which the Government have to work and then they will put that date in the programme when it becomes clear that it can be adhered to.

190. **CHAIR:** Yes, but we haven't got that date, so it could be relevant or it may not be relevant.

191. **JOHN HEMMING:** If you added a couple of weeks on to that deadline, what impact would it have?

192. **ALISON GORLOV:** Well, unfortunately it would hit a whole batch of recesses, Sir. The thing is, the Government have to respond to the environmental statement consultation. Then the Second Reading can take place on an informed basis. That is why, when planning this, the Government got to the week of 7 April. Any delay in that and you can see that one would start to hit the recesses, at which point Second Reading is delayed by several months, which we believe would not be to the benefit of anybody outside this House. Any of those affected would find that, as I say, the agony had been prolonged. As we go through, I think I can explain why people are not going to be prejudiced.

193. **DAWN PRIMAROLO:** What we are discussing here is whether the information was made available to those who may have wished to make representations with regard to the details in this plan. It is a procedure before a Bill goes through Parliament. That is what we are trying to ascertain today. We are not negotiating or discussing what the Government may

or may not do with their business. We are here only to decide whether people were impeded, because of a lack of information, in making their views known. So it would really help us, I think, if you could comment a little more on why you feel they were not impeded by the absence of the information.

194. **ALISON GORLOV:** That is absolutely the case. I was simply answering Mr Hoyle. We would like to take you through these missing pages so that you can understand why we say that nobody was prejudiced.

195. Having analysed the missing pages, we have concluded that the information in them, with a few minor exceptions, is all to be found elsewhere in the ES. What is more, because this is the background technical material, the place where you would look for it is that “elsewhere”. It is not in the technical paper; you would look at the report, rather than the technical paper. We are saying that all the information can be found elsewhere, or to the extent that it cannot, it is not relevant to anybody’s consideration of whether they are prejudiced by the scheme, and I can explain that as we go along.

196. You are absolutely right that the chief concern is: what is the impact of these missing pages? It was the first thing that HS2 looked at; it did a complete audit and concluded that the nature of what was missing was such that nobody had missed any information. We do not have to provide copies of the ES to people; they have to be provided for inspection in accordance with the Standing Orders, and copies have to be made available on request. All that has been done; the question is whether that information contained what people needed to know, and we say that it did.

197. **CHAIR:** Of course, we would say that HS2 would say that; that is the problem, isn’t it? But there we are. Let us move on.

198. **ALISON GORLOV:** Well, it would say it, but it says it having had a pretty hostile grilling from the Government’s parliamentary agent. HS2 was told that it might think that I was being nasty, but you might be rather worse.

199. **CHAIR:** We do not want to prejudge our decision, do we?

200. **ALISON GORLOV:** I do not want you to be nasty, Sir; I am sure that you will not be. It has looked at this with great care, so I hope that it has now got this right.

201. You will have seen from the table of omissions what all the papers were. We can go through them in the order in the table, but you might prefer instead to batch them as they were batched in a note prepared by Mr Caulfield in the Private Bill Office. Is that right?

202. **CHAIR:** Yes.

203. **ALISON GORLOV:** Okay, so we start off with a sample missing page from the hard copy only of CFA 25, the construction noise data. Can I just say one thing about this before Mr Miller explains the substantive content of this page? You might not want to go further, for

this reason: the formal deposits in this House were hard copy deposits, but the formal deposits made available to members of the public were e-copies. Therefore the public will have seen only the copies of the ES that contained the missing page.

204. **CHAIR:** So the only people who were disadvantaged were those who had the hard copies.

205. **ALISON GORLOV:** That is right. I do not actually know, but I think we thought that nobody had the hard copy of volume 5 except Parliament. Is that correct?

206. **JAN PODKOLINSKI:** That is correct.

207. **CHAIR:** So it is only Parliament that is disadvantaged.

208. **ALISON GORLOV:** Well, yes.

209. **CHAIR:** Of course, it only makes the decisions. I suppose that is a good thing to do.

210. **ALISON GORLOV:** But I suspect that Parliament might not have been prejudiced by the 17 days without that page. Mr Miller can certainly explain this, if you wish him to, but you might take the view that you do not need to know.

211. **CHAIR:** Personally, I do not. Members? No, we are all right, Mr Miller; we will save you the pain.

212. **PETER MILLER:** Thank you.

213. **ALISON GORLOV:** The next one is a photograph in CFA 21. It is described in your notes as showing summer tree cover. I am told that it is not that; it is a baseline view. This photograph, which was missing from CFA 21, was in fact in the map book relating to that CFA. Perhaps Mr Miller could take us through this.

214. **PETER MILLER:** Yes. The missing photograph was in fact in the equivalent volume—in the volume 5 material for supporting baseline information. The photograph was replicated in the volume 2 report and that map book. In your bundle, at tab 27A/8, we have reproduced the text where that is described and highlighted the text of the photograph. In the subsequent A3 photographs, the missing photograph in volume 5 is shown replicated in the volume 2 material. As the reader would come to the environmental statement, they would come to the volume 2 reports first, as the assessment applies to their local area, so they will come to this first. They would have been able to see it replicated in volume 5, but it is indeed duplicated earlier on in the overall suite of the documents.

215. **CHAIR:** Any questions? If not, do you wish to continue?

216. **ALISON GORLOV:** The next one is two missing pages from the gazetteer of heritage assets possibly affected. This was in both the hard copy and the USB copies relating to CFA 6 and CFA 14. It would just be helpful for the Committee to appreciate what the levels of information are before Mr Miller explains this particular one. The purpose of the environmental statement is to report on the significant effects of the proposals. In order to reach that conclusion, whatever the thing is—property development or whatever—has to be assessed. In order to decide what has to be assessed, there is a screening process. One looks at the totality of what is out there and decides what is in the category that needs to be captured to be assessed to reach that conclusion. So when you are told that something is not assessed, it is because it is outside that overall requirement for assessment. When you are told that it is assessed as not being significantly affected, it means that the ES has come to the conclusion that there is no effect. I mention that because it is an odd tiered procedure with which you might not be familiar. Perhaps Mr Miller could now explain document 3 in this note.

217. **PETER MILLER:** Yes, in the bundle that you have—tab 27A/10/a—there is an example. Let us go forward to the missing information that is contained in CFA 6 and CFA 14, as we have just described. As I take you through that information, it is important to understand that the information that is contained in the gazetteer and which was otherwise missing had actually been duplicated earlier in the volume 5 documents. That is the first thing you come to in the bundle. When you turn through the pages, you get to the missing pages tab and it shows highlighted what we have replaced.

218. If you flip between the two sets of material, you will see that they are indeed duplicating what has been identified. There is a slight change in descriptions in the second part of the gazetteer, but they are identified here in the tabulated material. It is duplicated material and you can see that in the evidence that we have provided. We do the same thing with CFA 14, which is in the next tab along. You can see that duplication. In this instance it is only one entry that is missing. We will show now that this has been reproduced to remedy the situation. It is indeed a duplicate of the same information. So it appeared in volume 5 and the overall conclusion of the assessment was that these particular features in the assessment were of lower significance, so they were not brought forward as significant environmental effects in the assessment report as described in the CFA in volume 2, which you come to first in this process.

219. **CHAIR:** Any questions? No. Can you take us on?

220. **ALISON GORLOV:** The next one is the transport model.

221. **PETER MILLER:** There is one element of the transport assessment that did not appear in volume 5: survey material of traffic counts in a location just north of Euston station. The environmental statement, volume 5—the transport assessment in this case, which is reproduced in the bundle here—does, in fact, take into account that particular site. If you turn to it, it is site 109—the very small blob—on the transport assessment plate in this example.

222. We can demonstrate that the information has been taken into account. Subsequently, the assessment, which comes out of a computer model, is replicated in maps that were reproduced in the transport assessment. So you see how traffic flows change in the assessment and whether that is more or less a good thing, as a result of the scheme.

223. What is missing from the transport assessment—sorry, I should say that there is a tabulated piece of information further on in the transport assessment, which you can see is highlighted. Site 109 equates to the A400 Camden High Street. You will see in the tabulated information how that has been taken into account.

224. The missing pages consist of a series of numbers based around some time periods during the day. You will see, from time to time as you go around roads, people with hi-vi vests clicking clickers and looking at the mix of road traffic. That information is reproduced here—this is our remedy—but was missing. But that is information that then goes into a complex model: it goes into the TfL central London computer model, and TfL runs a modification to that on our behalf. That information can be accessed by those who have the ability to access and understand that material. It is not generally available to people, but what is available are the results and those, which I took you through, are provided in the assessment itself.

225. The information, unfortunately, did not appear, but we do not believe that that is material to the assessment—it has not disadvantaged anybody in this instance. I believe, overall, that there is no significant effect identified as a result of this missing information.

226. **CHAIR:** Any questions? If not, we can continue.

227. **ALISON GORLOV:** May I just add one thing about that data, Sir, in view of what I said about paragraph 3 of the schedule that says that we have to supply the data? The reason, of course, for supplying data is to make clear how the conclusion has been derived and to enable people to form their own view as to whether one got it right. This is an instance where, because of the nature of the data and how it has to be processed, it is not in fact possible for the lay reader to look at that column of figures and say, “Oh, the conclusion is wrong.” You cannot actually get to that without running the TfL model.

228. **CHAIR:** Everybody happy? Then we shall continue.

229. **ALISON GORLOV:** We move on to graphical information that was missing, but where there was an equivalent written text. The first one in Mr Caulfield’s note relates to some archaeological surveys covering CFAs 6 to 15. Perhaps Mr Miller can explain why it is believed that that material has been fully taken care of elsewhere.

230. **PETER MILLER:** In your bundle, we have not brought all the material forward, but we have provided three examples. I will take you through the first one, and if you feel that you need to be taken through the subsequent examples, let me know.

231. As the reader would come to this in the environmental assessment, they would understand in the first instance that survey reports were to be expected in volume 5 of the overall document, and that is set out in section 6 of volume 2 of the CFA report for cultural heritage. As you progress through that document, where the assessment proper is carried out, a variety of features where there is some missing information are described, the assessment is carried out and conclusions are drawn. You can see that in the highlighted text that we have provided for you in this bundle. There is some tabulated material as well.

232. There is further information about the survey reports elsewhere in volume 5. That provides a written description of the surveys that were carried out. If you look at the words “Brackenbury Farm”, you can see that tracking through this set of information. The gazetteer, which we have just talked about, sets out those features that have been identified, and you can see that in the written tabulated text, so this is all described. Indeed, that is replicated in a similar manner in the assessment tables, which I have taken you through before. Then we go on to the mapped information. It is indeed true that each one of these sites is set out in mapped information in this environmental statement. There is a bundle of information there.

233. Going on to where the missing pages are, the information that is missing is limited to mapped information. Some of you may have seen this on programmes such as “Time Team”, where there is a lot of geophysical and aerial electronic information provided. All that is written up and described in the volume where the missing material is—or it should have been. When we come to the subset of the tab with the missing pages, you can see that the information that is missing is quite technical in its approach. This is the sort of thing that county archaeologists are interested in. If I take you through that bundle, you can see some interpretation of the baseline information. You can see a variety of maps and then you can see a variety of electronic information. All that requires interpretation with expert knowledge. For the layman, or the man on the Clapham omnibus—in fact, for a number of specialists here—it is difficult for us to provide interpretation on that.

234. **CHAIR:** So does that not justify why it should have been there? Those who do have that expertise do need to look at it.

235. **PETER MILLER:** The information has been described and it has been set out—

236. **CHAIR:** But if you are going to do a specialist reading, that is what you would look at, presumably.

237. **PETER MILLER:** Indeed.

238. **CHAIR:** From watching “Time Team”, I am reminded of what they do.

239. **PETER MILLER:** They will indeed look at these maps in a specialist way.

240. **CHAIR:** So it is difficult without a map.

241. **PETER MILLER:** There is the analysis up front, and that is relevant to that assessment.

242. **CHAIR:** If you are such an expert, you want to check the analysis against the map and see if they read the same.

243. **PETER MILLER:** Indeed. That is the way the issue has come forward. The Oxford archaeological member of staff identified a mistake in this, which kicked off the overall audit, and that is where we are now with this information.

244. That concludes that example. Does anyone wish me to take you through the other examples—they run in exactly the same way?

245. **CHAIR:** It is the same conclusion.

246. **PETER MILLER:** You can see it there; we have reproduced it. As I say, we have not reproduced it in every case, but we have brought forward examples for this hearing

247. **CHAIR:** I am happy with that. Is everybody else happy with that?

248. **PETER MILLER:** Tab 4 concerns a missing piece of information. It is a community assessment map, and we have reproduced that. Earlier on in the tabbed information, we have reproduced where in the assessment this information can be found. This information relates to 40 properties and a couple of community facilities—a church and a village hall. These are all described and identified geographically by descriptions of the locality. That is set out in the assessment. These features were, indeed, assessed and that is described in the volume 2 CFA report. As I say, we have reproduced the map.

249. Now the assessment relates to construction traffic movements along the existing highway, so the extract of the map is actually some distance away from the railway itself, but it shows where the HGV movements would actually take place as the construction occurred. There is obviously a potential in this instance to cause significant effects to these properties. We have identified temporary significant environment effects for those features, but all that is described—set out in words—earlier on in the document. We have replaced that particular map as part of the remedy in this exercise.

250. **CHAIR:** Are we concluded? Okay.

251. **ALISON GORLOV:** We then move to a different category—we have an explanation that we would be happy to go through with you—concerning four farms and the owners of them in CFA 18. However, I ought just to point out that this is another case where the missing page was in the hard copy only, so the people concerned would have had access to the e-copy containing the missing page.

252. **CHAIR:** Okay. Are there any further questions?

253. **ALISON GORLOV:** The next one is land quality. There is a large quantity, in terms of numbers of pages, of land quality data, so the Committee will be interested to hear quite what the nature of this material was.

254. **PETER MILLER:** Once again, we are bringing forward a couple of examples here of missing information. In the second example we have not reproduced all the background information—we have reproduced examples. The first tab you come to relates to a piece of missing information. It concerns a piece of correspondence sent to me from the Coal Authority. That did not appear in the volume 5 background report, but the assessment itself, as I have been describing, was set out in the CFA report. That is in your bundle—CFA 23. Once again we have highlighted where that assessment has been carried out.

255. The piece of correspondence that was sent to me was in relation to the potential extension of mine workings, which I believe has now been taken forward. In the assessment, we have provided mapping—this was what was provided to everybody on the 25th—showing the area of land of those mine workings. You can see that in the assessment itself, and you can see that replicated, and the extent of that area replicated, in the maps that we have provided. The missing information, in much the same way as I have described before, sets out the correspondence that I received from the Coal Authority that kicked off further consideration and assessment of those matters, which were reported. Overall, it is included in the assessment, and the letter is not material, in our view, to this assessment.

256. **CHAIR:** May I ask one quick question? You said that you were giving us examples. I presume they are worst-case examples and that everything is not quite as bad, or is at the same level. You are not giving us the minor ones.

257. **PETER MILLER:** Not at all.

258. **CHAIR:** That's fine. I just wanted to make sure. I know you would not want to mislead us; I just want to check that you are not.

259. **PETER MILLER:** It is not our intention to mislead anybody. I think you can see what we have done by way of bringing forward this information: we have undertaken a thorough analysis. We want to make sure that we get through this process as cleanly as possible, so we brought forward the information that we think is most relevant and describes the issue at hand.

260. **JOHN HEMMING:** May I just go back to clarify one of the things about the late depositing of the pages of the environmental statement? Are you saying that that happened with only the paper copy, not the electronic copy, or was it with the electronic copy as well?

261. **ALISON GORLOV:** In most cases it was both, although not always the same. You will find the details in the table of omissions. In two instances, I think, the omission was from only the hard copy.

262. **JOHN HEMMING:** But on that particular one, some of it was on the electronic one as well, while the later things have been just paper missing, not electronic?

263. **ALISON GORLOV:** I think, as I say, there were two.

264. **CHRISTIAN BONARD:** Are we talking specifically about land quality?

265. **JOHN HEMMING:** This is the paper here. We are now discussing the note from the Clerk of Private Bills and the items on there—or just have been. With those ones, I understand, substantially the electronic copy was correct and the paper copy wasn't, or is that not correct? It is varied anyway.

266. **ALISON GORLOV:** It is varied and if you have a look at his note, I think in fact there are more where the electronic copies went awry than the hard copies.

267. **PETER MILLER:** What we are aiming to do here is to bring forward the information in this bundle to demonstrate why, with that which is more generally available, we think that it is not so relevant to the assessment, or indeed that it has actually been included in the assessment but it is simply that that material did not appear.

268. **JOHN HEMMING:** Is there an electronic copy of this bundle?

269. **PETER MILLER:** There is not.

270. **JOHN HEMMING:** So this is it, basically. How open to public inspection is this?

271. **CHAIR:** This is not for the public; this is just for us.

272. **PETER MILLER:** It has only been provided here. The exception to that is the omissions table that we provided to the Adjournment debate for the Examiners, which took place last week.

273. **ALISON GORLOV:** All this material has been only prepared for this Committee or for the Examiners. The public, though, has all the missing information, because it was made good by the 16 December, as you have heard.

274. **CHAIR:** It is to help us to make our judgment.

275. **ALISON GORLOV:** Could I just mention one other thing that arises out of this coal material? It is a moot point, what are data and what aren't. I don't think one can draw a hard black line, perhaps, but there is a point beyond which it ceases to be data from which one derives one's assessment. It is more very much background material which sets the scene. We feel that the Coal Authority correspondence falls into that second category.

276. **CHAIR:** Okay. Let us keep moving.

277. **CHRISTOPHER PINCHER:** May I ask a question?

278. **CHAIR:** Of course.

279. **CHRISTOPHER PINCHER:** You have now included maps where these landfill sites are to be and which you say were described elsewhere in the documentation. Were there previous other maps with different sites for landfill? In other words, one could read the final volume which has a narrative description and think that the landfill sites may be somewhere else, because the previous map suggested they might be, and therefore one might be misled about where the sites are proposed to be, until one saw these maps that you now produce.

280. **CHRISTIAN BONARD:** The maps were not missing from the original deposited ES. It is the supporting information. So in the case of the Coal Authority, the map was included, and that took account of the extension that was cited in the letter from the Coal Authority to HS2.

281. **CHAIR:** So it was not the map, but the letter that was missing.

282. **PETER MILLER:** It is the letter in this instance. The maps that we have reproduced here were the maps that were in the material that was sent on the 25th. It is the correspondence alerting me to the fact that there were issues with the mine workings in this particular location which was intended to be included in volume 5 and which did not appear, but the data—the information—is included in the write-up and in the maps.

283. The second part on the land quality concerns another site. This relates to Jacksons Brickworks, which is located up near the A45 Coventry road, the Birmingham interchange and Chelmsley Wood. Again, in this bundle, where the assessment and the consideration of that site has been carried out, that is all highlighted throughout. I do not believe there is any significant effect resulting from this. That is set out in the assessment that everyone had. Again, the plans, as we have just described, were reproduced at the time of the deposit, but the missing material which was intended to be provided in volume 5 sets out a range of landfill data sheets or particular licences which pertain to this particular location.

284. As I understand it, this location, because of its landfill nature—it is an historic landfill—has a lot of history to it. The specialists were intending to reproduce that history, but that did not appear. What is contained within that site is set out in the assessment and our consideration of the effect is set out in the volume 2 report. So it is simply information which could otherwise be found in the public domain on Environment Agency websites and on local authority websites. It was intended to reproduce it; it did not appear.

285. **CHAIR:** So that I am clear, is that landfill sites in use, filled or to be filled?

286. **PETER MILLER:** This is closed down.

287. **CHAIR:** It is an historic site, then.

288. **CHRISTIAN BONARD:** It is no longer operational.

289. **PETER MILLER:** In this instance of the missing material.

290. **CHAIR:** Okay. Are there any other questions? Let us move on.

291. **ALISON GORLOV:** That probably brings us to the document that occupied most of the examiners' time. *[Interruption.]* I beg your pardon.

292. **CHAIR:** Have we lost them again?

293. **PETER MILLER:** We do not have much room here when we are shuffling papers, so please forgive us. We do have the information. It is there and it has been reproduced. What this relates to is in volume 5. Once again there was a range of tabulated material. It sets out the quantities of material arising from various work sites along the line of the route that we have assumed, the make-up of that material and what might be done with it. The information was once again set out in the volume 2 report. In the bundle, as the reader would come to it, there is a summary form of that information. In that particular location, it sets out the material quantities that would be generated and the material quantities that would otherwise disappear from site and go off to some other location in the form of waste.

294. That is replicated in terms of operational waste and there is further consideration of excavated waste material quantities. All this is quite detailed and, as set out in the CFA report, this essentially replicates the missing information that you would otherwise have found in a different tabulated form in the volume 5 report. We have two examples here: one from Euston and one further north on the route, Whittington to Handsacre. We have reproduced this in both instances and set out later on what the missing pages were. As I described for the landscape section earlier, if you were to flip between the material you would understand that you get the same information in the CFA report itself. As such, we do not believe that anybody is compromised or impeded when they come to this document.

295. That is one issue, which is to do with material quantities, and that information is in volume 5. The second part of this exercise is to look at the method that has been set out in the assessment to understand the forecast construction waste quantities. We have reproduced the CFA report where this is described. That was in the material on the 25th. It is highlighted and sets out what method was used. It refers to a document which was prepared by the Building Research Establishment Ltd and that forms a footnote to this document. It was intended to reproduce the BRE material, but you get how that was considered in the assessment, and that is set out in that CFA report. Following on from our audit, the remedy has been to reproduce the BRE report. This is a report which is publicly available and there it is. It sets out some parameters for working out the waste quantities that would arise; so the various material types that were considered to understand what the material quantities were. That is in the assessment.

296. **CHAIR:** Are there any questions from anybody? Keep going.

297. **ALISON GORLOV:** This is a document that the examiners asked a lot about, and so were told a great deal about. These are e-copies that were wrong and therefore it is an issue concerning the public. It is important to bear in mind that this is one of those cases where the

document concerned dealt with what has been called committed development. That is to say, proposed development where planning permission has been granted.

298. **PETER MILLER:** The missing material is a tabulated number of committed development sites that would otherwise have appeared in table 1 of the planning data in volume 5. What is important to understand about table 1 is that it is intended to be a long list of those sorts of sites. The process that we have gone through has been to look at that long list across the line of route for our specialists to consider whether those developments are material, in the sense that the railway would directly affect those committed developments, or whether in accumulation—that is, the committed development itself plus the effect of the railway—would give rise to an alternative or different type of effect in accumulation. That is how they have gone about it.

299. As part of the long list exercise, they looked at all of the committed developments along the line of the route and made a judgment about whether any of those were irrelevant to that consideration. Things like minor changes to use classes did not appear. Some examples of moving bollards or the odd car-parking spaces simply did not appear in the assessment. Essentially they were screened out.

300. The next stage was for the specialists to look at this in terms of the material that could potentially lead to a significant effect. That is what we are trying to do in this process in bringing forward this information. That was done. Unfortunately, in certain instances the material did not appear in the volume 5 table 1 long list, but was assessed in each instance. The information is being considered. As a result of the missing information there was no significant effect identified for any one of these committed developments. Once again we have set out where in a number of examples—sorry, in all cases for committed developments we have put forward information in the bundle that sets out and describes those sites that were considered for the assessment, so that was done. I think it refers back to the table 1 in volume 5. We demonstrated that had been considered.

301. In each case reproduced here—in four CFAs, I think—we have couple of sites each. In one instance, CFA 26, there were indeed eight sites that were considered. That is all written out in and described in the assessment, which was published on 25 November, so everybody had that. There was consideration of the direct effect, and in each case each of the developments was considered by way of the cumulative effect, as I have described. In each case there was no significant cumulative effect.

302. The next step is to understand where the information on these committed development sites was replicated. While it was not replicated in the CFA reports—the volume 2 reports—in a tabulated form, although written up and described, in the map that accompanies this volume each one of these sites is set out. A reader would be able to come to the information. You would be able to look at that map book and if you were the owner of that committed development site, you would be able to see on the map that that committed development had been taken into account, or indeed that it was accounted for but did not appear in the write-up of the assessment itself.

303. We then go on, in the same way as I have done before—with the internal tab at the missing pages, we have highlighted the material that has subsequently been reproduced and

provides the remedy for the missing information. That is highlighted; we set all of that out in this bundle. That is it. It has been assessed in accordance with our methodology.

304. **ALISON GORLOV:** Mr Miller having taken us through what is in the bundle, that shows you what is in the ES. I wondered if I might distil that a little bit, if that would help.

305. **CHAIR:** Just one second. I just want to check whether there are any questions on that last section. No? Okay, please continue.

306. **ALISON GORLOV:** What Mr Miller has taken you through is essentially table 1 in the planning volume 5. It is the long list, so what we did was to work out what of the long list was not to be found anywhere else. I emphasise that everything that was actually assessed—whether or not there was any effect—is mentioned in volume 2. We assessed this, and either there is no effect or there is an effect. So one knows if one has been assessed by looking at volume 2. What you do not know is if you have a development that was never assessed in the first place, if it completely fell out of the frame. Just as an aside, one does slightly wonder if anybody would be terribly fussed if they had fallen out of the frame—they might be quite pleased.

307. If you turn to the very back of the statement, you will find a table, which is, slightly confusingly, called table 1. It has been highlighted. Could I just urge you all, please, to make sure that the copy that you are looking at is the copy of the statement that you were sent? I am afraid I cannot tell from this distance. There is a difference between the table as originally sent to Members and as substituted yesterday. I apologise for that, but it turned out that there was actually quite a material issue that could have resolved itself one way or another way and, when I found out what the facts were, I altered the statement. Unfortunately, you got the statement before it was altered. If you look at the original one, I am afraid that you will find an error which would mislead you.

308. If we can turn to the table on the right version, you will see highlighted yellow a number of the developments referred to in the table. Those are the developments which are not to be found anywhere in volume 2; the casual reader will not see them there. If you look at the right-hand column, you will see the reasons why they did not even fall to be assessed. They were too distant from the HS2 works—that relates to some housing allocation—or they were currently operational and would not be sensitive. Or, in the case of, for example, 23/11, which is change of use to a recycling facility, it was not going to create an additional receptor that might be affected, because it was going to be complete—it formed part of material that had already taken into account. And so it goes on down the page, from those sorts of rather more complex things to the very minor alterations in a car park to put in nine extra spaces, which was thought to be too minor to warrant assessment.

309. If one works one's way through, one sees that the reason why all these developments were not, in fact, captured by an assessment. Therefore, if you look at volume 2, you will not see them there. What you will see, as I am reminded, and as Mr Miller pointed out to you a few minutes ago, is that all the developments, including the yellow-highlighted ones, were in fact shown on a map. So in the event that anybody was thinking, "Oh, that is my development—why isn't it mentioned?" they could look at the map and find out.

310. So that deals—I hope satisfactorily—with table 1. There was also another table which was not mentioned in front of the Examiners, but perhaps I might just draw that to your attention now. It is another missing data table, and it was missing for CFAs 23 to 26. All this table contains is a list of applications for planning permission which have not been granted. Hence, the applications for proposed developments were not assessed, because it was far too uncertain as to whether this was anything that could possibly create a receptor. Hence, there was no issue to assess.

311. In a sense, table 2 is very much an information-only document. It is not data that inform the environmental statement. It is a bit of an extra.

312. You have had a very detailed explanation of what these things are, and I hope you will agree that it demonstrates that either all of this material was somewhere else, or it did not actually relate to anything that one would consider when reading the ES, and so nobody would be prejudiced.

313. The county archaeologist was mentioned, and I think that Ms Primarolo said that he would need to look at the maps. Yes, he would, pending receipt—

314. **CHAIR:** I think it was me, but don't worry.

315. **ALISON GORLOV:** I do beg your pardon, sir.

316. **CHAIR:** Don't worry—

317. **DAWN PRIMAROLO:** I have projected my voice—

318. **ALISON GORLOV:** I shall never hazard a guess as to who said something again; my memory obviously isn't up to it.

319. In the case of the county archaeologist, yes he would like to look at some maps. However, pending receipt of maps, and he did notice that they were not there, so he clearly was not misled, there are always the figures to look at, which in themselves are fully informative. The reason I mention it, though, is that it is rather relevant to whether anybody else might have been misled. This information is missing, it is not hiding. If one ploughs one's way through this heap of paper, one finds that something is obviously not there. Because it has been flagged up in one place and, when you get to the other place, it isn't there, you know that it is missing.

320. The interesting thing is that the only person who raised any query about missing material was the Oxfordshire county archaeologist. It seems not unreasonable to deduce that nobody has been confused or prejudiced by the absence of this information.

321. **CHAIR:** It still might be that there is an amateur archaeologist still looking for the paper and they did not have time to put in their objections. There we are; we will never know; we can only surmise. Have you finished, Alison?

322. **ALISON GORLOV:** I am just looking to see if I have. I have certainly finished dealing with whether the information was relevant to anybody, but I have a few other things to say when you have a moment, sir.

323. **CHAIR:** Does anyone have any further questions?

324. **ALISON GORLOV:** Those are the facts. The question for the Committee is whether, on the basis of those, there should be any procedural outcome.

325. There is one thing that I must say that is of great concern to the Secretary of State, and that is that we looking at this in terms of outcomes, which, on a realistic basis, is what counts. Of course it is what counts. If one is more legalistic, though, there is the question whether an ES is an ES because it says it is or because it does what it ought to do. The Secretary of State will always contend that if it does what it ought to do, it is an ES for the purposes of SO 27A. I say that because I must, and I flag it up, but we are looking at outcomes.

326. The first thing that the Secretary of State would submit is that the nature of these omissions, as we have just explained them, is such that they have little or no effect—we would say none at all—and on that basis, whatever you decide, they ought not to hold up the process of the Bill. The Bill should be allowed to proceed. If you decided to do something in relation to the ES, the Bill could none the less proceed through its stages without that prejudicing any action that you might want us to take. That is our first submission.

327. **CHAIR:** I am going to have to suspend the sitting, so are you about to end?

328. **ALISON GORLOV:** No, sir. Secondly, you will have seen what it is that we submit in relation to any other action—the Secretary of State really does hope that you do not find that necessary. He would ask that, wouldn't he? But the truth of the matter, looking at it as objectively as I can as the Government agent, is that I do think that you would be thoroughly justified in concluding that, really, these omissions are neither here nor there in real terms, and therefore that the Standing Order could be suspended so far as necessary to allow the environmental statement to be taken to have complied with the Standing Order.

329. **CHAIR:** No further questions. I thank you for the thorough procedure of going through the documents, and I thank your colleagues for assisting us with their presentation. We will go into private session shortly, but in the meantime, there will be a vote in House, so colleagues, please be as quick as you can. Thank you all for attending, and you will be invited back into the room once we have come up with a decision.

The Committee adjourned to deliberate in private from 3.59 pm until 4.23 pm

330. **CHAIR:** Thank you for your patience. The Committee has now reached its decision. The Committee has resolved that the following Standing Orders ought to be dispensed with: 11, 12, 12A, 13, 27, 32, 33, 34, 35, 36, 37, 48 and 55.

331. The Committee has resolved that Standing Order 27A ought to be dispensed with on condition that the promoters of the Bill extend the period set under Standing Order 224A, during which comments can be made on the environmental statement, so that the last day on which comments can be sent to the relevant Minister is 56 days after 16 December 2013, which is 10 February 2014; and that the promoters publish a notice to this effect in those newspapers in which they published notices relating to the Bill, under Standing Order 10, in November and December 2013. The parties should be permitted to proceed with the Bill on this condition.

332. **JOHN HEMMING:** Additionally, on Standing Order 11, it would be very helpful if the promoters advertised in the *London Gazette* when a deadline is set for petitions, because there is a difficulty, obviously, inasmuch as you don't know the point at the start. So could that be published in the *London Gazette*, because asking people just to monitor things all the time is a bit unfair?

333. **CHAIR:** May I thank everybody for their attendance? That concludes the meeting.

The Committee adjourned at 4.25 pm.