

MINUTES OF ORAL EVIDENCE

taken before the

**HIGH SPEED RAIL BILL COMMITTEE**

on the

**HIGH SPEED RAIL (CREWE – MANCHESTER) BILL**

Tuesday, 7 March 2023 (Afternoon)

In Committee Room 8

Evidence referred to during the session can be found [here](#)

A video of the proceedings can be found [here](#)

PRESENT:

Andrew Percy (Chair)

Antony Higginbotham

Grahame Morris

Martin Vickers

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FOR THE PROMOTER:

Timothy Mould KC, Lead Counsel, Department for Transport

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FOR THE PETITIONERS:

Angela Rayner MP, Andrew Gwynne MP and Jonathan Reynolds MP

Graham Stringer MP

Jonathan Hayes, Owner of Domestic Doggess Ltd

**IN PUBLIC SESSION**

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**(At 2.14 p.m.)**

1. THE CHAIR: Good afternoon and welcome to this afternoon's meeting of the HS2 hybrid Bill Select Committee. We're going to be hearing today from petitioners and representatives of the promoter. The Committee will be hearing three right to be heard challenges. The first petition is a joint petition by Angela Rayner, Andrew Gwynne and Jonathan Reynolds and then following that we'll be hearing two more right to be heard petitions.

2. Right to be heard petitions, and challenges to right to be heard, are where the promoter has directly challenged the right of the petitioners to be heard on the basis that their interests are not directly or specially affected by the provisions of the Bill. Just to outline what will happen this afternoon, we will have Mr Mould will be reading a brief opening statement that we want to be read into the record for today. Then we'll go to the petitioners, who will obviously put their case, followed by Mr Mould. We'll make a deliberation on the rights to be heard, following the meeting. That will be in private and we will be communicating that with the petitioners, and with the promoter, in the coming days and I will ensure that that's read into the record at a future meeting also.

3. So I'm going to hand straight over to Mr Mould for you to read your opening statement into the record, please.

4. MR MOULD KC (DfT): Thank you very much. For the record, this is document P14.

5. A petitioner against a hybrid Bill or an additional provision must, if challenged, prove that he has standing to petition, according to the established rules and orders of the House. In paragraph 135(1) of its report published on 28 July 1988, the Joint Committee on Private Bill Procedure said, 'The Committee consider that it is a fundamental principle of private legislation procedure that only parties specially affected should be entitled to be heard and that the rules of standing must be upheld. If they're allowed to lapse, more of Members' time will be taken up in Private Bill Committees'.

6. The Joint Committee recommended that promoters should be encouraged to police the rules of standing and that a Bill Committee should not criticise a promoter who

made a reasonable, but unsuccessful, challenge to a petitioner's standing. At the outset of proceedings before the Select Committee of this House in 2014, the promoter of the High Speed Rail (London – West Midlands) Bill took a cautious approach to challenging petitioners' right to be heard. In paragraph 394 of its second special report, 2015-16, that Committee stated its belief that there should be 'a stricter approach'.

7. For the purposes of the present Bill, therefore, the promoter has been guided by the established principle upon which a person has the right to be heard; that is to say that a person has the right to be heard only if his or her property or interests are directly and specially affected by the Bill. In this context, an interest means a property right which a person could enforce at law in the absence of the Bill, such as a right of way or a right to light or a claim for damages in nuisance.

8. It is the settled practice of Select Committees on private and hybrid Bills to regard local authorities as the most appropriate petitioners on matters of public interest affected by the works proposed under a Bill, such as public health and safety, highways matters and environmental and local community concerns. That settled practice is reflected in the powers conferred on the Select Committee by Standing Order 96 of the Standing Orders of the House of Commons relating to private business. The promoter has not challenged the standing of local authorities, including parish and town councils, in whose area the works are situated. The promoter anticipates that those authorities will bring to the Select Committee's attention any points of concern arising from the Bill and relating to their areas as a whole, or to local communities whom they represent.

9. Standing Order 96 also gives your Committee discretion to admit a petition from any of the inhabitants of an area, the whole or any part of which is alleged in the petition to be injuriously affected by a Bill or any provisions thereof. The convention is that Standing Order 96 is directed at groups of persons who are petitioning, as representatives of inhabitants of the area. Individual inhabitants are not normally treated as covered by Standing Order 96.

10. The promoter's approach is to invite you to decline to exercise your discretion to admit a petition from inhabitants in any case in which the petition of a local authority for that area, including the parish or town council, has raised the same or similar issues. In such a case, the promoter invites your Committee instead to hear from the local

authority in accordance with the settled practice.

11. Turning to the question of MPs, until 2017, neither parliamentary practice nor the Standing Orders of either House conferred the right to be heard on a Member of Parliament petitioning on behalf of his or her constituents. Nor did Standing Order 96 confer a discretion on a Select Committee to admit the petition of an MP, petitioning on behalf of his or her constituents. The reference to that is to be found in one of the reference documents that you have in your pack at page R9/12 at paragraph 12. I don't need to go to it.

12. That settled position is to be contrasted with the undoubted right to be heard of an MP petitioning on the ground that his or her property or interests were directly and specially affected by the Bill, for example because the Bill sought powers of compulsory purchase over the MP's house or constituency office. That is no more than the application of the established principle.

13. In late 2017, the Standing Orders for private business of both Houses were amended to confer a specific and limited right on an MP to have his or her petition heard against a Bill. In this House, Standing Order 91B states: 'Any Members of Parliament whose constituencies are directly affected by the works proposed by a Bill shall be permitted to have their petition against the Bill considered by the Committee'.

14. It would be seen that the right to be heard conferred by Standing Order 91B is limited to an MP whose constituency is directly affected by the works proposed by the Bill. It is, of course, likely to be the case that a hybrid Bill promoting a major railway scheme, as we have here, will have a multitude of effects which extend more widely than the particular areas in which the works are actually proposed. MPs who have concerns as to the impact on their constituents of the wider effects of the Bill do not have the right to be heard on a petition against the Bill. Such an MP is, of course, able to participate in debates upon the Bill on Second and Third Reading and to raise questions, either in the House or in writing.

15. The promoter challenged the standing of 10 of the 155 petitioners who have laid petitions before your Committee, of which six have since withdrawn their petitions. The intention is that your Committee should be able to focus its business upon the petitions of those persons whose property or interests are specially and directly affected by the

Bill and those who represent areas or constituencies directly affected by the works proposed by the Bill, rather than a wider and less defined body of persons and organisations who have a more general interest in the subject matter of the Bill.

16. THE CHAIR: Thank you, Mr Mould. I should just say, any exhibits referred to in today's debate will be published on our website and some of them will be shown in the proceedings this afternoon. Ms Rayner?

**Angela Rayner MP, Andrew Gwynne MP and Jonathan Reynolds MP**

**Submissions by Ms Rayner**

17. MS RAYNER: Thank you, Chair, and good afternoon, members of the Select Committee. My name, as most of you know, is Angela Rayner and I represent the constituency of Ashton-under-Lyne in Greater Manchester. Alongside me are my co-petitioners, the neighbouring MPs, Andrew Gwynne, who represents Denton and Reddish, and also Jonathan Reynolds, who represents Stalybridge and Hyde. I'm here to explain why our petition against the HS2 (Crewe – Manchester) Phase 2B hybrid Bill has the right to be heard.

18. For the purposes of this session, and for ease, I will speak for the reasons why all three MPs have the right to be heard, with Andrew and Jonathan acting as witnesses, should any of the Committee members wish to seek constituency-specific questions.

19. The rules state that while anybody can submit a petition against a private or hybrid Bill, only petitioners who are directly and specially affected by the Bill in question have the right to have their petition considered by the Committee, and I believe that we meet those criteria. The grounds upon which a petitioner would be deemed to be directly and specially affected are generally understood as meaning a direct and demonstrable impact on property or personal interest and an adverse effect different to beyond that experienced by people or bodies more generally.

20. On 2 March, the Minister wrote to myself, Andrew and Jonathan to explain why our right to be heard had been challenged. He said it was because our constituencies were not considered to be directly affected by the works in the Bill and that indirect effects do not grant Members of Parliament a right to be heard. Drawing a parallel with

rules for local authorities, he wrote that a local authority would be considered to be directly affected if the works proposed are inside its area, and that is the same principle applied to MPs and parliamentary constituencies.

21. The formal notice of objection letter was received in September and it also stated that our right to be heard is being challenged because we do not show that our constituents are directly affected by the works proposed in the Bill. The notice has also laid out other reasons: that we do not own or occupy land within the Bill limits; that we do not show that we are inhabitants of an area affected by the Bill; and that the points in our petition were also made in the petitions of other petitioners.

22. Now, the first point I'd like to make is that Standing Order 91B, rights of Members of Parliament to have petitions considered, clearly states, 'Any Member of Parliament whose constituencies are directly affected by the works proposed by a Bill shall be permitted to have their petition against the Bill considered by the Committee'.

23. Objections regarding ownership of land and being inhabitants of the area and making points which are also made by other petitioners are therefore irrelevant. We have a clear right, as Members of Parliament, to be heard if the Committee considers that our constituencies will be directly affected, and it is our clear position that our constituencies are specially and directly affected by the works proposed in the Bill.

24. The Bill includes powers that directly result in the closure of Ashton Metrolink line and mitigations which will directly affect our constituencies, as well as the economic growth of Tameside. So we are of the view that we have an overwhelming right to be heard. We all have responsibility to ensure that the social, economic and environmental wellbeing of the people we represent is not negatively impacted by this Bill.

25. As we say in our petition, the Bill proposes the full closure of the Ashton Metrolink line for a period of at least two years. This closure is a direct impact of the works proposed in the Bill, specifically the construction of the Piccadilly HS2 station. This is not an indirect effect or caused by anything else other than the Bill proposals. If the works included in the Bill are carried out, the line will be closed for two years as an immediate, direct consequence of those works.

26. Now, we've provided some maps for you today. So if you can see on the map that you have in front of you now, map 1, it shows the line as it is now in yellow. You'll see it running along from Piccadilly into Ashton-under-Lyne. And then, if we move to map 2, it shows the line as it will be for two years under the Bill proposals. There will be no services along the part in grey that you can see now. That is the significant and direct impact of the Bill.

27. My constituency is served by the line that currently runs from Ashton to Eccles with the stops in my constituency being Ashton-under-Lyne, Ashton West, Droylsden, Cemetery Road and Edge Lane. Ashton Moss and Audenshaw tram stops sit in Andrew's constituency, and the terminus at Ashton-under-Lyne is close to the boundary with Jonathan's constituency and heavily used by his constituents.

28. All of these stops would be mothballed as a direct result of the work proposed in the Bill or, as we say in paragraph 7 of our petition, the line – that's the line being severed by the proposals in the Bill – connects communities from Ashton-under-Lyne through Audenshaw and Droylsden, all in our constituencies, and then on to Manchester Piccadilly.

29. This is not just a direct effect on our constituencies but an effect that is special to our constituencies. We are asking for the right to be heard because our constituencies are specifically affected by the Bill in a way that other constituencies are not. The Bill takes our tramline away for two years. We recognise that the works which sever the line are not themselves located in our constituencies but that is not the test. The House made Standing Order 91B, which refers to constituencies which are directly affected by the works proposed by a Bill, and if the House wanted the test to be different, then I believe it would have said so. We say that works in one constituency can directly affect another constituency and that is exactly what is happening here with the removal of our tramline.

30. The Minister's letter suggests that the position of MPs on this matter is comparable to that of local authorities but this is a misplaced argument for several reasons. Firstly, as this is a new Standing Order, Standing Order 91B – it was only passed in November 2017 – as the Minister's lawyers acknowledged when we questioned this, there isn't a clear precedent and it is in the gift of this Committee to



decide how it should be applied. There is no binding decision on what ‘directly affected’ means for MPs, unless this Committee makes one and, despite what the Minister said, there is not a clear precedent to say that MPs must be treated in the same way as local authorities. MPs clearly have a different elected remit to local authorities.

31. The comparison with local authorities fails again when you consider the difference between Standing Order 91B, which gives MPs our right to be heard, and Standing Order 96, which gives local authorities theirs. The test is different and if the House wanted the test to be the same, then it would have made it so when it agreed Standing Order 91B or simply added MPs to Standing Order 96. But the House didn’t do that. Local authorities have to pass a two-stage test. Their area must be affected and the Committee must agree to hear them. So sometimes they have been refused standing if another petitioner made the same points but in Standing Order 91B, the test for MPs is simple. Is the constituency directly affected? If it is, then MPs are permitted to be heard.

32. Unlike the test for local authorities, an MP’s right to be heard is not conditional on the points made by other petitioners. Our petition makes it clear that our constituencies are directly affected by the Bill and the strange thing is I don’t think that the promoter really disputes that. In their challenge to our right to be heard, the promoter’s lawyers say the points made in the petition regarding the temporary closure of the Ashton Metrolink line under the Bill are also made in the petitions of Manchester City Council, Greater Manchester Combined Authority and Tameside Borough Council, which represent the area alleged to be adversely affected by the Bill and whose right to be heard is not being challenged by the promoter.

33. So, Committee, they acknowledge that we have made these points. They acknowledge that we have claimed an adverse effect on our constituencies and they haven’t challenged other petitioners who make the same points. But, as I said at the outset, it doesn’t matter if others make similar points to ours. Standing Order 91B does not make a Member of Parliament’s right to be heard conditional on the content of other petitions and our role, as elected Members, is different. The Standing Order is clear. If a Member’s constituency is directly affected by the Bill, that Member shall be permitted to be heard and the promoter seems to accept that our constituencies are affected when others say it, so why seek to exclude the Members for those constituencies? And, in any

event, the Minister's parallel with local authorities is undermined by the fact that there are cases where local authorities have been given a right to be heard on cases outside of their areas. So even for local authorities, there can be direct effects from works outside their areas.

34. Finally, it is also highly instructive that the Select Committee for the HS2 Phase 2A Bill heard from Members of Parliament for Stoke-on-Trent South and Eddisbury, despite neither of them having any infrastructure in their constituencies. This was with Standing Order 91B in place that had been passed seven months earlier. So if these MPs were allowed to represent their constituencies, then so must we.

35. These are not just theoretical effects. Closing the Metrolink between Ashton-under-Lyne and Manchester Piccadilly for two years would have a major, real-life impact on our constituents, as our inboxes will attest to. From our perspective, our constituencies contain some wards with extremely high levels of deprivation rates. So it is no surprise that public transport is heavily relied upon for people who need to get to work or to access vital services such as dentists and doctors. The removal of such a well-used line will cause severe upheaval for many of our constituents.

36. HS2 Ltd's plan is to replace trams with a bus service between Ashton and Manchester Piccadilly, buses that would have to travel down an already heavily congested route into the city centre, most notably Manchester Road and Hyde Road. We believe the increase in journey time between tram and bus and the general unreliability of bus networks would cause many commuters to shift from tram to using a private car to get to work and, in addition to this, there will be a significant traffic impact from lorries shifting materials to and from the station where the new HS2 platform is being constructed.

37. Now, I know that you were given a briefing on construction traffic a couple of weeks ago and were shown a map of the construction traffic routes. The main road that you can see on that map is to the south of Ashton-under-Lyne, running from Piccadilly through my constituency and Andrew's constituency to the M60. This is the same construction traffic route that HS2 showed you during that briefing. The adverse environmental impact this increased traffic would have cannot be ignored and that traffic route is another factor that would directly and specially affect our constituents.

38. Furthermore, there would be a serious economic impact to mothballing of the tram. This is a major factor raised in the petition submitted by Tameside Council but it is also something that we all have concerns about and would like the opportunity to discuss in our own right as the MPs. The closure of the tramline for two years will severely impact the ability to deliver growth, investment and level up Tameside and that is something that is very much relevant to raise in our petition as the three local MPs.

39. Whilst it is the case that the line does not fall specifically within Jonathan's constituency, it is an essential piece of infrastructure for many of his constituents. Directly because of this construction, many of Jonathan's constituents will see their journey to work affected as well as their ability to contribute to Tameside's economy. It isn't realistic for HS2 Ltd to claim that Jonathan wouldn't be directly affected when the prosperity of his constituents relies on good transport connections to neighbouring areas.

40. Now, the three of us have worked closely with Tameside Council in recent years to deliver several significant improvements, including securing levelling up funding and projects within Tameside inclusive growth strategy. This work would be negatively affected by the closure of the Metrolink line. In addition to this, proposals agreed within the Greater Manchester Places for Everyone joint development strategy would include a major employment site on Ashton Moss and a key element of the success of this would be the effective transport infrastructure.

41. I believe that the requirements and impact of mothballing, maintaining and then bringing back into service the Ashton to Piccadilly line have not been fully considered, nor have any alternative proposals that we put forward as MPs for the areas directly affected by the Bill, and we feel it is clear that we have a right to be heard by the Committee. Thank you for listening to me and if you have any questions, all three of us will be happy to answer them.

42. THE CHAIR: Thank you, Angela. I just have a quick one. Forgive me, I'm a Yorkshireman and I don't know the county and council boundaries perfectly but all three constituencies are entirely within Tameside.

43. MS RAYNER: No.

44. THE CHAIR: No, right, okay. I told you I didn't know it.

45. MR GWYNNE: So two of us represent a cross-borough constituency. Mine is predominantly in Tameside but with two wards from Stockport. Angela's is predominantly in Tameside but with two wards from Oldham. Jonny's constituency is entirely within the borough of Tameside.

46. THE CHAIR: The route of the Metrolink is entirely in the Tameside Borough Council section, yes?

47. MR GWYNNE: No. It starts in the city of Manchester.

48. THE CHAIR: No, of course, but I mean the stations and the stops that affect your constituents are all Tameside.

49. MR GWYNNE: They are.

50. THE CHAIR: Right, okay. Sorry, I just wanted to be clear there. And Tameside have petitioned, of course.

51. MS RAYNER: That's correct, yes.

52. THE CHAIR: Thanks. Thank you for that. Any other questions at this point or clarifications? No. Mr Mould?

### **Response by Mr Mould**

53. MR MOULD KC (DfT): Thank you. The simple question is whether these petitioners fall within the scope of Standing Order 91B. I agree with Ms Rayner that it is that Standing Order and that Standing Order alone that you should focus upon and, in particular, I recognise and acknowledge that it is a relatively new Standing Order within the Standing Orders of this House, as I explained when I briefly opened the session this afternoon, and there is no precedent that directly relates to that Standing Order. This, indeed, I think is the first Bill in which it has been an established and published feature of Standing Orders of private business.

54. THE CHAIR: Just to interrupt there, Mr Mould, so when the Stoke South Member and another Member were able to speak on the hybrid Bill Select Committee 2A, they were under the previous regime.

55. MR MOULD KC (DfT): Yes.

56. THE CHAIR: In which MPs had no right.

57. MR MOULD KC (DfT): They had no right to be heard.

58. THE CHAIR: But the Committee decided they did have a right.

59. MR MOULD KC (DfT): No, the Committee wasn't asked to make a decision. It's important to understand, and I remind you actually of what I said in paragraphs 1 and 2 of my note, which you'll have on the record. The principal role of policing the rules of standing falls to the promoter. The promoter may invite you to make a decision by challenging the standing of an individual petitioner or petitioners but it is, first and foremost, for the promoter to consider whether it should challenge the standing of any particular petitioner.

60. In the case of, I think it was, Ms Sandbach and Mr Brereton, in each case the promoter took the view that it should not challenge their standing and therefore the matter wasn't put before Sir James Duddridge's Committee for consideration. In each case, the reason why the promoter took the view that it should not challenge the standing of those two MPs was because each of them raised an issue that the promoter considered to merit consideration by the Committee in the exercise of its functions and which had not been raised by any other petitioner. In the case of Ms Sandbach, that was the availability of compensation to short tenants and to boat dwellers, and in the case of Mr Brereton it was concerned with the impacts of construction traffic on the roads of Newcastle-under-Lyme and Stoke-on-Trent and, in particular, concerns about the operation of a junction on the M6 when it was loaded with HS2 construction traffic.

61. THE CHAIR: Sorry to interrupt, Mr Mould. On both those occasions, at no point did the route pass through those constituencies.

62. MR MOULD KC (DfT): That's correct and the contrast here is in this way. In the case of each of the three petitioners that are before you at the moment, save for one point, the issues that they raise in their petition are all raised in detail by other petitioners who you are to hear, including, most particularly, as well as Tameside Council, Manchester City Council, Transport for Greater Manchester and the Greater

Manchester Combined Authority. In particular, the issue about the impacts of the closure of the Metrolink for two years and its replacement by a bus service is an issue that looms large in those petitions.

63. So applying the same logic to the question of whether we should challenge the standing of these MPs as we applied in the case of those two MPs on the Phase 2A Bill, the contrast is obvious. In that case, if we had challenged them, we would have expected those challenges to have been upheld and, as a result, those issues that we considered to merit consideration by the Select Committee would not have been considered.

64. In the present case, there is no question of the issues that are raised by these petitioners not being placed before you. They will clearly be placed before you by a number of local authorities and regional bodies within Greater Manchester.

65. THE CHAIR: But the test is whether a petitioner is directly or specially affected.

66. MR MOULD KC (DfT): That's the test you have to apply.

67. THE CHAIR: So, if Tameside Borough Council and Greater Manchester transport authority had not raised the objections which are the same as the objections raised by the three Members, would you, as the promoter, be challenging them on the basis of them being directly – because you're either directly and specially affected or you are not, and the fact that somebody else has raised the issues doesn't affect that test, does it?

68. MR MOULD KC (DfT): No, and there is no doubt –

69. THE CHAIR: Sorry, just to labour the question again so I'm really clear on this, if these issues had not been raised by the other authorities, the local authorities, would you, as the promoter, be objecting to this right to be heard?

70. MR MOULD KC (DfT): That breaks down into two stages, if I may. We would have had no doubt that none of these three MPs would have had standing on the basis that they were specially or directly affected by the scheme, but we would then have considered, given that in your scenario the issues that they raise had not been raised by any other petitioner, whether it would be appropriate for us to challenge their standing.

In other words, we would have gone through the same process of reasoning that we went through with Ms Sandbach and the MP for Stoke-on-Trent in relation to the Phase 2A Bill.

71. Whether we would have taken the view in those circumstances that we should maintain a challenge or not, of course I cannot say. But it seems to me that, given the importance of the Metrolink services, and given the importance of some of the other issues raised in relation to the impact of the scheme on Greater Manchester, we may well have taken the view, in those circumstances, that we should not challenge their standing. But that issue didn't arise on the same basis as it arose in the context of the Phase 2A Bill because those issues have been raised and are to be placed before you in detail, as I understand it, by other petitioners speaking as local authorities and regional bodies who will argue those points.

72. It will have struck you, in reading the petitions that you're considering today, that they are expressed in terms of, 'We support Greater Manchester. We support Tameside'. That support is something that can be prayed in aid by those other petitioners when they come before you to present their petitions. They can draw your attention to the fact that they have the clear support of a number of local MPs. But it is a clear distinction on the analysis that I put before you, between the decisions taken by the promoter in relation to those MPs on the Phase 2A Bill and the hypothesis that you put to me in relation to the present Bill. I do emphasise, as you have emphasised it, that the starting point is to consider whether these petitioners are able to show that they are specially or directly affected by the Bill, which brings us back to Standing Order 91B.

73. I did say that there was one point raised by their petitions that is not covered directly by any other petition and that was their request that the promoter of this Bill should continue to engage with them on a regular basis during the progress of the works, and it was in recognition of the fact that that one point was not covered that HS2 Ltd, on behalf of the promoter, has offered assurances to each of these MPs that it will, indeed, continue to engage with them in relation to the works. So that point has been covered off by that assurance.

74. MR HIGGINBOTHAM: It sounds like, from what you've said, Mr Mould, you're almost playing the role of protecting the Committee's time because we're saying that the

issues are fair and right to be heard but, to avoid duplication, we should just hear it from the local authority, rather than from two different – have I got that right?

75. MR MOULD KC (DfT): No, that's central to the function of the promoter and, if you remember, I read out to you a passage from the Private Bill Committee. If the rules are allowed to lapse, more of Members' time will be taken up in Private Bill Committee so it's exactly on point, yes.

76. MR HIGGINBOTHAM: But that leaves it to the Committee to decide whether it wants to give the extra time, presumably.

77. MR MOULD KC (DfT): Well, it does, save that your function, if I may say so, is to consider whether, under the rules as they are at the moment, you are satisfied that these petitioners do, indeed, have the right to be heard, which then brings you back to Standing Order 91B. That is now the lens through which decisions, when they're placed before your Committee through a challenge being made by me on behalf of the promoter – that's the lens through which you have to make a decision.

78. And it resolves down to a simple question: are you persuaded, on the basis of the evidence that you've heard from Ms Rayner, that all or any one of these three MPs does have a constituency which is directly affected by the works proposed under the Bill or not? If you're persuaded, on the evidence she's put before you, the answer is yes, well then, they have a right to be heard under Standing Order 91B. If you're persuaded otherwise by me that they do not, well then, they do not have a right to be heard. And you have no further discretion in the matter under the rules and practice of the House.

79. MR HIGGINBOTHAM: But is your interpretation of the Standing Orders placing a local authority in a more senior position, because you indicated that the local authority could come and say, 'Well, the Member of Parliament is supportive of our petition'? Why does that not work in the reverse? Why do we not challenge the local authority's right to be heard and say, 'Well, the Member of Parliament has petitioned and so you can support their bid'?

80. MR MOULD KC (DfT): It's the settled practice of both Houses over many, many years that local authorities are best placed to represent the interests of their local communities in private and hybrid Bill proceedings and that is reflected in Standing



Order 96, which I referred to. Standing Order 96 does not confer a right on a local authority to be heard. What it does is to give this Committee a discretion to admit the petition of a local authority, and it's been the practice of promoters of Bills of this kind, certainly since I became involved in them in the Crossrail Bill, nearly 20 years ago now – it's been the practice of promoters of Bills of this kind not to invite Committees to decline to exercise their discretion in favour of hearing from local authorities, in recognition of the settled practice to which I've just referred. That is to say that local authorities ought to be heard where they are bringing forward matters which arise from the proposals under the Bill and which affect their constituents in a way that the Committee ought to consider. And that, again, brings you back to your point about efficiency of time because it is, generally speaking, going to be much more efficient in point of time for you to hear from a local authority – usually they'll be better resourced etc – than to hear from a whole sequence of individuals, expressing the point over many, many petition hearings.

81. THE CHAIR: Thank you. I am conscious, Mr Mould, we interrupted your train of argument and the flow of your argument but I will just take other members' interventions first and then allow you to continue with your argument without a little bit of interruption.

82. MR MORRIS: I think Mr Mould's answered my query in response to the earlier point. The arbiter of whether Standing Order 91B applies to the closure of the Ashton Metrolink line, the tramline for two years, that's a matter for this Committee, not the promoter.

83. MR MOULD KC (DfT): Yes, it is. We've placed that matter before you effectively, yes. Yes, absolutely.

84. MR VICKERS: It's more or less the same point so I think you've replied. I mean, I just would say though, Mr Mould, you say that you would still want to engage with the Members of Parliament.

85. MR MOULD KC (DfT): Yes.

86. MR VICKERS: Which seems to suggest that you do acknowledge that they have a particular role and interest in representing their constituents. So in some ways, I can't

see the logic of why you would wish to deny them the opportunity of doing so in petitioning this Committee.

87. MR MOULD KC (DfT): I draw the distinction between the circumscribed way in which Standing Order 91B is drafted and, after all, it is a Standing Order that has been passed by a vote of this House, so it's not a rule that I've introduced myself, and the broader question as to whether MPs who represent constituencies in the vicinity of the areas where the works are proposed under this Bill should, as a matter of proper governance, be the subject of consultation.

88. There's no doubt at all that this Bill will have effects which spread into the constituencies of these MPs to the east of Manchester City Centre. The most obvious example of those effects is the replacement of the tram service on the Ashton Metrolink line by a bus service for two years. But the question for you is whether that constitutes a direct effect which is caused by these works or whether it is a wider effect, such as for example the use of the road network in Greater Manchester, such as the use of the West Coast Main Line to provide freight trains which take the spoil away from the tunnel works in Manchester. I mean, you could imagine that the works which are entailed by a national railway project, as is proposed under this Bill, will have a very wide range of effects, social, economic and otherwise.

89. It's clear that Standing Order 91B was not intended to throw the net so widely that any MP, for example, who had a road through their constituency that might be used by HS2 construction traffic, or any MP who had a railway line that might be used by freight services to take spoil away or to bring materials in – that that should bring them within the scope of 91B. It's quite closely circumscribed and we say that it excludes the kind of indirect effects that, we say, have been placed before you today.

90. THE CHAIR: I think it is important for the record just to read 91B again.

91. MR MOULD KC (DfT): Yes.

92. THE CHAIR: Which is that, 'Rights of Members of Parliament to have a petition considered. Any Members of Parliament whose constituencies are directly affected by the works proposed by the Bill shall be permitted to have their petition against the Bill considered by the Committee'.

93. Obviously, that is a standalone Standing Order which doesn't reference Standing Order 96 in terms of local authorities' rights to be heard. So it is a standalone order and the question then comes to what is considered 'directly', which is obviously a matter for the Committee today.

94. MR MOULD KC (DfT): Exactly.

95. THE CHAIR: But I just thought it was important to read that into the record again because when we start talking about the rights of local authorities and the rights of Members of Parliament, and merging the two together or conflating the two, it is important to remember they are distinct and separate. It doesn't, for example, say, 'except where the local authority has petitioned'. So I just think it's important to get that clear for members of the Committee that 91B is standalone in relation to MPs and doesn't relate to any other rights of a petitioner.

96. MR MOULD KC (DfT): May I just emphasise – forgive me, you probably have this clear in your heads – but I do not suggest at all that you should interpret and apply Standing Order 91B taking account of whether or not the Manchester authorities have raised the issues. I raised that point in order to explain why a different approach was taken here.

97. THE CHAIR: Indeed. It was more because I, Mr Mould, had raised the issue of local authorities in relation to Members of Parliament so I wanted to make it absolutely clear, as I had mentioned the two in unison, that the two are obviously distinct and separate. Anyway, sorry, Mr Mould, continue. I know there's a question but we'll come to the question when Mr Mould's finished and then the petitioners and the promoter can question one another.

98. MR MOULD KC (DfT): Yes. My submission is really then very short, which is this. We, the promoter, submit that the matters that have been placed before you, which are principally the impact on the Metrolink service and its replacement by a bus service for two years, do not fall within the scope of a direct effect of the proposed works, that they are a wider effect, or if you will, an indirect effect but they are not a direct effect. And we say that one can test that point by saying, suppose that it were necessary to close a road within the wider vicinity of the proposed works, which might involve the travelling public diverting on to a different part of the road network. We ask

rhetorically, would that constitute a direct effect? And we say, obviously not.

99. The fact that this is a rapid transport system rather than part of the highway network doesn't provide a point of distinction and the same point can be tested by reference to considering any number of socioeconomic effects that might come. I think reference was made to disturbance that might arise in the wider area during the course of the construction works. No doubt, there will be instances where some disturbance extends beyond the areas where the works are actually being carried out but in order to ensure that order 91B is applied and interpreted essentially in the same way as the established principle upon which the right to be heard by a private or hybrid Bill Select Committee is set – that is to say the existence or absence of a direct and special effect on property or interests – we say that the concept of direct effect under order 91B should be applied in a relatively limited way so that the Committee hears only those MPs who can say that their constituency is directly affected by virtue of having works located within their constituency area.

100. In that way, it is most obviously aligned to the established principle and that, in essence, is the basis upon which we have approached this challenge. That is why the challenge has been made and that is the submission that I put before you. I emphasise I am not in any way seeking to deny that the closure of the Metrolink line to the east of Manchester City Centre and its replacement by bus services will affect the travelling public, will affect the public, the citizens who live within and work within those constituencies, but we say that that, on analysis, and applying established principle, is a wider effect. That is not a direct effect of the works proposed under the Bill. That is a matter for you to consider.

101. THE CHAIR: Thank you, Mr Mould. Before we go to questions, reading the Standing Order again, Mr Mould, do you think it's possible to conclude that the House passed this on the basis of facilitating Members of Parliament coming to represent their constituents? For example, a different form of wording could have been 'directly and significantly affected', but the Standing Order is very clear in the only test for us here is not specially, it's nothing else. It's whether the constituents of the three Members here are directly affected by the works. It's not that they're directly and significantly affected; it's 'directly'. So is it possible – and we have no precedent; what we decide here will determine precedent for future Committees – but the fact that we are given this

very simple test of whether there is a direct effect – we’re not asked to judge on any significance – one could argue that the purpose of the House’s Standing Order was to facilitate the right of Members of Parliament to come and petition on behalf of their constituencies. Is that a fair –

102. MR MOULD KC (DfT): It’s fair to say it was certainly introduced to facilitate Members of Parliament appearing before private and hybrid Bill Select Committees, but it was facilitating it from a position where, hitherto, MPs had no right to be heard. And so, with respect, that doesn’t really prove very much. What that proves is that Parliament intended that there should be a right to be heard for MPs within the class set out in order 91B.

103. It might have said ‘by those MPs whose constituencies are affected by the works’, but it chose to qualify that and to insert the adverb ‘directly’. And ‘directly affected’ does resound quite strongly in relation to the established principle. You’re right, of course, that it doesn’t say ‘directly and specially affected’. But ‘direct effect’, in the established principle, essentially requires that the person who claims that effect must show that either their property is subject to compulsory purchase or use or that they have been denied the ability to exercise a legal right which they could have enforced in court.

104. So that’s what that adverb connotes in relation to the established principle. One might infer from that that Parliament intended that that adverb used in this Standing Order should also be interpreted in a relatively limited way and that, essentially, is the submission I put to you.

105. THE CHAIR: Thank you, Mr Mould. Do the petitioners have any questions? Mr Reynolds?

106. MR REYNOLDS: Thank you, Mr Percy, if I could just make two brief points in response to Mr Mould. I mean, the first thing I think is to say I think it is important that we recognise there is a distinction, in my view, between effects which will come about in terms of the wider social, economic and logistical construction of a significant piece of infrastructure, and effects which are direct provisions of this Bill.

107. Now, you’ll be aware, schedule 4 to the Bill, entitled ‘Manchester Tram Works’, is specifically concerned with this matter. It is inherent to the Bill, rather than part of

the wider picture that would come about through obviously building a significant piece of infrastructure and I think that is an important part of this process.

108. The second point is to say, under the interpretation Mr Mould has just put forward, I think he's effectively saying that 'directly and specially affected' effectively still means you must have the works in your constituency or, alternatively, if I understand this correctly, a Member of Parliament does not have that. They still don't qualify under this measure but if, in the case of, say, the Members for Stoke and Aynesbury, there's no local authority promoting the same concerns, they might be allowed the discretion to appeal. I think that is effectively what that would mean if taken to its logical conclusion.

109. Now, I understand that position. I would simply say, as my colleague set out, that is not what Standing Order 91B says and, if the House had intended for a more limited definition, I think that is what it would have chosen.

110. THE CHAIR: You don't have a Metrolink station in your constituency that's affected by this, do you?

111. MR REYNOLDS: That's right. If you can bring up map 1 again, which is probably quite useful to you – this is Stalybridge and Hyde as you see on the eastern corner – you will see there Stalybridge station is just on the map. So, effectively, the impact on my constituents is both people clearly easily go from Stalybridge to Ashton station to access the Metrolink line and also, effectively, given the local geography and topography, many of my constituents would go, to be honest, directly to Ashton to access the Metrolink.

112. So for my constituents, despite not having the physical infrastructure in it that will be closed, it is still a matter of direct and specific effect in terms of transportation, impact on business, economic regeneration, land values and investment and all the same factors, despite the station not being there.

113. THE CHAIR: I mean, is there an argument, because I think it's important to test this word 'directly', that whereas the other two Members are directly affected because they have stations that will be closed, perhaps you're not directly affected because there isn't a station that's – because we've got to get to grips with what Parliament has

intended for us to determine here in terms of ‘directly’. So I just think it’s important to test the argument in both directions.

114. MR REYNOLDS: Absolutely, Mr Percy, and I understand you’re almost certainly setting a precedent here and therefore you want to get this absolutely right. I would say, if you look at this map, and I think it’s a good illustration of the area, that effectively, the impact on my constituents is the same as it would be for my colleagues from Denton and Reddish and from Ashton, because of the way that local services are accessed. And specifically, when it comes to, for instance, investment decisions in Stalybridge town centre, which you can see just on the map here, as my constituency begins, this will have that direct effect because of all the same factors affecting my colleagues, so the impact on land values, on investment, on travel to work patterns, on economic regeneration and on just basic transport and business and commerce decisions. So I believe we are directly and specifically affected in the same way.

115. THE CHAIR: Scanning through it again, does the petition directly relate to construction traffic as well? Is there a reference to that? I mean, obviously the Metrolink is throughout. Have you referenced construction traffic at all? Presumably this construction traffic – the road you were referring to is that roughly direct straight line from Piccadilly up to the motorway junction just beneath Ashton Moss, right?

116. MR GWYNNE: It is.

117. THE CHAIR: And that’s the line that is –

118. MR GWYNNE: Yes. So that’s Ashton New Road and, as you say, it runs almost parallel to the Metrolink line. In fact, the Metrolink line runs down most of Ashton New Road to the M60 at Ashton Moss. Now, of course, what we’re saying is that, if you’re going to mothball the Metrolink link along that route, you are almost certainly going to have to remove the tracks and the stations which, for some of the route, are at a higher level in the middle of the road than the tarmac of the road itself, to get the extra capacity for additional traffic. And, of course, that additional traffic isn’t just the construction traffic going from Piccadilly to the M60; that additional traffic will also be the extra buses that HS2 would have to put in place to replace the tram services.

119. So there would need to be a degree of engineering works along Ashton New Road

anyway, although I fear we're straying into the substance of –

120. THE CHAIR: The substance of the petition, yes.

121. MR GWYNNE: Rather than our right to be heard.

122. THE CHAIR: It was just that I think it's informative in terms of this issue of 'directly', if the construction traffic is part of that too. Now, just a reminder from either the petitioners or the promoter, the requirement to close this metro line link for two years is because of the works taking place at the Piccadilly end, not elsewhere.

123. MR GWYNNE: Yes.

124. THE CHAIR: Right, okay, so it's that work into Piccadilly.

125. MR HIGGINBOTHAM: Probably for you, Mr Mould. Can HS2 be delivered as envisaged without closing this line?

126. MR MOULD KC (DfT): As envisaged in the Bill, no.

127. THE CHAIR: I mean, we would be straying into the petition contents there.

128. MR HIGGINBOTHAM: So, for me, it talks to whether there is a direct link between the Bill and the petition.

129. THE CHAIR: Fair point, okay. Any further questions?

130. MR REYNOLDS: Yes, really it's one for the members of the Committee. As my two colleagues have said, this is really putting 91B to the test here. There is no precedent but whatever you decide will be the precedent for the future and may limit the scope of Members of Parliament in the future to be able to challenge future similar kinds of infrastructure affecting their constituency. Mr Mould said that 96 was the settled will of both Houses. I would argue that 91B is the settled will of this House of Commons that Members of Parliament directly affected by the Bill – and we feel we are directly affected by the Bill, not least that there is a section of the Bill on the Manchester tram works – that we shall be heard. I think that's clear, but only you can make that decision. But you make it not just for the three of us but for MPs for ever more.

131. THE CHAIR: I fear you're trying to put the burden on our shoulders. You know



what Members of Parliament are like. We like to offload responsibility. Thank you for that. Are there any further questions from colleagues? Promoter? Petitioners? No. Well, can I thank both parties for coming and putting the arguments? Of course, we'll make a deliberation as quickly as possible and then, as I say, we'll communicate that as swiftly as possible as well, but thank you very much.

132. MR REYNOLDS: Thank you.

133. MR GWYNNE: Thank you.

134. THE CHAIR: Then the next petition we'll be hearing is Mr Stringer but we'll just give everyone a couple of minutes just to gather their bits.

135. Thank you. Are all parties ready? Okay, Mr Stringer, I'll invite you to put your case first and then, of course, we'll go to Mr Mould again. If any of the issues relate to what we've already discussed and questioned, of course, I'd just encourage you to avoid repetition, and same for the promoter, because we have obviously tested much of the argument around 91B, but of course it's open to you, Graham, to kick us off.

### **Graham Stringer MP**

#### **Submissions by Mr Stringer**

136. MR STRINGER: Good afternoon, Mr Percy, and thank you for that. I will shorten and change what I was going to say having listened to the debate, discussion, presentation previously. I would associate myself, and use them as my arguments, the arguments put by Angela Rayner about the principle of the right to be heard as a petitioner. Obviously, the details from the Tameside MPs are different from the details that I will put forward, but the specific arguments, not related to geography, I would support.

137. If I can just briefly introduce myself, my name's Graham Stringer. I'm a Member of Parliament for Blackley and Broughton, which I think is a constituency that is unique in as much as I represent two adjacent cities – Salford and Manchester – and I don't think there is another constituency in the country that that applies to.

138. The boundary of Blackley and Broughton is about 0.8 of a mile from HS2 at its

nearest point.

139. THE CHAIR: Where is that? Is that at Piccadilly or –

140. MR STRINGER: That's Piccadilly, yes. And the boundary of Blackley and Broughton, it runs in a circle really. The easiest place to pick it up on a map is probably Victoria station. The line that goes through Victoria station is one of the boundaries and then it goes to the River Irk on the Salford side.

141. THE CHAIR: Just to be clear on this map, the National Rail symbol there is Victoria, is it? Which station's this one that's up there now; is that Victoria? That's Manchester Victoria. Sorry, I just wanted to be clear which station it was. Thank you.

142. MR STRINGER: Just a bit of my background, which is why I'm concerned about the impact of HS2, positive, and in some cases, negative, on my constituents. I was previously leader of Manchester City Council and in that role, I promoted and developed a number of transport issues within Manchester and Greater Manchester. I represented the majority shareholder of Manchester Airport and was the chair of Manchester Airport for a period, and developed the second runway and two terminals, Terminals 2 and 3, at Manchester Airport.

143. As the leader of Manchester City Council, a member of the passenger transport authority, I promoted and developed the tram system, which was the first tram system to go on street in England since most of them were finished in the 1940s and early 1950s. I also developed the rail link to Manchester Airport, both north and south of Manchester Airport.

144. I mention that because it gave me a profound understanding of the economic impacts that major transport infrastructure has when you develop it, and it's one of the reasons why I have been strongly supportive of HS2 since it was first proposed and taken on both by the last Labour Government and the current Conservative Government. I think it will bring enormous economic benefits, both to the country and to the north of England, and the petition – I don't want to get into the petition – but my constituents, I think, would expect me to come and make the case for there to be the largest possible beneficial impact of HS2 on them as constituents.

145. Where there are negative impacts in the short term in terms of the Metrolink system – there are six Metrolink stations within my constituency and there are many trips made, both for the purposes of work from people leaving those six Metrolink stations, which are on two major lines – one from Bury and one from Oldham and Rochdale – to employment opportunities in east Manchester, as well as a great many journeys that go to the Etihad Stadium, which is on the Ashton line, just off Ashton New Road if you're looking at the map, Mr Percy.

146. So the closure of the line will negatively impact on them and there are a number of spots along the radial roads in from Salford through Manchester, which I can give you the details of if you wish, where there will be a negative environmental impact on those junctions, some short term and some long term.

147. So it is those positive impacts and some negative impacts are the reasons I would wish to be represented, both to improve or, in some cases, to ameliorate some of the negative impacts. I don't want to repeat all the arguments that I witnessed on Standing Order 91B, which I think revolves around what 'directly affected' means, but there are just three points – maybe four points – I would like to make about the points that have been put forward so far.

148. The commitment given by the undertakers to engage with the four of us who are here today as petitioners, I found surprising. Members of this Committee are Members of Parliament like I am, and I think you would all be rather surprised if an undertaker would refuse to engage with any Member of Parliament who had an interest in it, so it is a commitment without value, I think, because one would expect that to happen anyway. I was rather surprised when I got the letter making that point.

149. If members of the Committee, and I realise you've had an enormous amount of paperwork, read the petition that I've put in and compare it to the petition put in by Manchester City Council, it is similar. I admit to plagiarising some of the work, but it's not exactly the same as the petition put in by Manchester City Council, intentionally so. I think that makes an important point about the rights of Members of Parliament under the Standing Order to be heard.

150. While on this occasion I agree almost entirely, but not entirely, with Manchester City Council, Members of Parliament may, and often do, have different points of view.

Even if you're from the same political party as the controlling party on a council, there are often differences of emphasis, sometimes directly different views, and there may well be different arguments that lead you to the same position.

151. I think the arguments that have been put forward by Mr Mould really are arguments to say that, if somebody has similar or the same objectives, then that extinguishes the rights of Members of Parliament to be heard. We are there – or we're here – in a very different role to local authorities, and I think that if the interpretation of 91B – 'directly affected' – then that shouldn't be extinguished because the local authority is making a similar case or has a similar objective.

152. I also think, although the case has been made that nobody else was making the same points that Antoinette Sandbach and Jack Brereton were making when they made their case, it is a very similar point to the point I've just made. The fact that somebody makes a similar case shouldn't really deny the rights of elected people to make the case on behalf of their constituents, because that's my prime purpose in coming here.

153. I want the benefits of HS2 to be passed on to my constituents in terms of access to transport and employment opportunities, as well as the negative effects to be ameliorated, and not to be able to do that and show that you're doing it as a Member of Parliament, I think, would be wrong. I also think it looks very strange that, if MPs in one part of the country make representations, MPs in Greater Manchester are not allowed similar privileges.

154. In terms of the details, because you've listened to the major arguments at some length, I'll read out the junctions where the most impact will be according to the promoter's environmental impact, and they are – if I can find them – Great Cheetham Street West and Great Clowes Street junction; Bury New Road, Waterloo Road, Broughton Lane junction, which is already overcapacity and restricted; and the Bury New Road, Sherborne Street junction. Those are specific junctions that are going to cause problems to my constituents.

155. THE CHAIR: Mr Stringer, are they junctions in your constituency?

156. MR STRINGER: Yes.

157. THE CHAIR: They're all in the constituency.

158. MR STRINGER: Yes.

159. THE CHAIR: And the impact is because of construction traffic or –

160. MR STRINGER: Both. According to the promoters, some will be impacted short term because of construction, some long term because of changed traffic patterns.

161. THE CHAIR: Okay. Just so I'm clear on what the argument is around 'directly', as in which bits in your constituency are directly affected which you think give you the right to be considered as directly impacted, because of course it's not a general right – the House hasn't given MPs the general right to come to the Committee, so we have to establish this direct impact and direct connection. It's the road junctions in your constituency. You mentioned Metrolink; can I just be clear? There are no Metrolink stations in your constituency that are impacted or closed as a result. The link doesn't – or does the link –

162. MR STRINGER: The six Metrolink stations will remain open.

163. THE CHAIR: Right.

164. MR STRINGER: But passengers going into east Manchester, who are my constituents, will be affected, whether they're going to the Etihad Stadium or whether they're going for employment.

165. THE CHAIR: Because of the six stations that will be closed?

166. MR STRINGER: Yes.

167. THE CHAIR: But in terms of the stations in your patch –

168. MR STRINGER: They're not going to be closed.

169. THE CHAIR: None of those are affected.

170. MR STRINGER: No.

171. THE CHAIR: Okay.

172. MR STRINGER: Sorry, the last point I wanted to –

173. THE CHAIR: No, I interrupted your train of thought, but I just wanted to get very clear where the direct impacts are, as you see them.

174. MR STRINGER: The main point in terms of the economic impact – there's the environmental issues; there's the trams and the impacts that those closures will have on traffic, because it will increase the number of buses and cars. And then there is the economic impact where, if you look at the petition I've put, I think there is a much greater scope for job creation, which would affect my constituents, if the design of the station is changed so that it's underground and you get the complete TransPennine link. That's in the petition but it's the economic impact there that will make the difference to my constituents.

175. THE CHAIR: Okay. Thank you, Mr Stringer. Members, any questions before we move to Mr Mould? Mr Mould.

#### **Response by Mr Mould**

176. MR MOULD KC (DfT): I shan't repeat what I said to you before. I just add one or two points, if I may.

177. Firstly, I hope I had made it clear but I wish just to emphasise, I do not suggest for one minute that your approach to the proper scope of order 91B should be influenced, firstly, by whether or not there are other petitioners who have raised the same or similar issues – in this case, to Mr Stringer – nor should it be influenced by whether or not it was helpful or not for HS2 Ltd to have offered the assurance that was offered the other day to continue to engage.

178. The only question for you is whether, to use the language of that Standing Order, Mr Stringer, and indeed the previous MPs that you heard from, have constituencies which are directly affected by the works proposed by this Bill. Mr Stringer's petition, as it happens, raises Piccadilly station and argues that it should be underground. He raises some surface station issues in relation to Piccadilly. He raises some points regarding public realm at Piccadilly, and he argues that Gateway House, which as you may know is the large commercial building which is immediately to the north of Piccadilly, should

be removed. He also argues for the construction of a new depot to serve the Metrolink.

179. I think I'm right in saying that none of those particular locations lies within his constituency. So that is the factual starting point for consideration of whether, in the language of order 91B, his constituency is directly affected by the works proposed by this Bill. I simply close by inviting you to think of those words. They are, of course, words that have the effect of excluding from appearing before a Select Committee on a hybrid Bill many Members of Parliament who are, to use Mr Stringer's phrase, elected persons. This House, when it gave effect to that Standing Order, was clearly well aware of the fact that probably the great majority of MPs in relation to any given Bill would not have standing. They would of course continue to be able to exercise their rights as elected representatives in every other respect that is available to them within the practice of this House. So it's important not to lose the context in which that Standing Order was enacted.

180. Nor is it simply a case of saying, 'My constituency is affected by the Bill', or, indeed, directly affected by the Bill. The phrase that Parliament advisedly has chosen to deploy is 'directly affected by the works proposed by this Bill'. That seems to imply, and I would submit that it should be taken to imply, that you are looking for a situation where, within the area of the constituency, there are works proposed by the Bill and those works therefore affect that constituency directly. That's all I want to add.

181. THE CHAIR: Thank you. I think the point is understood about the fact that the breadth of this has to be, in some respects, limited by the wording, because of course many Members of Parliament, many, many, many miles away, could argue that they have an impact because they're either not getting something or because their businesses aren't benefiting.

182. I think just on this, to follow that point, you've heard from Mr Stringer the issue of the road impacts at these various junctions which are a direct result of the works. So it's not just the case of, because the work is taking place a mile away, or a number of miles away – the direct impact of those works could be felt much further, couldn't they? So I'm just keen to know what your argument is.

183. I understand the arguments in relation to sites and things that are not inside the constituency, but if Mr Stringer's argument for his direct impact relates to these

junctions which are in his constituency and which are being affected by the works in which – and the HS2 various traffic and impact statements say that – what is your argument for why that is not a direct impact?

184. MR MOULD KC (DfT): Well, I come back to the point I made to you to that, in our submission, one should read the carefully circumscribed right that is given under order 91B closely in conjunction with the established principle upon which the right to be heard rests, direct and special effect on property and interest.

185. And I remind you that it has never been the case on the settled practice of the House that petitioners are heard simply on the basis of traffic effects. That has never been an accepted basis for a petition. And so I respectfully question whether, in giving effect to order 91B in the terms in which it's expressed, the House intended to widen the base upon which a Select Committee on a private or hybrid Bill hears petitions insofar as traffic impacts and traffic effects are concerned.

186. THE CHAIR: The traffic effects issue, many of the petitioners who will be coming before us who do have standing – their petitions relate to traffic impacts.

187. MR MOULD KC (DfT): Yes.

188. THE CHAIR: So can you just explain this a bit more clearly in terms of traffic – because those traffic effects are not just felt within the trace or within the direct – the immediate 100-200 yards of the works, are they? But many of the petitioners do relate to traffic effects.

189. MR MOULD KC (DfT): In those cases where the petitioner is an individual, they raise those questions having established that they have a right to be heard because they have land that is subject to compulsory purchase; or they have a right that is infringed, which otherwise they would have been able to assert in law; or, alternatively, there are traffic effects and concerns that are raised by a local authority, not as of right, as I've explained to you, but because we have decided that we should not invite you to exercise your discretion not to hear them under order 96.

190. I appreciate that, to some degree, these arguments appear somewhat technical, but they're technical because the Standing Orders of this House themselves are technical.



They are designed to ensure that, in fulfilling its quasi-judicial function, this Committee is focused upon the business that under Standing Orders it should consider and is not distracted into business that it should not consider.

191. That doesn't deny those who would otherwise have wished you to consider matters that are outside your jurisdiction, if you like. It doesn't deny them a remedy. They can make their representations on the environmental statement. They can make representations through their Member of Parliament. They can write directly to the Secretary of State. There are manifold ways in which they can engage.

192. This Committee has a specific function and it's rooted essentially in considering the impacts of the Bill and the works proposed under the Bill directly on those who have land or rights that are affected by it. The extension to local authorities was a way of giving the Committee a broader role in relation to those representative bodies that are able to deal with matters of local community concern through their role as local authorities.

193. Standing Order 96 was brought into effect, as I understand it, essentially with that purpose in mind. Order 91B, as has been urged upon you by the petitioners today, is expressed in rather different terms. It has a different focus and it was intended to give a limited and specific right to MPs, in contradistinction to individuals, in contradistinction to local authorities.

194. So there's a good deal of common ground in this sense. Ms Rayner began her submission by saying, 'You don't get much assistance from the precedence that exists on order 96', and so on and so forth. I agree with her. You don't; you have to focus on order 91B, and I've been seeking to explain why I say you should approach the matter in the way that I have said this afternoon.

195. THE CHAIR: I understand all of that, but of course, we're dealing with only 91B, which is for us to interpret, giving it's a relatively new Standing Order. If the House had wished, it could have written this to say that only Members of Parliament for whom the direct works passed through their constituency have a right to be heard, but it hasn't done, and the test we have to apply is 'directly affected by the works'.

196. There's no definition of what works are. It doesn't say, 'Except for broader

transport concerns' or anything.

197. MR MOULD KC (DfT): No.

198. THE CHAIR: So what's your contention on what would be considered works in the nature of 91B?

199. THE CHAIR: The engineering works, the environmental works that are proposed to be carried out within the limits shown on the Bill plans. If an MP has any such works included within their constituency, then they are within the scope of 91B, but we say that is the limit and we say that that is rightly to be seen as the limit because that means that order 91B closely corresponds to the established rule in relation to individuals.

200. THE CHAIR: The House hasn't given us an instruction through the Standing Order that we should interpret only within the Bill works, the limits of the Bill works – the Bill plans, sorry. That's not what we've been given. So the House has invited us to potentially, if we so desire, draw this more broadly, have they not?

201. MR MOULD KC (DfT): Well, in terms of drawing the class of persons who fall within the scope, they've defined that class by the phrase 'directly affected' by the works –

202. THE CHAIR: Not 'the works within the Bill plans'.

203. MR MOULD KC (DfT): No, by the works proposed by the Bill. Well, if you want to find out where those works are, you have to look at the Bill plans; there's no other source of information about them. So it brings you back to the same conclusion, in my submission.

204. I mean, perhaps if we approach this from the point of view of textual analysis, the critical point at issue today is what is connoted by the adverb 'directly'. Miss Rayner and Mr Stringer say that that adverb, if you like, in this context, is able to embrace a rather wider scope of impact than I have suggested. But at least I hope I've explained to you where I say the bright line should be drawn. It's essentially in relation to whether or not there are works proposed under the Bill within the constituency of the MP in question.

205. But, as I say, all I can do is to offer you an explanation of how we have approached the matter. It is, of course, entirely a matter for you as to how you interpret it.

206. THE CHAIR: I'll just come to Martin in a moment. I don't know whether our advisors, our clerks or yourself can answer this question, but we're not able in these right to be heard proceedings to judge whether parts of a petition have a right to be heard or not, are we? We are able to.

207. MR MOULD KC (DfT): Yes.

208. THE CHAIR: Right.

209. MR MOULD KC (DfT): You've just had that advice; I agree.

210. THE CHAIR: Right.

211. MR MOULD KC (DfT): Yes, indeed. It is, of course, open to you to say that you'll hear one or more issues only raised by the petition –

212. THE CHAIR: Within the petition.

213. MR MOULD KC (DfT): Yes.

214. THE CHAIR: Thank you.

215. MR VICKERS: What we don't know, of course, thinking in terms of the House when it came to its decision about 91B, is whether – you can have a situation where physically the works are going on in the neighbouring constituency, which could only be on the other side of the road. So clearly those people would be directly affected. To actually say that it's got to be in the constituency is surely interpreting it far more tightly than I suspect the House intended.

216. MR MOULD KC (DfT): Well, as with any class which is defined in an order or rule of this kind, I accept of course there will be – at the margins, there will be difficult cases, but we're here – the facts on which you're being asked to rule here are not of that kind. Here, you're being asked to consider impacts which plainly don't arise within the constituency area concerned in the sense in which I have suggested 'direct' should be

interpreted.

217. What is being said is that, as a result of works taking place in a neighbouring area, transport networks within the constituency of the MPs you've heard from today are being impacted, and they say that should rightly be seen as a direct effect. And I say no, it's not direct; it's a wider or indirect effect.

218. THE CHAIR: Any further questions? Neither party wishes to add anything else.

219. MR STRINGER: Very briefly, I don't want to try your patience.

220. THE CHAIR: Yes.

221. MR STRINGER: It's turning into a longer afternoon that certainly I expected. I think, looking at 91B, there is one class of people in there that the House clearly intended, which is its own people, Members of Parliament. Members of Parliament, we're all elected and we do our best to represent our constituents.

222. My constituents in this case are affected if they want to travel by tram, bus or car into east Manchester because they can't use the tram because it won't be there and there will be extra congestion. My constituents in the radial roads going into Manchester from the west will be affected because there is extra congestion. In the long term, my constituents will benefit to some degree in terms of jobs and abilities to travel if this House gets the law on HS2 right, so that there is maximum benefit.

223. That's why I think I have the right to be heard. But thank you for your patience this afternoon.

224. THE CHAIR: Your petition doesn't actually mention the roads and the traffic impacts, or does it? I'm trying to find it, but I can't see the element –

225. MR STRINGER: I think it refers to environmental impacts into the Manchester City Council.

226. THE CHAIR: Yes, sorry, 'I have a considerable number of concerns regarding the construction, highways, environmental and community impacts on my constituency from the proposals within the Bill'.

227. MR STRINGER: Yes.

228. THE CHAIR: Right. So this is the bit relating to the junctions and bits of road.

229. MR STRINGER: Yes.

230. THE CHAIR: Okay. Well, thank you to both parties and, as I say, same thing as before, we'll communicate as swiftly as possible. Thank you very much.

231. We're going to move on to the next petitioner and the challenge to that petition, which is Mr Hayes from a local business, Domestic Doggess.

232. Thank you, Mr Hayes, for joining us. Obviously, the discussion previously took a little bit longer, because we're dealing with a new Standing Order of the House, so we obviously had to test some of the arguments around that in a little more detail than perhaps we expect, so it has taken a little longer. Obviously the challenge to your petition is different to the challenge we've just heard, which relates to Members of Parliament in relation to the specific Standing Order of the House giving Members of Parliament a right in some way to petition.

233. The process will be exactly the same as before. We'll start with you, Mr Hayes, then Mr Mould, and if members have any questions of either the petitioner or the promoter, we can jump in as and when, and keep it relatively flexible. So over to you, Mr Hayes, thank you.

### **Domestic Doggess Ltd**

### **Submissions by Mr Hayes**

234. MR HAYES: Thank you for your time. So I'm representing Domestic Doggess Ltd. We are a small family-run dog day care centre facility. We've not been at the premises we're at now, which is affected, for more than – well, for less than 12 months in fact. There's several proposals to close the main access roads to our premises, which we travel upon with three vehicles twice a day to go out to collect animals, bring them back to the facility.

235. From the plans that you've got in front of you, the construction works is what we're concerned about in the fact that, whilst the roads appear on the maps, they are

single track roads and the construction traffic would be taking one of the routes that we use on a daily basis, which will be closed for a period of 12 to 19 months, I think it says. This in turn would affect us in the fact that we would have to make a detour of quite a considerable amount of distance and time to be able to continue servicing the clients we've got in the Bowdon, Hale, Altrincham and Hale Barns area.

236. On the map for the construction traffic, however, it does say that one of these single track roads, Millington Lane, would be open for construction traffic. However it wouldn't be two-way traffic; it would be single travel and so I'm kind of asking that we can be heard in the fact that, if this road was made that we can use it in a one-way direction towards the site, then it wouldn't impede on our business facility and our continuation of business because we would have a flow – because we only use it in one way.

237. The way we would get back to the property is along the main bypass, which has a slip road that exits, which is where the other construction road has been suggested, on a northbound slip road, which apparently is only going to be a temporary measure. So my request would be that this could be made to be a permanent measure and it would ease the congestion in the complete area.

238. THE CHAIR: We can't get into the details of the petition. We need to test whether you qualify under the test of directly and especially effective. So with that in mind, do we have a map or, if not, can you explain roughly how far away is your business from the works? It doesn't say how far there, does it? So you're the red dot.

239. MR HAYES: We're the red dot.

240. THE CHAIR: So the hybrid Bill limits is all the grey.

241. MR HAYES: If you see the north of the red dot where it goes grey onto Millington Lane, that is our main route to get towards Altrincham, Hale Barns, Bowdon.

242. MR HIGGINBOTTOM: Millington Lane is.

243. MR HAYES: Directly above the red dot.

244. THE CHAIR: Okay. So your argument –

245. MR HAYES: If you close that road, the diversion is quite a substantial diversion. However, just where – you can see at the end of the T-junction where Millington Hall Lane is, there's Newhall Farm, there is a proposal to make that construction traffic only, which would lend itself to being another slip road, northbound slip road onto the main bypass.

246. THE CHAIR: And which parish council area are you in?

247. MR HAYES: We're in Millington.

248. THE CHAIR: And Millington have petitioned.

249. MR HAYES: Millington have petitioned, yes.

250. THE CHAIR: Okay, thank you. Anything else you'd like to add at this point or –

251. MR HAYES: No, that's it, quite simple.

252. THE CHAIR: Okay, good. Mr Mould.

### **Response by Mr Mould**

253. MR MOULD KC (DfT): Thank you. Just on the factual position, if we can just put the cursor on Millington Lane again, if we imagine that Mr Hayes is at the top of Millington Hall Lane, during construction there will, as he says, be a period of one year, I think, and nine months during which Millington Lane to the left from that point will be closed to traffic to enable the railway to be constructed. But if he were to turn right towards the bypass there's no proposal to close Millington Lane or, indeed, to make it construction traffic only at any point, so it will always be open to him and his customers to pass in and out of the lane on which his property is located to the east, along Millington Lane, down towards the bypass.

254. As I understood it, the proposal that he wanted to put before you in his petition was that there should be a slip road installed so as to enable traffic from the point where the cursor is now to pass northbound onto the bypass road, and that is a proposal that he shares with Millington Parish Council; both he and the parish council have made that proposal.

255. Now, against those facts, coming to the issue today, as you will see from that plan – ah, we’ve gone to a new plan. Let’s just go back to the previous plan. There we are. As you receive from that plan, his leasehold premises are clearly not within the Bill limits. His property is not subject to compulsory purchase and it’s not subject to any interference with a private right which might have given him an action in law in the absence of the Bill powers. So it’s clear, in our submission, that he doesn’t have a right to be heard on the established principles which I mentioned to you at the outset this afternoon.

256. As you know from the debate we’ve had, there is order 96. I don’t know if we can put that up or if you have a copy of that, but we’ve had some discussion about that in the context of local authorities. It does give this Committee a discretion to hear, not only from local authorities, but also any of the inhabitants of an area which is injuriously affected by the Bill.

257. As I mentioned in opening, conventionally, that has been seen as giving the Committee the discretion to hear from groups of inhabitants rather than from individuals. But in any event, the settled practice has been, and certainly on previous HS2 Bills, for the Committee when it’s being asked whether it should exercise its discretion under order 96 to hear from a petitioner who otherwise doesn’t have a right to be heard, to ask whether the issue that they raise in their petition, if they were heard upon it, would essentially duplicate a matter that’s already being raised by a petitioner from whom you are to hear.

258. And in applying that approach in this case, it’s obvious that this petitioner is raising essentially exactly the same question as is raised by Millington Parish Council. That is to say the question as to whether there should be a temporary slip, or indeed a permanent slip, northbound on the bypass road.

259. So, on that basis, we have challenged this petitioner’s right to be heard on the basis that, if you were to hear this petitioner on that issue, you would simply be hearing the same case put twice.

260. THE CHAIR: What’s the principal local authority for this area?

261. MR MOULD KC (DfT): It must be close to the border. Cheshire East. In this



case, the particular point that is being raised about the slip road is being raised by the parish council.

262. THE CHAIR: It's not being raised also by Cheshire East.

263. MR MOULD KC (DfT): No, I don't think it is.

264. THE CHAIR: So it's the parish council, Millington Parish Council.

265. MR MOULD KC (DfT): It's the parish council. You can see –

266. THE CHAIR: I've got a copy of the –

267. MR MOULD KC (DfT): You've got a copy. The very last page in your file should be R51.3, and you can see there at 4.5 how the parish council puts the proposal.

268. THE CHAIR: Okay.

269. MR MOULD KC (DfT): They called it the Bowdon roundabout whereas I think this petitioner calls it the Lymm roundabout, but I've been assured it's the same roundabout, yeah.

270. THE CHAIR: Okay.

271. MR MOULD KC (DfT): I acknowledge, of course, that the perspective is rather different, because Mr Hayes is concerned about his customers having to divert around a rather longer route to get to and from his premises, whereas the parish council is obviously speaking from the perspective of the community. But the remedy that they seek is the same and obviously if you were persuaded by the parish council it would serve the same purpose.

272. THE CHAIR: And your customers at Domestic Doggess, are they more from the side that will be closed or the other side?

273. MR HAYES: Originally, the business was established in the Altrincham, Timperley, Hale area. We do the collection service from there, but –

274. THE CHAIR: Which is the other side, the closed side for the purposes of –

275. MR HAYES: Yeah. So the issue is, once you've delivered your animal to our premises, the slip road takes you off the main bypass, which is great, but then getting back to the same point at the Bowdon/Lymm roundabout would be seriously impeded if that Millington Lane is closed.

276. THE CHAIR: Right, okay. Alright. Any questions? Any other members? No.

277. MR MOULD KC (DfT): Can I just show you one plan?

278. THE CHAIR: Yes, of course.

279. MR MOULD KC (DfT): I think it illustrates very clearly the point that has just been made to you. I think the point that Mr Hayes is making, if you can imagine that someone is driving southbound on the main road which is coloured purple, they can come off – you see there's a slip road. Now if you pull the cursor down south, there you can see there's the southbound off-slip; do you see that?

280. THE CHAIR: Yes.

281. MR MOULD KC (DfT): You come off that slip and you're straight into Millington Lane.

282. THE CHAIR: Yeah.

283. MR MOULD KC (DfT): But if you want to come out of Millington Lane, you can't at the present time go north straight onto the main road; you've got to follow that route that's being outlined now. So that triangle that we're now outlining, in essence that's the diversion that you'd have to follow.

284. THE CHAIR: What's the length of that diversion, do we know?

285. MR MOULD KC (DfT): I'm about to give you it in kilometres, which you won't like.

286. THE CHAIR: No, because all our road signs are in miles, Mr Mould.

287. MR MOULD KC (DfT): I know, I know. I ought to have –

288. THE CHAIR: A point I keep making. And I'm sure when you're getting your car

later it'll be in miles. But anyway, I'll stop labouring this point.

289. MR MOULD KC (DfT): It's in the order of two and three quarter miles, I think.

290. THE CHAIR: Right. Which is, of course, the petitioner's issue with the length of it.

291. MR MOULD KC (DfT): Yes, yes, that's right. So a customer wanting to go north to Hale Barns or to Altrincham would obviously have to factor in that additional journey length into their journey.

292. MR HAYES: Which also becomes more apparent when you've got, say, nine dogs in the back of a van traveling longer in a vehicle. I mean, it's a longer delay than we would ideally like for an animal.

293. THE CHAIR: I mean, as Mr Mould said, regardless of what our deliberations are here, your issue will be heard by the Committee because the parish council will automatically – they do have a right to be heard and will be heard at the Committee at some point. So we will hear more about this two point something mile diversion at some point in the future either way.

294. MR MOULD KC (DfT): Yes.

295. THE CHAIR: Any further questions anybody? No? Well, can I thank both the petitioner and the promoter for attending today? We have no further business today so on that basis, but the same rule will apply, Mr Hayes. We will of course write to you and I will read into the record at a future meeting what our decision was following today.

296. So thank you very much for attending and that's the end of today's meeting.