

House of Lords  
STANDING ORDERS (PRIVATE BILLS) COMMITTEE

on the following Bill

---

High Speed Rail (London – West Midlands) Bill  
(Additional Provision September 2014)

---

Tuesday 4 November 2014

Before:

Lord Sewel (Chairman)  
Lord Geddes  
Baroness Gould of Potternewton  
Lord Luke  
Lord Palmer  
Lord Rodgers of Quarry Bank

MS ALISON GORLOV of WINCKWORTH SHERWOOD

appeared as the Parliamentary Agent for the Government

There also appeared:

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

(11.08 am)

1. **THE CHAIRMAN:** I think we can formally come to order, and the Committee is now meeting in public session. If I can introduce myself, I am Lord Sewel, the Chairman of Committees and I will be chairing this meeting of the House of Lords Standing Orders Committee. This is one of those Committees that meets rarely. We have almost got into the habit of not meeting, I would say, frequently, but it is the second time we have met this year, which is something of a record. The last time we met was to consider the Examiners' Certificate relating to high speed rail—the HS2 Bill—and we are convening yet again to address HS2.

2. On this occasion, the Government wish to make amendments to the HS2 Bill, which will specially and directly affect people's interests. Some of these people may have already been affected by the Bill in other ways; others may not. To this end, the Government have

presented a petition for additional provision to the House of Commons, asking Parliament to agree to insert particular amendments in this Bill. This petition is subject to many of the same Standing Orders as the original Bill and these largely deal with ensuring that those affected are given ample notice and information, so that they may have an opportunity to take part in the Commons Committee proceedings on the Bill.

3. The examiners have reported that this additional provision has not met all of the requirements of certain House of Lords Standing Orders, and the purpose of this meeting today is for us to decide whether or not we will dispense with those Standing Orders. All bar one of the non-compliances that we will be considering are what is known as non-compliance as to time. These are Standing Orders that have been complied with in spirit but, because of the nature of the Standing Orders, could not possibly have been complied with on the date set out in each of the Standing Orders. This is a bit like “Alice in the Looking Glass”. The remaining non-compliance in relation to Standing Order 10A is more substantive and I imagine that any discussion will centre particularly on 10A.

4. Can I introduce my colleagues? Going around the table: Lord Palmer, Lord Geddes, Lord Luke. And on this side: Lord Rodgers of Quarry Bank and Baroness Gould of Potternewton. Perhaps you would like to introduce your colleague.

5. **MS GORLOV:** Good morning, sir, thank you. I am Alison Gorlov. I am the agent for the Bill this morning. And beside me is Jan Podkolinski, who is the Bill’s additional provision manager for HS2.

6. **THE CHAIRMAN:** Now we get to the housekeeping bit. Can I remind you all, please, to turn your mobiles off? If they are on, at least check that they are off. If you do have any requirement to phone or receive messages, could you go out into the corridor? I now have to deal with the declaration of interests. Do any members of the Committee have any interests that they have to declare in relation to the provisions of the Bill? No interests to declare—thank you very much. Right, let us get on with the substantive business. Can I ask you, Ms Gorlov, to make your presentation?

7. **MS GORLOV:** Thank you, sir. There are three sets of additional amendments proposed to be made in the Bill for three separate purposes. One is to deal with design issues that have come to light over the last several months. The second batch deal with the requirements of the utility companies. Those, too, have been identified over a period. Finally—this is what I think we will be most concerned with today—there are alterations that are proposed to be made to accommodate landowners who are affected by the

proposals in the Bill. Those three categories are, as I say, relevant to the Standing Order 10A question, but not to the question of time. Sir, you have explained better than I would have done the reason why the time requirements in the Standing Orders were not complied with: they could not be complied with. Is there anything further you would like me to say about that?

8. **THE CHAIRMAN:** Not about the time ones, no.

9. **MS GORLOV:** Then let me turn to Standing Order 10A. Standing Order 10A requires the promoters to display a copy of the newspaper notice advertising, in this case, the additional provision, and for that newspaper notice to be displayed in a place of public resort in every local authority where there is a work proposed to be made by, in this case, the additional provision. We were aware of that requirement, of course, and complied with it in the case of the Bill.

10. In the case of the additional provision, it came to light in circumstances which I will explain in a moment that, due to an administrative error, a notice in a place of public resort had not been put up in the county of Oxfordshire. In that county, there are two particular works, which I will describe to you in a moment, and a notice—or rather, a copy of the newspaper notice—should have been displayed somewhere in a place of public resort situated in the county of Oxfordshire. That did not happen initially. Notices were displayed in places of public resort and, in respect of these two works, somebody made the mistake of thinking that the notice had to relate to the works and should therefore be as near to the works as possible. As a result, a library, which was what we were using as a place of public resort, was chosen that was the nearest library to the works. Unfortunately, they are situated very near the county boundary and the library in question was the wrong side.

11. This came to light when we were preparing the statement of proofs of compliance with Standing Orders. The proof requires the preparation of a list of all the places where the notice was displayed in compliance with Standing Order 10A. It was prepared in my office, listing all the places of public resort in the relevant counties that we used in the case of the Bill itself. The list was sent to HS2 for them to check and, at that point, they spotted that they had not organised the display of a notice in one of the places on the list, which was Oxfordshire. So they told us. I will not tell you what I said, but you can probably imagine.

12. **THE CHAIRMAN:** Surely not.

13. **MS GORLOV:** When I close the door, sir, I do not let on what I say. Anyway, we identified the places where the notice should be placed and they were put there. The details

of that are in the appendix—appendix B to the statement which you have had. The notice, as you will see from paragraph 6, was placed in the right place with effect from 7 October, but unfortunately it should have been in place on 10 September. So we have that non-compliance, which we rectified as soon as we became aware of it. In terms of compliance with the Standing Order, I do not think there is anything else that the promoter could have done or HS2 could have done for the promoter.

14. I was going to say that it was the only thing that we got wrong, but, of course, there was nowhere else in Oxfordshire where this newspaper notice was displayed and so, on one level, the public did not have the opportunity that they ought to have had in Oxfordshire to see this notice. However, without in any way belittling the fact that we got it wrong, the practical effect of this is, we think, at best, de minimis. The works in question are described in the statement that you have, and perhaps you would like to turn to page 15 of the statement—sorry, page 8 of the statement. The computer chopped the plans at figures B3 and B4. It does not actually make any practical difference, but they are being passed around now. The drawings that you have got now show the full extent of those works.

15. Those, sir, are the two figures that you have on page 8 in a truncated form. If I might take the Committee first to figures B1 and B2, these show an access road at a place called Warren Farm in the parish of Finmere. It is work number 2105B. It is an access road to take construction traffic down to the new railway. Now, as you will see from figure B1, it goes along a field boundary—that is on the left hand side of the page; the straight line—and that is an existing access road up to a complex of buildings. Those, sir, are Warren Farm and some other buildings that are nearby. Then it carries on—this is the new work—to the right on the drawing. Well, that clearly goes near the farmhouse and farm buildings, and the farmer did not like it very much. So, in order to accommodate him, the U-shape was reversed, as you see, and it is now proposed that the new path will come off the existing access road at a different point at the bottom of the page, as you see it on figure B2. It will then go along what is the boundary at the bottom of the page. It is, in fact, adjoining the limit of deviation of the original work. So the proposal will take the work further away from any buildings down to the railway. We have some aerial views so that you can get a feel of what this looks like, sir. I do not know if those can be handed out to you.

16. **LORD GEDDES:** Chairman, to be quite clear, we are looking at the original B1 and B2 because we have not been handed any amendments to B1 and B2. Is that correct?

17. **MS GORLOV:** Yes, sir, that is correct. B1 and B2 came off the printer correctly. It was B3 and B4 that got chopped.

18. **LORD GEDDES:** Thank you.

19. **MS GORLOV:** What the Committee has here is an aerial view of the whole of the area concerned. We have not marked the parish boundaries, but there are two parishes here and we will come to one of them in a moment. The one at the bottom of the page is in Finmere, and this is Warren Farm. If you follow the arrow, you will see the field boundary. And if you follow the land form, you can see the farms and that the proposal takes the new access road further away from those farm buildings. The Committee will also notice that there is nothing in the immediate vicinity except open fields.

20. So the immediate effect on surrounding areas is very small, or rather is non-existent except for on the landowner. All the land in question belongs to the same landowner. These proposals follow discussions with him and are agreed by him, as we understand it. The effect of changing this route will have no impact at all on the volume of traffic that uses it or where it decamps onto the highway, so there will be no effect there as far as local people are concerned. I think it is fair to say that, at an earlier stage, there were petitions that mentioned this work and were concerned by the fact that it was there, I believe, and somebody was raising a problem about a balancing pond. Well, no doubt, these people, if they have these same concerns, will raise them again, but we say that the alteration makes no difference.

21. How will these people know about the existence of the work? Well, the people in the immediate vicinity are landowners and were served with a Standing Order 13 notice. Any possible prospective petitioner in Finmere will have had the opportunity find out about these proposals. There are plenty of opportunities other than libraries. First of all, there is the local newspaper. There is the parish council. The parish council copies of the Bill documents are with the parish council and the additional provision documents were deposited with the parish clerk as well.

22. There are footpath notices. Am I right that this is a footpath? No, I beg your pardon, sir, this is not a footpath, but this is a well publicised exercise—the additional provision exercise—and the display in the library is but one of the many ways in which the public knows about the proposed changes to the Bill. It is also worth pointing out that because the library at which the notice was displayed from the date in September when it should have been is much nearer than anywhere else, it is not unreasonable to suggest that that is the

library that local people might go to rather more frequently than traipsing off several miles away.

23. So we think that the chances of this error having caused any real difficulty, still less any ignorance on the part of anybody in Finmere, is really very, very remote. It is also worth adding that there is nobody else who would have had a locus standi to petition. So without, as I say, in any way belittling the fact that an error was made, we do think that, in practical terms, it will not have had any effect at all.

24. **THE CHAIRMAN:** Let me try and crudely summarise the situation. The works are taking place in Oxfordshire.

25. **MS GORLOV:** That is right.

26. **THE CHAIRMAN:** The nearest place of public resort to where the works are located happens not to be in Oxfordshire.

27. **MS GORLOV:** That is right.

28. **THE CHAIRMAN:** But the notice was displayed at the nearest place of public resort.

29. **MS GORLOV:** That is correct, yes.

30. **THE CHAIRMAN:** Because it was not in Oxfordshire it therefore did not basically tick the box.

31. **MS GORLOV:** That it exactly right, sir.

32. **THE CHAIRMAN:** So you now have to display a notice in Oxfordshire at a place of public resort, but that place is, in fact, further away from the site of the works than the place at which the notice was originally displayed.

33. **MS GORLOV:** That it exactly right, sir. Perhaps I might pre-empt a question that somebody might want to ask and that is why we chose public libraries. They are not the only places of public resort—one knows that. However, they do tend to have the most reliable opening times. Places have village halls and similar, but they tend to be locked these days. Parish councils do not run from offices, by and large. Sometimes they are not run from the parish at all, and they tend to be run from the parish clerk's front room, so those are not places of public resort. By and large, in the countryside, one finds that the places that people resort to are not reliably open all the time. So we use libraries and, to some extent, also town halls because those are available to the public during normal hours.

34. **THE CHAIRMAN:** One other question I have is: can I just check that the non-compliance was reported by HS2 themselves?

35. **MS GORLOV:** Oh yes, sir, it was.

36. **THE CHAIRMAN:** So they were saying, “Oops, we thought we’d done it, but we haven’t.”

37. **MS GORLOV:** They reported it to us. They said, “What do we do?” And we told them and they did it.

38. **BARONESS GOULD:** Could I just pick up one or two points from what you have just said? You said that it is probably reasonable that everybody would be aware. I would really like a better definition of reasonable in the sense that I would much prefer to have a guarantee that everybody has had the opportunity and will have the opportunity to actually receive the information about the new proposals. I do understand the point about the libraries and I do understand that there are not that many places where people could actually go, but I do remember a previous discussion when we talked about the timing when libraries were actually open and also whether any of this is going to be affected by any public holidays, when the libraries will not be open.

39. **MS GORLOV:** I am afraid I do not, off the top of my head, know what the opening hours are. I cannot now recall. Libraries do, indeed, have opening hours. Reasonable, if I might suggest, means that one does what is possible—what one would regard as being a possible thing to do in the circumstances. That does not mean that one has to do the ultimate because that, generally, is not really feasible. But one takes what one finds and makes the best use of it that one can. So, in the case of the public libraries, if that is what offers and it is closed on Wednesday afternoons, well, that place of public resort is closed on Wednesday afternoons, but quite a lot of other places are as well. I do not think that a promoter can necessarily find somewhere that is open 24 hours a day or even 9 to 5.30, Monday to Friday and half-day Saturdays. It is just not possible. As to whether anything can be guaranteed, well, nothing can be guaranteed—of course it cannot.

40. **BARONESS GOULD:** Sorry?

41. **MS GORLOV:** Well, nothing can be absolutely guaranteed—of course it cannot. One has to make a guess—an informed guess, a reasoned guess—on the basis of what there is on the ground and what actually has been happening. There have been newspaper notices for people to see. There has been a large amount of publicity. Everybody who is directly affected by these works was a landowner who received a landowner’s notice under Standing Order 13. So one can say with certainty that everybody who is directly affected by this work knows about it because they have had a landowner’s notice. The only people who might not

know about it are those who might claim some indirect effect like the balancing pond issue that I noticed in one of the petitions against the Bill, or somebody who was concerned about the amount of traffic on the road. Those are the people who might have an interest in petitioning and that is where one has to look at what else would have been available to them other than these rather distant libraries in Oxfordshire.

42. **THE CHAIRMAN:** Is it not the case that the conditions made by the House of Commons Standing Orders Committee require the promoters to notify the residents of the parishes in question in writing of the dates of petitioning decided by the Select Committee and to identify the places of public resort in the county of Oxfordshire where the relevant notices required by Standing Order 10A are to be displayed?

43. **MS GORLOV:** Indeed it has, sir. Sorry, I was dealing with the historical position rather than where we are going forward.

44. **THE CHAIRMAN:** But going forward.

45. **MS GORLOV:** Indeed. Perhaps just to finish the historical position, I do want to assure the Committee that the newspaper notice was not misleading because I do not think it mentioned libraries in Oxfordshire. So people were not misled into going off to an Oxfordshire library and not finding the notice there.

46. Yes, it is the case that the Commons Standing Orders Committee has required the promoter to serve individual notice on the residents in the parish, so they will find out—if they do not know already—that these works are being carried out.

47. **LORD GEDDES:** It is a hypothetical point, Lord Chairman, but, on this question of guarantee, I think it fair—maybe I will put it as a question. You could no more guarantee, had the notice been put in, let us say, a library in Oxfordshire, that everybody would go and read it. I mean, it was not, but on this question of guarantee, you cannot force people to go and look at a notice. Would that be fair?

48. **MS GORLOV:** That would be fair. In fact, if one were asked to speculate, I may be a cynic but I hazard a guess that most people do not look at those notices wherever they are displayed.

49. **LORD GEDDES:** You might say that; I could not possibly comment.

50. **MS GORLOV:** It is a personal comment, sir. I do not think I am speaking for my clients there. But the guarantee, as I understood it, was whether we could be sure that everybody knew and I could not give that as a guarantee either. Again, whether or not the notice was in the library, you would have to say that same thing.

51. **LORD GEDDES:** Chairman, are we going to get onto the subject of dates in a minute?

52. **THE CHAIRMAN:** Can I ask Lord Luke first?

53. **LORD GEDDES:** It is just a question: are we going to?

54. **THE CHAIRMAN:** I thought we had dealt with any comments on dates. Dates of what, sorry?

55. **LORD GEDDES:** This is on 10A because I have got confused.

56. **THE CHAIRMAN:** Ask on dates now.

57. **LORD GEDDES:** Shall I ask it now?

58. **THE CHAIRMAN:** Yes.

59. **LORD GEDDES:** I am looking at Document SOCI415003, which is a note by the Examiners. In paragraphs 6 and 7, there are three different dates. I hope you can enlighten me on this. The requirement, as I read it in 6, is that the notices should be displayed for two consecutive weeks ending not later than 11 December. That was a, sort of, open period, provided it was not later than 11 December. The notices were, in fact, put in, you have told us, on 7 October, but then another date comes in—which I do not understand where it came from, except that what actually happened is they were displayed on 12 September. By putting the notices into the library in Oxfordshire from 7 October, two weeks after that is 21 October, which is well before 11 December. That is where I got confused.

60. **MS GORLOV:** It is understandable, sir. The way one has to work the strict time limits in the Standing Orders into something that cannot possibly conform to them and is at a different time of year is a bit of an art rather than a science. Perhaps we were too hard on ourselves, but we took the view that the intent of the Standing Orders is that the notices should be displayed from the deposit of the Bill, so that the notice should therefore have been displayed at some time between 10 and 12 September. We were working to a petitioning period ending on 17 October. So this is not purely an academic start date; there was an interval between the deposit of the AP documents and the expiry of petitioning time. The notice should have gone up on 10 September, so that that coincided with the deposit of the AP. It did go up in other places and the public at large should have had notice that they could see between 10 September and 17 October. Anybody reliant on a notice being displayed in a place of public resort in Oxfordshire would only have had the 10 days between 7 October and 17 October. That is the point of those dates, sir.

61. **LORD GEDDES:** Sorry, if I could ask just one supplementary: from that explanation, the date of 11 December is a red herring?

62. **MS GORLOV:** A complete red herring in relation to the AP.

63. **LORD GEDDES:** Thank you. That now clarifies my problem.

64. **LORD LUKE:** Just a point. This business over 10A arises from the fact that there is no public library that actually fulfils all the qualifications you were having to take into account. I can think of one place of public resort that almost certainly would have been convenient. That is the parish church. Has that been considered?

65. **MS GORLOV:** The problem, sir, I am advised, is that parish churches—I do not know that we could specifically say that we know that this parish church is closed—do tend to be closed. Therefore, they are not a place of public resort that would be of any use for the purposes of the Standing Order.

66. **LORD LUKE:** I see.

67. **MS GORLOV:** I think the idea is also that one goes to a church for a particular purpose, not expecting to see anything else there. The idea of having the notice on display in a library is that it is the sort of place where one expects to find that sort of public notice. Of course, there are public notices in churches, but, by and large, they do not relate to the latest compulsory purchase order proposal or something of that sort. People might not expect to look for that sort of thing quite so much in a church, but, as I say, that is not the reason that churches were not considered. It was because, by and large, they are not a useful place of public resort.

68. **LORD RODGERS:** Perhaps just to clarify if I may, it is clear is it that the promoter was at responsibility for failing to see the notices published? Following what the House of Commons is proposing, where does the cost fall in sending, if this is what it intends to do, a copy to each individual or each resident in those two villages?

69. **MS GORLOV:** Ultimately, my Lord, it will fall on the taxpayer because it will be paid for by Her Majesty's Government out of the budget for HS2.

70. **LORD RODGERS:** Sorry?

71. **MS GORLOV:** I said, sir, that ultimately the burden will fall on the taxpayer because the cost of this will be borne by the Government out of its HS2 budget.

72. **LORD RODGERS:** That was not exactly my question. My question was who was responsible for the accident—for the error? Who made the error? The promoter?

73. **MS GORLOV:** The actual error occurred within HS2.

74. **LORD RODGERS:** Which is the promoter?

75. **MS GORLOV:** No, the promoter, sir, is the Secretary of State.

76. **LORD RODGERS:** Who are the promoters?

77. **MS GORLOV:** The promoter is the Secretary of State for Transport.

78. **LORD RODGERS:** I see, which is not HS2.

79. **MS GORLOV:** Which is not HS2. HS2 is HS2 Ltd, which is the company that the Secretary of State has instructed to carry out the actual work required to get the Bill in place. They are the people who prepare the plans, do the design, deal with landowners—all the nitty-gritty that lies behind this Bill.

80. **LORD RODGERS:** You said, in reply to my question, which I had not quite asked—in reply to “Where would the cost fall?” you said, “On the taxpayer.”

81. **MS GORLOV:** That is right, sir.

82. **LORD RODGERS:** Can you tell us how much will be involved in sending copies?

83. **MS GORLOV:** We have not yet been able to cost it, sir. If one takes the most obvious cost, there will be letters to 700 people, but we think we would be writing one letter per household and there are in the order of 300 households in the two parishes. So there is that cost, which has not yet been done. Let us see what we have—331 households I am advised. So there are letters to 331 households, which is not a huge expense. Overall, the time spent resulting from this error that was spent by HS2 Ltd—and, dare I say it, the lawyers—will run into several thousands of pounds. In the great scheme of the billions that this railway is going to cost, it is a very small amount. In absolute terms, it has several noughts on the end.

84. **LORD RODGERS:** I do not know whether this is in the competence of our discussion today, but there is a total cost involved in the matter that we are discussing today, including this meeting, the Commons and the professionals involved. That will be taxpayers’ money, whatever happens.

85. **MS GORLOV:** The costs of professionals engaged by the Government will be borne by the Government out of the HS2 budget, as I say. Might I point out that the costs of this Standing Orders Committee would arise anyway, because the Committee would have to meet to deal with this Bill? The additional costs are, apart from anything else, paid—the costs will come out of the funds that finance Parliament, and ultimately that is the Government, but they are costs that will be borne by the House, not out of the HS2 budget.

86. **THE CHAIRMAN:** Is there anything else you wish to say, Ms Gorlov?

87. **MS GORLOV:** I do not think so, sir. Sorry, I have jumped ahead of myself. I ought just perhaps to take the Committee through the other work in the parish of Mixbury. The position there is very much the same. If you turn to figures B3 and B4 on page 8 of the statement—sorry, these are the two new plans that you were handed—you will see that it is work no. 2107. There, again, we have a path. This time it is an existing path and it is a public footpath. It was thought that this track—I do beg your pardon. I am reminded that the public footpath is the line that you will see coming at a diagonal across the work itself.

88. **THE CHAIRMAN:** Marked bridleway?

89. **MS GORLOV:** It is a bridleway. The work itself is an access road. It is, in fact, an existing farm track at Tibbetts Farm in the parish of Mixbury. When this was first looked at, it was thought that the track was sufficient to be used as it was more or less, and that all that was required was to take rights to use it. The engineers, having looked further at this, formed the view that the track itself is simply not wide enough. So the AP provides for the trackway to be widened and for it to become a work that we metal and turn into a more durable access road.

90. All the land affected belongs to the same landowner as owns the narrower access track, so there is no landowner effect there. The effect on traffic is non-existent and is exactly the same case as in Finmere. The one difference is that there is this bridleway. There were notices on the bridleway itself, in accordance with the Standing Orders, which would have alerted people to the fact that this work was there and that the bridleway was to be stopped up. So, for anybody who used this area, they would immediately know that this work was going on.

91. Apart from that, the position is exactly as it was in Finmere: that the library was closer and the houses nearby were landowners who received a landowner's notice. There is no house in the vicinity that is affected by it other than the people who received a SO 13 notice, and the village itself is in the same position as Finmere: that it is remote. If there are any concerns, they are not affected by the additional provision.

92. **THE CHAIRMAN:** But users of the bridleway would have seen the notice?

93. **MS GORLOV:** They would, indeed, and, as you have rightly pointed out, thanks to the decision of the Standing Orders Committee in the Commons, all those people will receive a letter explaining that this work is going to take place.

94. **THE CHAIRMAN:** I think that is it. We will now wish to deliberate in private. Could I ask you to step into the corridor. Thank you.

*The Committee was suspended from 11.48 am until 11.50 am.*

95. **THE CHAIRMAN:** Welcome back. We are now in public session. We have now reached a decision. The Committee has resolved that Standing Orders 10, 11, 12, 12A, 13, 27, 27A, 34, 36, 39, 41 and 45, which are non-compliant as to time should be dispensed with. The Committee has resolved that Standing Order 10A ought to be dispensed with upon receipt by the Standing Orders Committee of confirmation by the Government that the condition contained in paragraph 1(b) of the decision of the House of Commons Standing Orders Committee on 28 October 2014 has been complied with. Those are the decisions of the Committee. The Committee now stands adjourned.

*The Committee adjourned at 11.52 am.*