

UNCORRECTED MINUTES OF ORAL EVIDENCE

taken before the

**MALVERN HILLS BILL COMMITTEE**

PETITIONS AGAINST THE BILL

Wednesday, 21 January 2026 (Morning)

In Committee Room 2

PRESENT:

Lord Hope of Craighead (Chair)  
Baroness Bakewell of Hardington Mandeville  
Lord Evans of Guisborough  
Lord Inglewood  
Lord Ponsonby of Shulbrede

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FOR THE PROMOTER:

Jacqueline Lean, Counsel, Malvern Hills Conservators  
Alastair Lewis, Roll A Parliamentary Agent

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FOR THE PETITIONERS:

Jeremy Owenson  
Cynthia Palmer  
Humphrey Bartleet  
David James

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(At 10.30 a.m.)

1. THE CHAIR: Good morning and welcome to this, the second day of the Select Committee on the Malvern Hills Bill. The purpose of this meeting is to hear parties in relation to the issue of right to be heard and that only. We are not going into the details of the objections that petitioners may have. It is the right to be heard only that we are concentrating on. Parties who are appearing before us will not be making submissions beyond that issue.

2. I should make it clear that those who we decide do have a right to be heard will be given another opportunity to come back and address the committee on the points mentioned in their petition. That is another reason for asking those who are appearing before us on the right to be heard to confine their submissions to that point only, because there will be plenty of chance to go back over the details in your petitions later if you do have a right to address us.

3. I should say a word about the fire alarm system in this building. In the case of fire, we do not have bells in this estate. We have a two-toned siren, which will be a signal to us to leave this room at once. It is very important that you do not waste time by putting your belongings together. Just leave everything in the room and leave the room and go to a place of safety, which you will be directed to by the doorkeepers. It is most unlikely this will happen, but, should it happen, the drill is leave the room and go to where you are guided to by the doorkeepers.

4. As I said, the proceedings are being broadcast and a full transcript will be taken by Hansard, which will be available in a few days' time. I suggest that those who are speaking to us check the transcript carefully to see that the transcript is an accurate record of what you said to us. If you think there are inaccuracies, do let us know and we will see that Hansard is corrected. With those introductory words, Ms Lean, I think it is open to you now to introduce the issue of standing in relation to the categories of people who are before us today.

5. MS LEAN: I am grateful, my Lord. Before I do that, could I please just make one point of housekeeping? There are some additional reference materials on the right to be heard that we have dug out overnight, which we may possibly wish to make reference to. If we may provide copies of those to the committee, it is a small clip. Mr Lewis has

paginated it to run on from the end of what is currently bundle 3, the L series of documents.

6. THE CHAIR: I think we will take a moment for these papers to be distributed, please.

7. MS LEAN: My Lord, I am also mindful that the four petitioners listed to appear before you this morning—their petitions or our challenges raise myriad different issues. I wonder, with the committee's permission, if it would be helpful for me to address the relevant principles that apply before each petition, because I am conscious that for those, perhaps, at the end of the morning, if I have said something right at the beginning it may be more helpful to hear it just before they speak, if that is acceptable to your Lordship.

8. THE CHAIR: I think that that is right. Take each category one by one because there are different issues that are raised. I think that that would be helpful.

#### **Statement by Ms Lean**

9. MS LEAN: I am grateful, my Lord. In that, if I may, the first petitioner before you does not raise the issue of being a levy payer. I am conscious that that was traversed at some length yesterday afternoon, but there are three other petitioners for whom levy is an issue and I wonder if I perhaps might, with the committee's indulgence, recap briefly on the levy payer issue before the first of those petitioners, because I am mindful that they may not have been here yesterday and may not have been watching. I will try to summarise briefly the ground that I think was traversed yesterday, just to pull it together into one place, if I may. I would propose to do that before the next petitioner, because Mr Owenson's petition does not bring up the issue of the locus of a rate payer or a levy payer.

10. THE CHAIR: Yes, please go ahead.

11. MS LEAN: I am grateful. Thank you. My Lord, in respect of this petitioner, his petition identifies his interest or the nature of his interest as being the deputy leader of Malvern Hills District Council and the group leader of the Conservative councillors for Malvern Hills District Council. I understand the committee will have been given copies of all of our challenge letters. We do not have them in a clip or a bundle before your

Lordships' committee. If I may just highlight, the grounds for challenge are set out at paragraph 15 of the letter to this petitioner.

12. THE CHAIR: We have been working on a useful summary where you put, in table form, the name and the categories.

13. MS LEAN: I had not been, my Lord. I understand that a table was sent to your clerk and I think that that is what I have in front of me. If it is helpful to work by the table, I am happy to do that, rather than by reference to the individual letters. If I might just have a moment to find this petitioner number. My Lord, I believe this is petition 7.

14. THE CHAIR: Yes, it is petition 7.

15. MS LEAN: I am grateful. The grounds of challenge that were raised in the letter were that no property or personal interests of the petitioner are specially and directly affected by the provisions of the Bill. It was challenged on the grounds of the petitioner's reliance on their status as a councillor or elected member of a local authority or membership of a political group within a local authority, which we say does not give rise to standing before your Lordships' committee.

16. THE CHAIR: You also say that his private interests are not specially and directly affected.

17. MS LEAN: Yes, my Lord.

18. THE CHAIR: There are two issues, really. The council itself has a right to be heard. That has been agreed. As a councillor leader of the Conservative group, the question is whether he has any private interests that are identified.

19. MS LEAN: My Lord, if I can answer that point—I hope—quite quickly, no such interests are raised or alleged in the petition. The petitioner does not say in his petition, “I have this property. My property is affected this way”. The only matters raised in the substance of the petition are ones that go to the sorts of issues that have been discussed briefly yesterday. The description that the petitioner gives of himself in box 1 of the petition form is purely by reference to his status vis-à-vis Malvern Hills District Council. My Lord, scrolling through the petition, as I said, there is nothing in there that asserts a particular interest on this petitioner in a personal capacity.

20. Sorry, forgive me just one moment. My Lord, with regards to the petitioner's status as the deputy leader of Malvern Hills District Council, we do address this in our note on our approach to locus standi, paragraphs 8(iv) and cross-referencing back to paragraph 8(iii). My Lord, that is at pages 6 and 7 of the L bundle, bundle 3. Paragraph 8(iv) is where we expressly address our challenges to petitioners who rely on a status as councillor or as elected members of a district, county or parish council. Unhelpfully, 8(iv)(i) says, "The same principles apply as outlined at paragraph 8(iii)(i) – (ii) above", so we have to go back to the previous page. My Lord, the first point to highlight from there, which is 8(iii)(i), page 6, is that, by reference to, among other things, the authority in the House of Lords Select Committee on the high-speed rail phase 1 Bill, an individual's status as a councillor of a district council or a parish council does not give them any separate status from the council or extend the preferred status that such local authorities enjoy to them in their capacity as individual councillors.

21. My Lord, if it is helpful to go to the specific passage in the House of Lords Bill, so that the committee can see who that was referring to in that case, it is again in the old bundle, starting at page 42. It is from the transcript of proceedings from 5 July 2016, paragraphs 6 and 7 on page 48. My Lords will see there, in paragraph 6, this was concerned with small groups of councillors elected to represent different wards within Camden.

22. At point 7, the Lords committee recorded that, while they could have no doubt that the councillors were conscientiously working as hard as they can in the interests of their residents, there was an important point of principle that arises. Their status as councillors is as elected members of a local government corporation, which, whether or not it has a cabinet system, can act only by properly passed resolutions and properly delegated authority. Individual councillors or groups of councillors, acting without the authority of the council, cannot claim the special preference accorded to local authorities. In addition to disallowing their standing, the committee also disallowed, at the bottom of that paragraph, the petition of Mr Dismore, an assembly member for Barnet and Camden.

23. That is the starting point in recent authority for individual councillors not having standing to appear in their capacity as individual councillors, the standing for a representative body, when it comes to a council, being given to the council itself, not to

the individual councillors, under the relevant Standing Orders. My Lord, there is earlier precedent for that—I do not know if I need to go to it—in respect of the Shoreham Port Authority Bill in 1986, which you have at page 81 of your bundle, in the same bundle.

24. THE CHAIR: Does Mr Owenson have access to the papers you are referring to us?

25. MR OWENSON: I am happy with everything she is saying so far. I have seen what she has been saying.

26. MS LEAN: My Lord, if it assists, there are hard copies of all the bundles that we referred to yesterday on the table for the petitioners to use. My Lord, just to highlight the point, petitioner 1 claimed a right to be heard as a district councillor for a ward immediately north of the harbour area. This was on a port authority Bill. His claim is recorded at the bottom of page 81. He claimed political locus standi as a district councillor for the ward of Southwick Green and put out an information leaflet to local residents and “the overwhelming response was so strong” that he felt he had to protect their interests as councillor.

27. Just to skim, similar points were raised to those about protecting the particular interests of particular areas within an authority, but the locus standi of that petitioner was disallowed on that Bill. In the way that often happens, unfortunately, with these locus standi reports, there is not a reasoned judgment or full detailed reasons given by the committee. It just records that the locus was or was not disallowed. Given the reliance on the old principle there, it is submitted that that was just following through the previous precedent.

28. My Lord, obviously I do note as well that the Malvern Hills District Council has itself corporately lodged a petition against the Bill. I understand that they may or may not be intending to appear. The point here is that there is a petition that has been put in corporately by the body in its own name against this Bill.

29. My Lord, that is the brief position with regards councillors. There is also the broader proposition, which we will perhaps come on to more when we look at the position of trustees, about an individual who is part of a corporate body being able to petition individually.

30. If I may touch on the political status, as in the standing claimed as a group leader of the Conservative councillors of the Malvern Hills District Council, I am not entirely clear if that is still bound up with the status as a councillor, i.e. in addition to being the deputy leader as a councillor this petitioner is also the leader of the Conservative group, or if it is the political representative locus being claimed separately.

31. THE CHAIR: Does either of the two cases that you referred to us so far deal with those categories of councillors, deputy leaders and group leaders? I do not think so.

32. MS LEAN: I do not think either of them deals with it specifically, but, my Lord, in my respectful submission, vis-à-vis the council and the representative status, a councillor is a councillor. They may hold a particular office within the council, but it is for the council to petition in its own name, which it has done in this case, not for an individual, unless that individual is particularly authorised in a particular role by the council to authorise for the council in their capacity as.

33. THE CHAIR: Are you saying that it would be open to a deputy leader to apply to the council for authority to appear before us?

34. MS LEAN: I am not actually sure that it necessarily would, my Lord. I might have to backtrack on that, because I am conscious that there are the provisions in, I think, Section 239 of the Local Government Act, which talk about how a council may appear to petition before you. I was seeking to draw perhaps a distinction between when a councillor may hold a particular role or be authorised by the council to do something in particular on its behalf because of a particular status they hold, as opposed to their status simply as a councillor. I do not think that that would provide an in-principle reason, in this case, for a different rule applying than usual.

35. THE CHAIR: It may be that it would have to go to a vote and maybe the vote would not be carried. Politics of councils lurk in the background in this sort of thing. You are saying, really, a deputy leader or a group leader has to be treated just as a councillor for the purposes of our case.

36. MS LEAN: Yes. Yes, my Lord.

37. THE CHAIR: That is your position.



38. MS LEAN: That is my position. My Lord, if it assists, in terms of the idea of somebody as a member of a political group or a political organisation, we have also included within your authorities bundle reports from the King's Cross Railways Bill in 1989, and that starts at page 90. This was the petitions of a number of ward or constituency Labour parties that claimed locus standi under the discretionary Standing Orders—those are the common Standing Orders—as associations representing local residents whose interests, property and amenities would be adversely affected by the provisions of the Bill, but in their capacity as, “We are the local political group representing these interests”. The locus standi, to cut matters short, for all of those groups was disallowed. My Lord, again, we just highlight that, whether or not it is as councillor or as leader or group leader of a political party for a particular area, the clear precedents are against those petitioners either having or being granted standing to appear before a committee such as at present.

39. THE CHAIR: Did you find anywhere their reasoning behind the decision?

40. MS LEAN: My Lord, as was, I think, the case on the Holocaust Memorial Bill, if there are reasons they are short. It is the reasoning we find on 97: “I turn now to the petitioners for the political parties. We have again come to the decision that we cannot grant locus standi”. It did say that it was not a ruling on whether a political party is entitled to locus standi in any case, but there is not a particular reason given why in that case they found that. As I said, my Lord, I do just make the point that the precedents that we have and we have found are against the petitioner having standing in this case. I note that the King's Cross Railways Bill that I have just taken you to is one of the cases cited in the most recent edition of *Erskine May* at paragraph 44.6.

41. THE CHAIR: Page number?

42. MS LEAN: On page 18 to 19, right at the bottom of the page on page 18. The right to be heard has not been granted to a petitioner who claimed to be heard as the prospective parliamentary candidate or local councillor for a constituency or ward within the areas affected by the Bill or for local branches of political parties. My Lord, I hope that addresses the points of principle that sit behind the reason for our challenges to this petitioner.

43. THE CHAIR: Yes. Mr Owenson, I think it is your opportunity to reply. You have,

of course, a petition raising other issues, but it is a question of standing that we have to deal with today.

**Mr Jeremy Owenson**

**Evidence of Mr Owenson**

44. MR OWENSON: Sure, absolutely. I thought I would just kick off. Having been told a bit about me by this lady here, most of which was absolutely correct, I just thought I would introduce myself to the committee so that you know a little bit about me, if that is okay. Then I have two very simple reasons why I should have locus standi.

45. I have been a district councillor in Malvern Hills for 10 years now. I have been re-elected three times. During the time, I have gone from being just a standard councillor to becoming the leader of the Conservative group. Then, just before the petition was submitted, I took over as deputy leader when the Conservatives formed an alliance with a group of independents, which included some Labour candidates. We got the support of the Lib Dems, and we took control of Malvern Hills District Council. At the time of the petition, I was—and I still am—deputy leader of Malvern Hills District Council.

46. In terms of political groupings, I speak primarily for the Conservative group, because I am group leader, but I am effectively deputy leader of the ruling group at Malvern Hills as well. If I was allowed to come back, I would quite happily come along with the leader of Malvern Hills District Council, John Gallagher, who supports what I am saying today.

47. I just thought I would mention that I am also mayor of Upton, my local town, Upton upon Severn. I am one of these fools who cannot say no when people say they need some help. I am a great believer in democracy and I am a great believer in trying to speak up for people who do not feel they can speak for themselves. Last year I was elected mayor of Upton, although I do not actually live in Upton. I actually live right on the border of the Upton parish. I actually live in a different ward, Powick and Hanley ward, which does include some Malvern Hills Trust lands, but that is immaterial. I am not standing as a person who has land in the Malvern Hills area or anything. I am standing purely on the basis, as I said in my petition, as leader of the Conservative group and deputy leader of Malvern Hills District Council.

48. I will be honest. I was a little bit surprised when I was challenged on locus standi, because, within my group, I have group members. Firstly, the reason why I presented as a group rather than present lots of different councillors presenting individual petitions was simply to save your Lords' time. In my personal view, all of my group councillors could have presented a petition in their own right and had locus standi, but I thought it would be better to have me as a speaker on behalf of all of the councillors in the group.

49. Some of the councillors in the group have been put forward as Malvern Hills trustees, and this is where I am surprised, because they have been told that they cannot participate in certain trust decisions and trust actions on the basis of the petition. My view is, "If the petition doesn't have standing, why does the Malvern Hills Trust prevent my councillor from speaking to certain aspects of the petition within the Malvern Hills Trust?"

50. A couple of examples. At the Malvern Hills Trust meeting on 13 November 2025—and I do not think that these guys would dispute it—the chairs and vice-chairs were recommending to the board that it would be impractical for a trustee deemed conflicted with the Malvern Hills Bill, by virtue of this petition, to become chair or vice-chair of the finance, admin or resources committee or the governance committee. With the fact that we have presented the Bill as a group, the Trust themselves are saying the presentation of the Bill has merit and therefore that person cannot hold these positions on this particular committee.

51. Also, individual members of my group have been specifically excluded from certain trust decisions regarding the Bill on the basis of presenting the Bill. That includes Andrew Willmott, who is a Conservative councillor. It also includes Cynthia Palmer, who is part of my ruling group, who is petitioning later on.

52. THE CHAIR: You said "presenting the Bill". You mean presenting the petition against the Bill.

53. MR OWENSON: Yes, sorry. Apologies, when I get going I sometimes forget to shut up. In my opinion, the Trust, up to this point, has said, "The petition is valid; therefore you cannot talk in the Trust meetings to the Bill". We are at the point now where they are saying the petition is not valid, but my councillors have been excluded from contributing and participating to the Bill up to this point. That, to me, is a bit of an

oxymoron. It is a kind of, “You’re not allowed to comment there. You’re not allowed to comment there”. My brain says that, in a democratic world, you should have the right to comment somewhere. You should not just be silenced.

54. The second point addresses the issue of individual councillors. I totally take the point that, just because you are elected, that does not mean to say that you then have the right to speak on every matter before the House of Lords. The challenge we have here, though, is that the Malvern Hills district councillors have a specific right as councillors to nominate people to the Malvern Hills Trust board. We are not ordinary councillors. We are specifically, by both constitutions, allowed to nominate people to the board. I on locus standi, my members on locus standi and the wider democratic group that support me on the council have the right, because this Bill changes that specific right that specifically applies to a Malvern Hills district councillor to nominate six people to the board. That, to me, disregards any other just standing councillor and says that that is why our councillors are different and that is why we should be allowed to speak to the petition.

55. THE CHAIR: Can I just be absolutely clear about this? Where do you derive that right from? Is it written down in one of the current Acts?

56. MR OWENSON: It is in the Acts and it is in the constitution. I do not think that these guys would dispute that.

57. THE CHAIR: Perhaps Ms Lean can tell us where it is to be found. We will come back to you, Ms Lean, later, but carry on with your submission. You are saying you have a particular status because, in regard to this council, in relation to the Trust, you have—

58. MR OWENSON: I have a specific right to be put forward to stand for the Malvern Hills Trust and that right is being—

59. THE CHAIR: That applies to you as councillor, not as group leader.

60. MR OWENSON: That is it, and I am petitioning on behalf of my group councillors.

61. THE CHAIR: Is it individual councillors who have the right, or is it groups that

have a right?

62. MR OWENSON: The council has the right to nominate and what happens is that the council leaders are asked for their nominations. It is not done on a political basis. It is done on a meritorious basis, or not meritorious but an equitable basis. There are no rules as to who—I am not automatically entitled to two seats or three seats, but the numbers of seats—because the council composition varies each election, we try to reflect what the political mix is in those reflections and also try to reflect councillors who live in trust areas as well. Probably the best way to say it is that those who wish to stand put their name forward and then the council will nominate them for that election.

63. THE CHAIR: Yes. Are there any other points you would like to make?

64. MR OWENSON: Those are the two specific points. I think that the second one is very clear. The first one is the point that the Trust has excluded my people from participating by presenting a petition.

65. THE CHAIR: Yes. Thank you very much. Does the committee have any questions?

66. LORD PONSONBY OF SHULBREDE: I have a question. You are deputy leader of the council. Would the leader of the council agree with everything you have just said? Are you effectively speaking on behalf of the leader?

67. MR OWENSON: My petition was specifically done in two parts. The first part reflects the MHDC point of view at a motion that was presented in June 2024, I think it was. Then the second part is me representing specifically the group—the Conservative group councillors—because that was not part of the motion that was included in Malvern Hills District Council. The second part of my petition is the Conservative group's view on where the elections could be made more fair, but the second part was not included in the original district council motion.

68. LORD EVANS OF GUISBOROUGH: Can I just follow that up, Chair? I apologise for not being more across this. Do we have a petition from the Malvern Hills District Council itself?

69. THE CHAIR: Yes, and it has been accepted that they have standing.

70. LORD EVANS OF GUISBOROUGH: Yes, that is certainly the conclusion that I would reach here. I think that that may be the proper place for us to take this.

71. THE CHAIR: It is accepted that they have standing. Are there any points from this side?

72. LORD INGLEWOOD: What is the authority for the proposition of the Trust that you cannot do this? On what basis has it been put to you that you are not entitled to engage in whatever way you wish, whatever the outcome might be of your engagement?

73. MR OWENSON: Charity law. That is my understanding, so charity law. Trustees of a charity are duty bound by the rules of the trustee. The challenge, I think, that the Trust has at the moment is that the current constitution of the conservators is as a local authority and the constitution of the Trust is as a charity, and there is no demarcation between what a conservator is and what a trustee of the charity is. If you could have that correct demarcation, you could have a conservator as an elected body to a local authority and you could have a trustee bound by the duty of the Trust. There is no reason why the conservators could not elect a smaller group of charity trustees, so the board would sit with the conservators, and the charity would be a subset of that.

74. Sorry, can I just come back on the point, “Is MHDC the only authority?” From the Conservative group perspective, my petition addresses equality in voting. I cannot remember the exact correct word for it. I would be challenging the electoral position if the electorate is skewed towards a political party, rather than skewed to geographical areas. It is a bit like if the UK with Scotland became one constituency and elected one set of MPs based on a total combined constituency. Scotland would never get representation.

75. In my petition, the fact that we move to a single constituency that covers Malvern, which has a high population, and the rural areas, where my councillors tend to live or represent, means that you are effectively skewing the potential voting in favour of the town groups, rather than the political parties that are more likely to represent the countryside, as in the Conservatives. I do think there is value in the Conservative element, and the Conservatives do go further than what the council said. The council only represents the combined view of all of the trustees at that motion. The view that the Conservative group has would have gone further than that motion, and I think it is worth

the Lords hearing that additional view, to the extent that I did not vote in favour of the motion that I am now presenting, but that is what you do as a democrat. You shoulder the burden of presenting people's views that do not necessarily always align to your own.

76. THE CHAIR: Well, there we are.

77. LORD INGLEWOOD: Chairman, can I just follow up quickly? In response to a comment of mine, in the opening Ms Lean said that there had not been any conflict between the charity rules and the local authority rules. I paraphrase. Now it seems to me that there may in fact have been conflict, which has led to what you are describing now. Following on from that, does the Bill change anything? The Trust is a charity now and became a charity, I think, since the last legislation, and is planned to become—

78. MR OWENSON: The Trust is two legal entities. It is the conservators, who are an elected entity in a local authority basis, and a charity entity. What the Bill does is it combines those two entities into one. That is where the conflict arises, because you have the challenge of a local authority that cannot—this is in my petition, so I do not really want to dwell on it. I would rather come back, if you want me to come back on it. Effectively, you cannot elect somebody to change the direction of the charity, because, as soon as they join the charity, as a charity, you become bound by the rules of the trustees of the charity.

79. LORD INGLEWOOD: That is what I understand from the paperwork, but it seems to me that it is probably double-hatted and that, in order to operate under the existing legislation, they have to comply with the stipulations of each of the two hats. Where there is a conflict, presumably, they cannot proceed. It has become a charitable trust. Forget about the word “trust”—charitable trust. That is happened since the last piece of legislation.

80. MS LEAN: Prior to the last Bill, my Lord. It was 1984.

81. LORD INGLEWOOD: What I am interested in is: does this Bill change anything vis-à-vis the conservators and their relationship to the charity from what it is now?

82. MR OWENSON: Yes.

83. LORD INGLEWOOD: And that is, specifically?

84. MR OWENSON: There were recent elections for trustees—directly elected trustees—who stood on the basis of wishing to change the direction of the Bill. Upon being voted in, under the charity rules, they are excluded from participating fully in the negotiations on the Bill. You have a condition now where somebody is being elected to do something and, as soon as they are elected, they are precluded from taking the actions on which they were voted in, because, as soon as they are elected and made a trustee of the charity, they are then duty bound by the rules of the charity. Now, the challenge the Trust has at the moment is that the Bill is being presented by the charity, not by the legal entity that is the conservators. If it was presented by the conservators—

85. LORD INGLEWOOD: Is it not being promoted by a body that is both?

86. MR OWENSON: This is my point, though. If it is being promoted by a body that is both, then they are not able to represent the alternate view, because one side of that body—the charity—is effectively excluding the conversation from the side of the point of view that is the local authority that is contrary to the desires of the charity.

87. LORD INGLEWOOD: Is this not analogous to being a member of an authority and having a conflict of interest so you simply cannot vote?

88. MR OWENSON: No, because a conflict of interest is where you have a pecuniary or non-pecuniary interest in the outcome of an item. In my local authority, I have people who do not agree with what my local authority is doing and will try to vote that down. They are still able to go and publicly talk about it and they are still able to stand for election on the basis that they are advocating that I am doing something wrong. Within the current set-up of the Trust, the rules as they are being applied—and I think they are being applied incorrectly—effectively prohibit the person from making that statement.

89. LORD INGLEWOOD: Right, I understand the point you are making.

90. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: In effect, those people who are elected as conservators are prevented from speaking about anything to do with the Bill.

91. MR OWENSON: Correct.



92. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: The promoters of the Bill are just those who have been appointed.

93. MR OWENSON: The promoters of the Bill are the trustees who voted to move the Bill forward at the point that the Trust voted for that Bill. If you subsequently join the Trust post that point and disagree with the actions of the promotion of the Bill, you are not allowed to participate in the Bill.

94. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: People who were elected to the Trust prior to them making that decision, or the conservators—it is very difficult to know at what point it stops being a conservatory and starts being a trust—still can vote. It is only the recent ones.

95. MR OWENSON: No, because, at the point that the decision was taken to promote the Bill, if you disagreed up to that point, you either keep quiet or you become conflicted. If you are a prior trust member who disagreed with it and subsequently put in a petition to address the challenges of the Bill, you will then be precluded from participating in any further conversation on the Bill within the Trust.

96. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: I understand that completely. Thank you.

97. THE CHAIR: Thank you very much. Ms Lean, I think it is for you to respond to the points that have been made.

#### **Response by Ms Lean**

98. MS LEAN: My Lord, if I can perhaps start firstly with a hopefully straightforward technical point—where the power is for the Malvern Hills District Council to nominate conservators—that is found in the Malvern Hills Act of 1924, Section 7. You do have that in the reference bundle of material.

99. THE CHAIR: Is this the big bundle?

100. MS LEAN: This is the big bundle and it is at page 203. Again, it is one of the marked-up versions. The committee will see, right at the bottom of the page, “Six persons to be elected by the local government electors for the urban district of Malvern

(one person by each of the six wards of the said district)”. “Six” was replaced by “seven” in a statutory instrument in 1958. I may come back to those statutory instruments slightly later on. That is now exercised by Malvern Hills District Council, as I understand it.

101. The power to nominate is that of the council. It is not of individual councillors. If the concern is to be raised about the council losing its right or its ability to nominate members of the conservators or board of trust, that is, in my submission, properly a matter for the council to raise on a petition itself in its own name, not something to be raised by individual councillors who may, in practice, be involved in nominating or putting forward candidates, in line with any practices that the council may have from time to time.

102. My Lord, in terms of responding to the petition, we have obviously challenged on the basis of what was said and understood in the petition, and that was on behalf of, in particular, the Conservative councillors of Malvern Hills District Council. To the extent, therefore, that it is more of a group petition than just an individual petition of Mr Owenson, the fact that it may be the group of Conservative councillors or a group of councillors does not alter that fundamental position that I outlined in opening, which is that it is for a council to act as council, not for councillors to have standing as councillors, albeit as a group of councillors. Similarly, on the fact that it is a political grouping, I have taken you to the authorities on the King’s Cross Railways Bill.

103. My Lord, I have obviously taken on board what has been said about concerns that have been raised about conservators who have joined the board—I put it neutrally, because there are elections and there are nominations, and we do not draw a distinction between conservators who are elected or who are nominated for the purposes of their duties or their responsibilities or their status as conservators or trustees—and that those who are opposed to the Bill or those who have petitioned against the Bill are not permitted to take part in decision-making going forward about the Bill. My Lord, without getting too much into the whys and wherefores of it, I do simply say this, that that is really something that may be to do at the moment with how the Trust and how the conservators, who are one and the same body, are having to operate in circumstances where they are, on the one hand, the promoters of the Bill.

104. If we might see this in litigation, they are on one side of the table and they have, as part of their constituent members, individuals who are actively standing on the other side of the table vis-à-vis that Bill. My Lord, Lord Inglewood, I think had the point on the nose, if I may say this, that it is the classic conflict of interest position. From a practical position, it is difficult to see, for example, how the board of conservators could be taking decisions about whether or not, as a strategic decision, it should challenge the standing of individual petitioners if some of the people who are making that decision are themselves petitioners whose standing might be being challenged.

105. In some respects, there is the element of what is expected and advice has been received by the Trust about, from the charitable perspective, how that plays out where there are potentially conflicts if you are operating in that arena. Just in practical terms, you can see why it may be that it is not practicable for all those who may be conservators, particularly those who may have been elected or nominated after they have petitioned against the Bill, to then be involved in the strategic decisions about the actual promotion of the Bill and the decisions that are being taken about how it is actively being presented and pursued before this House.

106. My Lord, in my submission, the fact that there are these matters that have to be raised does not shy away from the principle of the point that I will come on to when I address petitions raised by those claiming status by reference to being or having been a trustee or conservator, that, ordinarily, a member of such body does not enjoy such right to then petition against a Bill that that body, in its corporate form, brings forward.

107. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Their freedom of speech is taken away.

108. MS LEAN: It is not about freedom of speech, my Lady. It has been established in practice and precedent that, ordinarily, on a Bill of this sort, a member of the corporate body that corporately is promoting a Bill is not then entitled to appear on a petition against the Bill. In terms of freedom of speech, of course, that only plays out in terms of, “Do they have an entitlement to be heard by a committee of this House or by a committee of the other place?” It is not about, “Can they, in any other form or any forum, express their views about whether they do or do not disagree with it?” There are some particular carve-outs in Standing Orders for certain circumstances in which

members of companies or shareholdings can petition against that usual principle, but that is quite carefully carved out and, as we have said in our note, does not, in our view, apply here.

109. I recognise that there is a background here of general tensions about the fact that the conservators are promoting this Bill and that there are some who have been elected or nominated specifically because they have said that they oppose the Bill. That does not, in my respectful submission, give rise to a position where such a petitioner or somebody who says that they represent people including people in that position has a right to be heard by this committee against the Bill itself.

110. I am just quickly checking the other point I felt I had to address. There was also the point that was raised about the current status of the conservators and whether the body of conservators as a statutory body is the same or something different from the conservators as a charity and what the position might be going forward. I am conscious that I am probably straying now into some of the matters of substance that may need to be looked at later down the line, rather than matters that go specifically to the point of standing. If I can highlight that, as I said in opening, this is a body that was established by statute. It is also a registered charity. It was a body established by statute, which also now happens to be a charity, in the same way that the National Trust was established by statute and is a registered charity and as the conservators of Wimbledon and Putney is also a registered charity. It does not make them two separate legal bodies. It is one body that also has the status of a registered charity.

111. In terms of the Bill, if it assists, I went to Clause 5 yesterday, which sets out that the board of conservators, then to be known as the board of trustees, will remain a body corporate under the common seal. It remains that statutory body governed by the Acts, but it also reflects that the trustees are also charitable trustees and it makes provision that, as acting as charitable trustees, they shall do so in furtherance of the objects that are in Clause 6. There are some other provisions of the Bill that do identify areas where there could potentially be the conflict, if you are just applying generally charity law and if you are acting under the Act, particularly to do with certain requirements that may apply to land disposal that have to be complied with under the Charities Act. There are some points in the Bill where it seeks to identify where there is the possibility for there to be that clash between general charity law and to make specific provision for it.

112. In terms of the fundamental status, what the status of this is body now and what is it going forward, as we said in opening, our position is that that does not change. There is a sense of double hatting, but it is an additional hat, if I can put it in those terms. The fundamentals remain the same. It is also, in addition, a registered charity. It is not somehow cleaving itself in two to become, on the one hand, a body established by statute and, on the other hand, a registered charity. My Lord, I am not sure if I have covered everything that you wanted me to.

113. THE CHAIR: I think that we need to move on. Mr Owenson, you have points you want to raise. Please keep it brief.

114. MR OWENSON: I hope you understand that I am quite a brief person. Just two quick points. The National Trust is funded by its members, who can opt in and opt out. This is a levy. It is a local authority levy-raising authority.

115. Then, just on the point around the confliction of the petitioners, I did mention this earlier, and I just want to remind the Lords of the chairs, the vice-chairs and recommending to the board that it would be impractical for a trustee deemed conflicted to be a chair or vice-chair of the finance, administration, resources committee or the governance committee. It is not just in the context of the Bill. Those elected trustees are not being allowed to fully participate across a whole range of activities within the Trust.

116. THE CHAIR: We will have to leave it there. We will reserve our decision. As you may know, Mr Owenson, we are going to announce our decision tomorrow, Thursday. That is on the issue of standing only and we will make it clear what the consequences are, one way or the other, of our decision, so thank you very much for your appearance. We move on to the next petitioner. Yes, when you are ready, Ms Lean, you are going to introduce us to this category of petitioner.

#### **Statement by Ms Lean**

117. MS LEAN: I am grateful. This is entry 13 in the table that you have of the grounds for challenge. My Lords' committee will see that there are a number of matters prayed in aid in section 1 of the petition, firstly that the petitioner lives within the parish of Malvern Link and is therefore a precept payer, a district councillor within Malvern Hills District Council, formerly a trustee of the Malvern Hills Conservators and formerly has

held high office in the area more generally.

118. My Lord, we also identify in our challenges, firstly, that no property or personal interest of the petitioner is specially or directly affected by the provisions of the Bill and, secondly, that the petitioner, in so far as they rely on their status as a councillor or an elected member of a local authority, does not have standing for those reasons. I should also now add, my Lord, that the petitioner is now a trustee again of the Malvern Hills Conservators, but that has not been picked up or amended in the petition or subsequently. We also identify that the grounds of objection are not distinctly specified in the petition, so another Standing Order 111 point.

119. My Lord, with regards to the first point that interests are not specially and directly affected, the only personal or private interest that potentially is put forward in the petition is that of the paying of the levy. For the reasons that we have outlined—and I will recap on briefly, if I may—it is our position that that is not the sort of interest that is specially and directly affected such as to give rise to standing as a right. There is no other interest alleged in the sense of owning property or taking access or suchlike.

120. As regards the status as a district councillor, I will not repeat what I have said. The same submissions apply that we have advanced with respect to the previous petitioner before you.

121. With regards to the Standing Order 111 point, again, there are various issues that are taken with various parts of the Bill, but none of those is directly correlated to what it is that is said to specially and directly affect this petitioner, and that is why that has been raised in this petition.

122. THE CHAIR: It is fairly clear, looking at the petition, that specific points have been raised. Is your complaint that she does not identify particular clauses? For example, there is a point about the levy paying area. There is a point about the new general power. There is a specific point being taken there and commoners rights and so on. It is not that the petition is lacking any substance at all. Is it just simply that it is not sufficiently precise?

123. MS LEAN: My Lord, I think there may have been a possible error in that table. I was working off the letters, I am afraid, this morning. When I looked at the letters, I

could not see the Standing Order 110 points. When I saw it in the table, I had worked on the basis that it was because it did not specifically correlate particular provisions that were said to specifically affect this petitioner, but rather were raising general points of concern about the changes that were proposed. To the extent it is pursued, it is that. It does not identify what it is with particularity that is said to affect this particular petitioner, as opposed to concerns generally about things like there will be changes to powers, so if I can perhaps leave it on that footing. It is not the point I am particularly going to push as the strongest reason.

124. THE CHAIR: You are really departing from that criticism, are you?

125. MS LEAN: I will. I think that that was possibly an error in the table, so if I can perhaps ask your Lordships' committee to strike that, because, having gone back and cross-checked with the letter, I cannot see that it is raised in that way.

126. THE CHAIR: I think that it is sensible to withdraw that particular point.

127. MS LEAN: I will, my Lord. I think that that leaves me with two points to address. One is the levy and one is the petitioner's status as, at the time, a former conservator trustee and now subsequently again a current conservator trustee. My Lord, perhaps if I can start with a recap on the levy perspective, and I will endeavour to be brief, but I hope it is helpful to try to pull together what was traversed yesterday afternoon. My Lord, on the levy, we obviously recognise that the Bill is, to some degree, an unusual one. It is not a works Bill. It is not a standard City of London Bill to do with street trading or anything like that. It has its own elements, which are particular to the nature of the Trust and the operation in which it works. Obviously, I highlight that we are not the only body in this situation. There is also the Wimbledon and Putney conservators, which I referred to, that is a body established by statute with a levy-raising power that is also a registered charity, but I do acknowledge that this is not necessarily an ordinary, completely run-of-the-mill, standard Transport and Works Act Bill or local authority private Bill.

128. We have looked and we cannot say whether or not the earlier Bills attracted ratepayer petitions. We have not found any record of locus challenges to do with those points. We are aware that there was a petition from local residents against the Bill in 1995 whose locus was not challenged, but that petition did raise issues around

commonable rights and suchlike, so there is nothing in there specifically alleging that there was standing by reason of levy. I highlight that because it seemed right to identify that we have looked and we are not aware of whether or not there were petitions based on the paying of the levy and we have not come across any challenges on that basis.

129. My Lord, more generally—and this is where I start recapping from yesterday—there are long-established precedents that individual ratepayers, for which here read levy payers, do not have standing to be heard on a Bill promoted by the authority or corporation to which that charge is paid, absent being able to demonstrate some other interest they hold, which is specifically and directly affected by the Bill, the classic example being if they are a landowner who has land acquired. Obviously, there are a number of authorities that are cited in *Erskine May* to which we took you yesterday and I would not propose to go back through now, but Mr Lewis, who sits to my left, has been doing a trawl back through the Sharpe Pritchard records and has identified a couple of more recent Bills where the point has been taken, which we have included in the additional clip of materials that we handed up this morning.

130. My Lord, the first is the Greater London Council (Money) Bill 1976. That starts at page 119. We only provide the extracts because it is a relatively lengthy transcript otherwise. We have also provided the front page to the Greater London Council (Money) Act 1976 at page 155 so your Lordships can see what that Bill was about. I am told that essentially this is one of the private Bills that had to be passed every year to allow for expenditure by bodies such as the Greater London Council. This was a local Bill and about the spending of money by a local body to which rates, taxes, were paid. Hopefully that is helpful in terms of picking up the concern that I know was raised yesterday about, “Doesn’t the fact that the levy payers here are the levy payers give them an interest or a stake in how that money is spent?”

131. My Lord, if I can very quickly gist through a couple of passages in the transcript, at page 121, the last paragraph, these are the submissions for the promoter of the Bill, who was challenging the locus standi, and you will see that the challenge was taken on the basis that they expressed themselves as residents of London W14, and therefore the same objection is taken as the last objection that I took, namely that, as ratepayers qua ratepayers, they have no locus standi in any petition promoted by their own authority. The position is that the common seal for the petition for this Bill was binding on all



ratepayers in Greater London, these three included, as indeed was the case with the last petitioner.

132. Over the page, there are citations or extracts within this transcript from an earlier Bill proceeding on the Bristol docks Bill 1971. In the middle of the page there is an indented passage, which starts, “The precedents are all”. Midway down that, about five lines down, it starts, “The reason I will put forward in due course is that the precedent is so clear that a single ratepayer is never given a locus against his own authority who are promoting a Bill that it has never really been tried in recent years. There are other occasions in the other House when smaller groups of ratepayers, some with a general interest, have been concerned, and some who own property which may be affected, of course, who are in a different field altogether, but where there is one ratepayer standing alone against his own properly elected authority who are promoting the Bill, there is really no case reported where locus has been granted to him”. The question was asked in the Bristol Bill further down, in the second paragraph up from the bottom. The Chairman is asking the ratepayer, in that case, “What I want to know is what interest you have which is not shared by any other of the ratepayers of Bristol”.

133. My Lord, these are the submissions. Sorry, my Lord. I have temporarily lost my reference to the ruling, but the locus was not allowed in that petition. If I could perhaps find the reference over the adjournment, I will give you wherever that is in the particular transcript.

134. My Lord, the second Bill that we have put in or the second precedent we have put in that relates to a similar thing is on the London Local Authorities and Transport for London Bill 2006, bringing us into the current century, starting at page 137.

135. THE CHAIR: Before you go there, can I take you back to page 121? Just explain what is going on here, the last three lines. “The position is that the common seal for the petition for this Bill is binding on all ratepayers in Greater London”. I am not quite sure what has been talked about there. Do we have that situation in this case? There is no common seal. It is a proposition—it is as broad as this: all ratepayers are bound by a decision taken by the authority to which they pay their rates and they cannot petition against anything that the body as a whole has decided. It is a very broad proposition.

136. MS LEAN: It is a very broad proposition, my Lord. That is the sort of proposition

that appears certainly in the very, very early authorities. It is the sort of thing that you see in the 1800s. Ordinarily, ratepayers cannot petition against a Bill promoted by their authority under the common seal. There has obviously been some flex in that so I do not state it as an absolutely bold and stark principle, but where the relaxation of that has tended to come is in things like, “Well, that would be very odd, if you are somebody who has some other interest that is particularly affected in a way different from others”. That is where you see ratepayer qua ratepayer cannot petition against the Bill. A ratepayer who also happens to have a particular personal or proprietary interest affected, which is different from all the other ratepayers, can petition, but, yes, the language that has tended to come through from the early authorities is ratepayers not being able to petition against or being bound by the Bill under the common seal.

137. I do not particularly focus on the common seal wording because I am conscious that is language that is carried through, but it is the long-established precedent that, yes, a ratepayer cannot simply as a ratepayer have standing to petition against a Bill promoted by the authority to which he pays rates.

138. THE CHAIR: The context in which those propositions were advanced is so different, is it not? You have given the example of the 1976 Act. It is completely different from the measure that we are concerned with in this case.

139. MS LEAN: My Lord, I will come on to the nature of this in a moment, if I may. Can I just finish with the previous Bill?

140. THE CHAIR: Yes, please.

141. MS LEAN: The second authority that we have put in related to the Bill was the London Local Authorities and Transport for London Bill. This was a Bill where the petitioner was particularly concerned about prohibiting motorcycle parking. It is page 139. This was a point that was advanced by the promoter of the Bill against the standing of the petitioner. At point 20, “The petitioners are in no different position than any other council taxpayer in Greater London”. This individual had incurred a number of penalty appeal notices. “Practice and precedent in this House over many years has established that the locus standi of individual council taxpayers who are not specially and directly affected by a private Bill should generally not be allowed”. There is perhaps the more modern language there, moving away from this idea of under seal. The established

principle and practice is that the individual locus standi should not be allowed. That was one of the bases on which locus was resisted in this particular case. My Lord, we have given you the full transcript of this particular hearing and the ruling, such that it is, is at page 149. Again, it is the short ruling. “We have given full consideration to the matter. We have concluded that the individual does not have locus in this matter”.

142. My Lord, we bring those authorities in, one, because they are more recent examples of the principle being applied—a lot of the authorities referred to are rather older in time—and, two, particularly in respect of the first Bill, the Greater London Bill, bearing in mind the concern raised about, “Well, don’t these ratepayers, these people who pay this money, have some particular stake in how that money is spent?” You see that coming to the forefront in a Bill that was precisely about expenditure, but even that was not enough without more.

143. Now, my Lord, it is the promoter’s position that there is no reason in principle why that established principle does not and should not apply equally to the levy payers under the Malvern Hills Act. First, just as rates, latterly council tax, are and were historically attached to property rather than persons, so was the levy here.

144. Secondly, the fact that it may only apply to a particular discrete area, the Malvern Hills, is really no different than the Bills that come forward as private Bills because they happen to only relate to an area or a city or a district, not the country nationally. If this was, for example, legislation coming forward or a change being brought forward under general legislation, which was altering the governance or constitution of the body to whom rates were paid or council tax was paid, that would not give rise to a right for those ratepayers or taxpayers to come to the House to petition. In the same way, it is purely by virtue of this being a private Bill that that potential question arises. The question is, “Well, why should the levy payers of Malvern, by virtue of the fact that this has to be a private Bill, be put in a different position from other ratepayers, charge payers or levy payers who cannot do that because their legislation is of more general application?”

145. My Lord, on that I am mindful that Lord Evans asked yesterday whether there are any cases or authorities regarding precepts for fire services. I did have a look last night. I did not flag up anything particularly to do with a fire services precept or cases there,

but one perhaps useful analogy that did come up last night was the business improvement districts levy, which can be levied in respect of business improvement districts, a designated part of an authority area, where an additional levy is placed on and collected through the business rates for non-domestic properties within part of the local authority's area that has been designated, and where that levy is used for the specified purposes of improving that area, which will obviously have overall benefit to the area, the district or the parish in which it is situated.

146. My Lord, I know that there has been a concern about my comparison with, say, the City of London or the City of Westminster. That may be an example of where you can see, generally, a levy that is levied on the properties in part only of an area that can be seen to have a wider benefit for the area, but, in my submission, again, still there is no provision made there for those individuals to come before the House on a private Bill and say, "Well, that shouldn't happen". It is done under general legislation. That was to illustrate the point that the mere fact that this may be about a levy that is charged on a discrete area is not a justification in itself for moving away from the general principle because there are other examples elsewhere in general application where you have levies being levied on some areas that do not apply across the board.

147. My Lord, that was the point of principle, if I can put it that way, about the ratepayers and why we say, in principle, the same applies. This is a charge on property. It is the same principle.

148. My Lord, it might be helpful, then, to go back and say, "Well, what is the rationale for that? What sits behind that?" I will hopefully recap on what I have said yesterday. Essentially, two propositions perhaps emerge from the authorities. The first is going back to that language of "directly and specially affected by the provisions of the Bill". For the City of London Corporation or the City of Westminster, where all the ratepayers have to pay a charge, none of the ratepayers is differently or specially affected from the other ratepayers by reason of having to pay the charge. If we come back to the language, which is where I started yesterday, that is also the question that you see being asked in the Bristol docks Bill that I have just referred to in the authority from today. What is it that makes this particular ratepayer differently affected from all the other ratepayers, all the other charge players, such that they and not every single one of the ratepayers should be entitled to come before a committee such as the present to petition against the Bill?

149. My Lord, for context, as I referred to yesterday, if your Lordships' committee were to find that by virtue of being a levy payer that was enough to give standing out of right, that would extend standing in principle to thousands of those within the area. My Lord, I am informed that we could be talking in the region of circa 30,000 individuals.

150. My Lord, secondly, that requirement about "specially or directly affected" and something more being required that you see in the authorities—it is not enough that you are just a levy payer; there has to be something else—to come back to my point, reflects the fact that, even though this may be a private Bill—because of it applying locally and not nationally, it has to be a private Bill, as it may have to be for, say, the City of London Corporation or the Bill that I just took you to for the Greater London Authority; that has to be a private Bill because it is of local application, not national application—it can often have a character that is rather more public or general in the sense of any changes, say, to governance or suchlike that apply across the board.

151. They are not the sort of thing that perhaps committees are more usually dealing with, which is, "What is the particular impact on this particular individual as a result of this Bill? What change can we make to alleviate the impact of this Bill on this individual?" My Lord, of course, clearly, that has come up more usually in the works Bills, but the more conventional would be, "This part of my land is taken. You should change the Bill to take this part of my land out. This is wrong. This should be changed because this will ameliorate the impact on me". For a lot of what we are talking about in terms of things like changes to the governance, there is not that degree of connection or causality between an individual petitioner going, "If you make this change to the Bill, it will improve things for me; it will reduce the impact on my interests". It is, "We think this is just generally a better way of doing it", which very much buys more into that sort of general point—if this was a hybrid Bill, it would be the public policy or principle flavour—rather than the particular things that we might ordinarily be looking at on opposed clauses of a Bill on a petition.

152. My Lord, coming back, we do say that the correct comparator here on the authorities is not levy payers as compared with other members of the public or those who may enjoy the Malvern Hills. The correct comparator for the purpose of looking at, "Is this individual petitioner directly and specially affected to have standing as of right?" is to compare them with any other levy payer within the Malvern Hills. What is it that

means that this individual, as opposed to their neighbour, their neighbour but one, the person in the next parish over, everybody in the parish of Colwall, should be entitled to come on their own and individually petition against this Bill?

153. My Lord, that takes me on to my second point, which I have to a degree already made as the floodgates point. If the status of a ratepayer or a levy payer is sufficient to incur standing as of right, that does open up the potential for every levy payer to have the ability to come to a committee such as the present and say, “I want to tell you why this is a bad Bill and why it should not be passed”. My Lord, that does run, obviously, directly up against the clear admonition of the 1988 Joint Committee about what the work should be for such committees. Second, my Lord, we have obviously given the illustrations in the Bills that I have referred to this morning. Looking there, it is perhaps not hard to see what the impact might have been or the number of petitions that could have opened up, had the principle been that, yes, anybody who is a ratepayer qua ratepayer can come and petition.

154. THE CHAIR: There is a particular aspect to our situation. We are under instruction from the House to consider a number of matters. Does that affect our attitude to the levy payers? We need to be informed about the issues more fully than just hearing from you. We have to have some contradictor. They are providing an opposition to you, which would be developed. That might give us a broader understanding of the issues that we are under instruction to consider. I absolutely understand your point that to open the door to all the ratepayers, all the levy payers, would be exactly what these rules are designed to prevent. That is the whole idea, to avoid committees sitting endlessly listening to one ratepayer after another. That is absolutely fundamental, but in this case we are under particular instructions, and that requires that we need to gather information so that we can perform our duty. The value of the levy payers is that they do bring some context to the discussion, providing a contradictor that would assist us in performing our duty.

155. MS LEAN: My Lord, may I very quickly check something before I say it? My Lords, first, I would say that, of course, your Lordships’ committee will have to consider matters such as the levy because that is in the instruction. However, your Lordships’ committee will obviously have to consider that, regardless of whether anybody had raised it in any of their petitions. The fact that it is in the instruction does

not, in my view, alter the fundamental rules to be applied to whether or not individual petitioners have standing as of right. I stress “as of right”; I will come to that in a moment.

156. My Lord, I am not aware, for example, that there has been any mention of the instruction altering standing or saying that a certain person specifically has to be heard. It does have to be considered, but in my submission the instruction does not, on its face or otherwise, do something to alter the principles that would ordinarily fall to be applied in deciding who you will hear from.

157. Secondly, I mentioned yesterday that your Lordships’ committee will be hearing, amongst others who we have not challenged, from Guarlford Parish Council. I touched yesterday on Standing Order 118, which confers the potential for discretionary locus on representative bodies and inhabitants of an area. There has been a standing recognition—your Lordships’ committee will see that, for example, in the House of Lords Select Committee report on the HS2 Bill—that bodies such as parish councils and local authorities are often the body that is best and properly placed to advance matters on behalf of those whom they represent. Things like the levy and changes to the governance arrangements are being advanced by Guarlford Parish Council. Of course, it would be open to Guarlford Parish Council to decide whom they may wish to call as witnesses in support of their petition.

158. My Lord, forgive me. I cannot remember whether it is specifically in the extracts we have included in the bundle, but that matter was picked up by the House of Lords Select Committee on the HS2 Bill. It may well be that individual petitioners whose locus have been disallowed or individuals who may wish to align themselves in support of petitions brought by representative bodies, such as Guarlford Parish Council, can provide evidence that can assist the committee in its deliberation. By declining to hear individual levy payers as of right, your Lordships’ committee is not excluding itself from having the alternative point of view or being able to derive assistance from others who are directly raising and concerned with matters such as the levy and change to the governance arrangements.

159. Thirdly—I think it is only right that I raise this, although I am not advocating it, for reasons that will become apparent when we come on to petitions later on, perhaps

this afternoon—I mentioned Standing Order 118. That does extend beyond parish councils or local authorities to representative groups or inhabitants of the area. The way that Standing Order 118 has conventionally been approached and interpreted with regard to the inhabitants of an area is that it does not confer locus on an individual simply by being an inhabitant, but if there is a group of them of a representative character. I am conscious that there are some petitions coming up later on that are by groups that say they are representative of a number of residents or levy payers. There is certainly one petition where a number of individuals have collected together and said that they are representative of a particular area. It may be that your Lordships' Committee may wish to consider—I say it no higher than that; we do challenge their standing—whether it is helpful to hear from some levy payers directly, as opposed to as witnesses, say, for a parish council, or whether there are groups or groupings that you feel have that sufficiently representative character of inhabitants of an area that you would feel they fell within one of the discretionary Standing Orders and that it would be appropriate to exercise your discretion to hear from them.

160. The position that we have taken with regard to these individual levy payers is that, if they have put themselves forward as one or two individuals, that is not sufficient to get them standing as of right or to bring them within the Standing Orders on discretion, but I am conscious that there are different groupings and suchlike coming forward that your Lordships' committee may need to consider. We are certainly not trying to shut out you hearing from them, but in my submission there are avenues and routes by which there will be, to put it as grist to the mill, the other side of the account, not simply your committee hearing from us.

161. LORD EVANS OF GUISBOROUGH: May I? You have actually just referred to point 7, page 48 of the bundle, which is the HS2 reference that you were talking about. I had already got it marked up before you referred to it because I was intrigued by the statement where they concluded, “This does not, of course, prevent those dedicated councillors from continuing to assist their residents by advising them, by co-operating with other petitioners and perhaps by giving evidence in support of other petitions”. I think that is probably the extract that you were referring to.

162. MS LEAN: Yes, my Lord. That is helpfully addressed in the bundle. I know it is a theme that appears elsewhere with regard to individual petitions, but, yes, it certainly



does appear there.

163. LORD EVANS OF GUISBOROUGH: Do you have any examples of where that has actually been done? This is a slightly academic statement, rather than referring to how it practically might be done or whether it has been done. Would you like to come back to us?

164. MS LEAN: I think if I could, my Lord. I was one of the team of counsel for the promoter on the high-speed rail Bill. I do have in mind that there would be petitioners who were aligned with, called to give evidence in support of or otherwise supported petitioners whose locus standi had not been challenged, but I will see whether I can find some concrete examples of that.

165. What I would say for now, my Lord, is that it is for individual petitioners to decide who they may wish to call to give evidence in support of petitions before your House. For things like the Guarlford Parish Council, there are a number of individual petitioners with addresses in Guarlford who, if their locus is not allowed as a right, may already be involved in or in support of the Guarlford Parish Council submission. Guarlford Parish Council might itself consider it helpful to call individual residents to talk about what it means to them.

166. LORD EVANS OF GUISBOROUGH: I fear they may not know this opportunity is available to them unless they have professional legal advice.

167. MS LEAN: My Lord, I recognise that, but, in the same way as that happened on the high-speed rail Bill, the rulings on locus were given early in the proceedings. Essentially, passages of the sort that my Lord has referred to were public statements from the committee to those petitioners, as it were, who they may wish to consider whether they could associate themselves with—I do not mean “associate with” in the formal sense, as in putting their name on the petition of, but in the sense of becoming involved in or approaching those bodies that might be presenting petitions with a view to giving evidence for them.

168. LORD EVANS OF GUISBOROUGH: It is, of course, open to this committee to make a similar statement.

169. MS LEAN: Indeed, my Lord.

170. THE CHAIR: What was your page number there?

171. LORD EVANS OF GUISBOROUGH: Page 48, paragraph 7.

172. THE CHAIR: Thank you very much.

173. MS LEAN: My Lord, again, famous last words, my brief recap through levy payers ended up being rather less brief than I hoped.

174. LORD INGLEWOOD: I have a point of clarification. I just want to be absolutely clear what you are saying. What I think you are saying is that levy payers as such do not have locus.

175. MS LEAN: Yes.

176. LORD INGLEWOOD: However, if there is an instruction, which there is here, specifically targeted at the levy, that applies, but the way that you are saying they can get in is if the committee exercises a discretion for them to be part of a group.

177. MS LEAN: Not quite, my Lord. Forgive me if I have been unclear. What I was referring to is not essentially the committee grouping petitioners and giving discretion to them as a body of petitioners, but that there are some petitions coming forward where there is a group that says it is acting on behalf of or is representative of levy payers or residents. If your Lordships' committee considers that they meet the qualifying criteria in Standing Order 117 or 118, your Lordships' committee then has a broad discretion in respect of that petition, that group of petitioners to say, "We think you come within 117 or 118, and we will, as a matter of our discretion, hear you".

178. LORD INGLEWOOD: Does that mean that the petitioners can call as witnesses whom they want?

179. MS LEAN: Yes.

180. LORD INGLEWOOD: Thank you.

181. MS LEAN: Subject, obviously, to your Lordships' committee's oversight and being able to control its own procedure, but yes. Certainly, as a promoter, we have no

say in who a particular petitioner may choose to call as a witness. If they wish to call a number of individual residents who are not named on the petition, then that is for them in the first instance to decide.

182. My Lord, I think there was a final point on the levy. Forgive me. I always get so caught up in the principle, but it was the final point on standing as of right, “interests being specially and directly affected by the provisions of the Bill”. I touched on this briefly yesterday, but, just to conclude, bringing this all together, obviously to have standing as of right a petitioner has to show that they are affected by the provisions of the Bill. In the promoter’s submission, what you are looking at is provisions that specifically and directly affect that interest, i.e. “If this is what I have that gives me the entitlement in principle to come, there has to be something in the Bill that affects that entitlement”.

183. In my submission, you have to be looking for something that affects the levy because, if it is the levy that would potentially give them the property right or interest to get them in the door, potentially, on locus standi, it has to be looking for something in the Bill that would alter the levy. As I think we have already mentioned, there are no changes proposed in the Bill to the levy.

184. THE CHAIR: You are saying, in effect, that you have to find something in the Bill that changes the pre-existing position.

185. MS LEAN: In respect of the levy, yes, I would say that, my Lord. That is reflected in the precedents. If there was going to be a new levy imposed or a new tax imposed, that might be sufficient to bring you in because that is a new charge; that is a new impact; that is a new impact on your property. That is what I am saying. It is not enough that you are a ratepayer or a levy payer to open up unlimited locus to raise anything about the Bill. You still have to be looking at, “What is it in the Bill that affects that particular interest?”

186. My Lord, that is one thing I just wanted to flag. We have obviously flagged in our approach note, the last paragraph, paragraph 10, and our letters to petitioners that, if your Lordships were to conclude, contrary to our submissions, that, for example, being a levy payer was sufficient to mean you were specially and directly affected by the Bill, we would invite you to consider limiting the matters on which such petitioners could be

heard to those that were directly engaged with or relevant to that. For example, we cannot see a basis on which it could be said that a payer of a levy is directly and specially affected by an additional fencing power. There does not seem to be any sort of correlation there. My Lord, that is just one thing we would also put in our note that we would invite the committee to consider on that point.

187. My Lord, again, having thought I would be brief, I have been much longer than I expected. I have not dealt with the position of trustees. Does my Lordship wish me to deal with trustees and former trustees now or shall I stop?

188. THE CHAIR: I think you need to stop. I am concerned about time because we have not got very far. We have four petitioners this morning to deal with so I think we have to leave it there.

189. Mrs Palmer, I hope I address you correctly. It is open to you to reply now, please.

**Mrs Cynthia Palmer**

**Evidence of Mrs Palmer**

190. MRS PALMER: Thank you very much. Can I just come back on Ms Lean's point about district councils? We pay levies via our rates as such to the district council in return for services. If those services are not carried out properly, the ratepayers come to the councillors and we take up the point with the council on their behalf. Now, this is what is going to be dismissed in the Bill.

191. Also, in business improvement districts—I have been involved in one—there are a lot of surveys, meetings and everything to get a census of what they want the extra money to pay for, such as extra security, extra street cleaning, extra flowers and things. Once they get over 50%, they go ahead with that, but they do not just do it and take the money. District councils do not just take the money either. This is a real good point to make.

192. Anyway, I will start. I have macular degeneration. It makes reading and looking at all of you quite difficult, but I am here. Also, this time last week I was undergoing surgery for breast cancer, but I still consider it was very important for me to get here today. I will start. Thank you.

193. Thank you for inviting me to come. I have lived in Malvern for 25 years and been a levy payer for 25 years. I have been a district councillor since 2019 and I have been chair of the district council, but I was also three times Mayor of Malvern preceding that. I was appointed to the board of the Trust in 2019. I was vice-chair and chair there until I resigned because I was being bullied in 2024 because they wanted me out because I did not agree with this Bill. I wanted them to hang on and wait another year.

194. Then I was asked by the district council to come back on to the Trust, which I did in May 2025. At my first board meeting, I was accosted by the vice-chair, who said, “You are conflicted. You cannot speak, you cannot discuss, you cannot debate, and you definitely cannot vote on anything to do with the Bill”. All the minutes I get are redacted. From that point onwards, I have not been able to talk to anybody about the Bill, to discuss my concerns or anything. That goes for 11 of us now. There are 11 of us in this state. What they do is they get unanimous votes for everything they want because the other people just put their hands up.

195. Anyway, as a district councillor, I sit on the Malvern Hills Trust. I report back to the district council on what goes on. I do not disagree with this Bill, but I do not agree with it in its present form. There are lots of omissions, et cetera, that make it not fit for purpose.

196. THE CHAIR: We cannot get into, at this stage of the proceedings, the points that you want to make on the details. It is all about the question of whether you have a right to present your petition at all. You have to understand that.

197. MRS PALMER: I would like to ask that the Lords ask for my help in reframing this Bill, if they would. Just bear with me a second. We have eight district councillors on the Trust, who were put on by the original people who put the Trust together in 1864. They decided they would have representatives from the local authorities so that they could actually keep an eye on the Trust, watch its spending, et cetera. Now, Jeremy Owenson spoke about not being able to sit on the finance or the governance or anything. When I came back on the Trust, I asked to sit on governance and finance. “No”. I have not been allowed to at all. I am just on land management although I have quite a lot to offer on the financial side.

198. As far as locus goes, I love living in Malvern. It is a beautiful place. My house is

on the lower slopes, and I walk into Malvern across the commons and hills almost every day of the week. It is a definite part of my life. I am afraid that Malvern Hills Trust will be allowed to put their levy up to whatever they want. In fact, they are putting it up by 9% in 2026-27, whereas the district council are not putting theirs up at all. Because there will be no redress, because there will be no councillors or elected representatives on the board, they will be able to put the precept at whatever they like. However, the precept is only paid by the main part of Great Malvern. It is not paid by Powick, Callow End, Welland or Castlemorton, which also have trust property next to them. I think this is wrong. I do not agree that they can just put the levy up and make us pay it without us having any redress at all.

199. I am quite surprised I am sitting in front of you, actually, because we put our petitions in in February and we expected to hear from the Parliamentary Agent or the Trust to talk about our concerns and see what could be done. No, nobody contacted us at all. On Christmas Eve we all got challenge letters from the Parliamentary Agent saying they were challenging our locus standi.

200. THE CHAIR: I do not think there is anything we can do about that.

201. MRS PALMER: No, I know.

202. THE CHAIR: We are in the hands of the promoter to bring the matter before us. Obviously, I can understand your concerns, but we cannot really deal with that. We are still concerned with the question whether you have a right to make the points that you are making. Maybe you really have not any more to say to us.

203. MRS PALMER: Not really, no.

204. THE CHAIR: I think we take the point you are making.

205. MRS PALMER: Thank you.

206. THE CHAIR: Ms Lean, do you need to say anything by way of reply?

### **Response by Ms Lean**

207. MS LEAN: My Lord, just two points, if I may. Firstly, on behalf of the promoter, I do note that particular points have been made about conduct or actions on the part of

the Trust or individuals. I would not intend to respond to those, given the nature of these hearings, but I would not like the lack of an objection or a response to be taken as the promoter accepting those criticisms.

208. THE CHAIR: We are not conducting an inquiry into the way that was conducted.

209. MS LEAN: Indeed, my Lord. I am afraid that comment may have almost been more for other people who may be following or looking at the transcript. If there are points that are made that I do not respond to, it might be taken as having been implicitly accepted.

210. The second point, my Lord, is just on timings. The letters with challenges were sent out in early December. The date of the letters that I have is 3 December. Further letters were sent out closer to Christmas, but these were responses to the petitions. They are petition response documents, and we have provided a letter responding to the substantive points raised in each of the petitions, even for those petitioners whose standing we have challenged. It may just be there has been a mix-up on dates there, but I did want to clarify that.

211. THE CHAIR: Good. Ms Palmer, thank you very much for taking the time and trouble to come here. As I have mentioned earlier, the issue before us is standing only. If we decide you have standing, we will invite you back to present your arguments in more detail. Thank you very much indeed.

212. MRS PALMER: Thank you very much.

213. MR BARTLEET: My Lords and Lady Bakewell—

214. THE CHAIR: No, we have to hear from Ms Lean first.

215. MR BARTLEET: I am so sorry.

216. THE CHAIR: She is going to set the scene for us. Listen very carefully to what she has to say because we will then give you a right of reply, but I think we need to have the scene set for us by Ms Lean first. Thank you very much.

**Statement by Ms Lean**

217. MS LEAN: My Lord, I have this down as petition 22 in your table.

218. THE CHAIR: Yes.

219. MS LEAN: My Lord, working also from the copy of the challenge letter that I have, the standing is challenged on the basis that no property or personal interest of the petitioner is specially and directly affected by the provisions of the Bill and also that the grounds of objection are not distinctly specified in the petition.

220. My Lord, to deal with that point first, the information that is given in box 1 in respect of the first petitioner refers to running a business close to Malvern and a previous family connection with the promoter. The second refers to the status of the second petitioner as a levy payer and also to property being accessed across a strip of trust-owned land. Looking through the points of objection to the Bill, that does not disclose particular points or provisions of the Bill which it is said directly and adversely affect the petitioner's interests rather than being points of general objection to the Bill itself. My Lord, that is why that point is advanced for this petitioner.

221. On the property or personal interests, first, with regards to the second petitioner's status as a levy payer, if I may respectfully just refer back to what I said this morning, and, secondly, as regards the access point, again, there is nothing that is disclosed that indicates what it is that is said in the Bill to interfere with any legal right that petitioner may enjoy today. There seems to be a general concern that at some point the Trust might dispose of land. There are existing powers that the Trust has to dispose of land. My Lord, very briefly, that is the outline.

222. THE CHAIR: Just to be quite clear, you are talking now about 22B, Elisabeth Mayner.

223. MS LEAN: Yes, my Lord.

224. THE CHAIR: Right, yes.

225. MS LEAN: The second petitioner on this petition. Forgive me, yes.

226. THE CHAIR: Can we pass to Mr Bartleet to address this? Yes, please.

**Mr Humphrey Bartleet and Mrs Elisabeth Mayner**



### **Evidence of Mr Bartleet**

227. MR BARTLEET: Thank you, my Lord. Excuse me. I am a little bit hoarse. If I do not come over, do ask me to say it again. I am Humphrey Bartleet and, with your permission, I will read out the following statement to demonstrate that I believe I have locus standi, following my joint petition with my sister-in-law, Elisabeth Mayner of Cherry Orchard, Rectory Lane, Guarlford, Malvern.

228. I was born in Malvern and always considered it my hometown, and I have been here all my life apart from a period away at school or working in London and other places, but I always came home to Malvern. It was always part of my DNA, if you like, before I was married. My wife and I moved to Upton upon Severn early in the 1970s, buying a cottage there nearby, and I started our business in 1975. I would respectfully note that Upton upon Severn is well within the nine-mile radius of Malvern Priory that the Trust relies on for their documentation, and where I live is within the more distant setting of the national landscape, previously AONB, area of outstanding natural beauty. It is part of my daily life.

229. I purchased a building and office in 1977, paying rates to the Malvern Hills District Council, and moved our business to a small factory in Upton upon Severn in 1983. We moved the business to a new warehouse near the Three Counties Showground, which is an iconic location for so many people, which has been our current location since 2000 or 1999, I think. We have employed—and continue to do so—many people here over the years, which still numbers about 15. Most people employed here are local and live in or around Malvern and I believe pay council tax to MHDC and thereby the precept levy statutorily imposed by the Malvern Hills Acts.

230. I have three sons, two with properties at Hanley Swan and Welland, so very much within that district, respectively close to the hills. I have two grandchildren at school locally nearby and constantly enjoy the hills, walking and connected activities with sons, my wife and with dogs, et cetera. The hills and commons are therefore all part of our lives, and they have always been open and free, and controlled as necessary with a minimum of intrusion or change under the current arrangements. It was specified in the 1884 Act and all the other Acts that this land should be kept open for the public and for the graziers, the farmers, the visitors and everyone else.

231. We are fearful that the large number of changes, especially the special general powers, sought could curtail many inherent rights that I enjoy and hundreds of others do in the guise of better management and control, as the proposed Bill purports to do. It does say it is an amalgamation Bill, and I would not have been unhappy with that, but it is far more than that. Actually, the current Bill is 150 pages, about 40 lines to a page. The previous five Acts were under 99 or 98 pages of about the same length per page. This is more than an amalgamation Act. A lot of the old content of the Acts was taken out, things to do with quarrying and lords of the manor and goodness knows what. A lot of that came out.

232. Incidentally—I will just say it here—I went to all meetings beforehand. Nobody ever saw this Bill. We all wanted to see it. Nobody saw it. It was quietly put in. We were only told, “Yes, these are just the main points that you need to know. That is all you need to know”. At the last meeting I went to, when I was infuriated, we heard the chairman say, “Don’t worry about what we are taking out of the old Bills. That is just something we are going to do on the side. Two or three of us will do that, and we will just tidy that up and take it out”. The devil is in the detail, what they took out of the old Bills. That is just aside.

233. I have read the transcript of the January 2025 Select Committee decision on the right to be heard for the Holocaust Memorial Bill and hope that I may have equal latitude extended as described in Clauses 32 to 38, especially Clause 35, which mentions how personal interests may be affected as regards the area. I go to business nearly every day, even now at my age, and I am privileged to be able be part of the hills from such a close proximity, which are a vital part of my life and that of my wife and staff. The promoter has provided this decision in his own disclosure of documents, and I have also provided 10 sheets of that document, and of course it is those clauses that I mentioned, Clauses 32 to 38, especially Clause 35.

234. I ask that the decision to include me as an inhabitant is applied because for one reason I live in that nine-mile radius. Secondly, my whole life is inextricably connected with the hills and commons and I rely upon them continuously for my well-being and exercise.

235. I am especially and directly affected also because of these important connections.

Taking account of the point about the nine-mile radius of the priory, I hope the committee can determine that I have the necessary locus standi to present my petition, along with that of Elisabeth Mayner, my sister-in-law. I am going to read her submission now.

236. On a historical note, which is very important to me and it might be emotive and all of that sort of thing, the Malvern Hills is all about history. It is all about history going back thousands of years and hundreds of years—the 1884 Act right the way through five Acts. My grandfather was vicar of the priory of Great Malvern for 30 years, right through the war and after the last war, which strengthens my connections. He also taught religious studies at all the prep schools around Malvern, which I throw in because Edward Elgar taught music and he used to come back to the vicarage and drink tea with him. My father used to come in and sit there and was rather bored by it because he was more interested in horses, so he did not stay. It is a pity he did not, actually.

237. My father was a first cousin to Sir John Foley Grey, who made over the final part of the Malvern estate when his father died just after the First World War. He carried on. They had an estate in Staffordshire and he wanted to give up the Malvern estate, apparently. He passed over the lord of the manorship to the conservators in 1926 along with his mother, Lady Catherine Grey. I was told—it is a family tradition—that it was due to the assurance given that it would be there for the people of Malvern, in every respect, if it was passed over to the Hills conservators, and they had trust in that. This may not have happened, had the conservators not been trusted and achieved so much since their inception 40 years earlier. I personally do not think that my father's family, my grandmother's father, would have passed over anything to the current organisation.

238. I mention this because my father had absolute faith in the organisational safeguards intrinsic in the Malvern Hills governance. He worked with many dedicated and selfless people at that time, including Stephen Ballard, the grandson of the great Stephen Ballard, the Victorian engineer who built a lot of canals, railways and that sort of thing in the 19th century. He was one of the founding members of the Malvern Hills Conservators.

239. THE CHAIR: I suggest you keep your papers away from the microphone.

240. MR BARTLEET: Sorry?

241. THE CHAIR: When you touch the microphone with your papers, it makes a banging noise. Just keep your papers low and do not hit the microphone with your paper. That is all.

242. MR BARTLEET: Thank you.

243. THE CHAIR: Thank you.

244. MR BARTLEET: Now, whenever I read the local paper or attend meetings of the Trust, which I do frequently, and experience its present *modus operandi*, I feel like crying and dreadfully let down because it appears to be flying in the face of the guiding principles of the last 140 years and all those previous Acts. My father's words then ring in my ears from 60 years ago: "Do not ever worry about the Malvern Hills. They are governed and protected by Act of Parliament and only Parliament can change that". I am now waiting anxiously and praying that the wrecking ball to all that he believed in will not be allowed to strike and destroy what was so hard fought for and painstakingly built up over decades.

245. Hopefully, as a businessman of over 50 years' experience, I am pragmatic enough about essential change to accept that, in the right hands and with the right motives, change can and must take place. True amalgamation, especially updating obvious improvements, incorporating modern legal language, would be acceptable, and truly I believe that most people, including myself, would have no problem with that.

246. Many with expertise, such as some from the elected conservators or the Trust, may have assisted the Trust also to avert the unacceptable elements of this Bill, but it seems that they have been excluded—I saw that myself at meetings—from the decision-making process, from stating their concerns, which leads to further worries about the ongoing governance and control of the Malvern Hills. Sadly, there has been much secrecy, leading myself and observers to worry about the agenda behind this Bill, and it is highly poignant that now nearly 11 trustees have apparently completely lost faith in the management.

247. I hope that, with scrutiny, many changes as described as necessary in the numerous petitions will be imposed on the Bill and returned to be amended, but at this stage my concern is with my right to speak for my petition, and especially bearing in

mind that clause in the Holocaust Memorial Bill. Thank you for listening to that.

248. I would like to read out my sister-in-law, who lives at Guarlford, which is two or three miles down the road, but it is a parish council that elects a conservator. It has done since my father was a conservator there, and going back to 140 years, I am sure, like all the other villages around Malvern. I ask your permission to read out Mrs Elisabeth Mayner from Cherry Orchard. We submitted a petition jointly, but she is unable to attend. That is obvious because she is not sat here.

249. "I write to confirm that I am a Malvern Hills District taxpayer and a levy imposed on me by the Malvern Hills Act, namely the precept, is collected annually from me as the paying owner of the above property, namely a farmhouse at Guarlford, and on my husband, Dr Peter Mayner, and his mother previously since 1957. My daughter Rebecca and two children live here. We have five acres which the conservators' land abuts, and I believe it is all classed as common land. Guarlford Parish has an extensive area of such land over which the Trust has jurisdiction.

250. "I enjoy the hills constantly in many different ways. They have been a full part of our lives for nearly 50 years. I lived near the Wyche Cutting, which is on the Malvern Hills, before that and have been a ratepayer and precept payer there. I live near Barnards Green in Malvern and shop there. I take part in the voting procedures when needed and I am an elected trustee at Guarlford Parish and District Council, as I am a long-standing resident of the Malvern area and contribute to statutorily imposed taxation for its preservation", not to a charity doing that, but through taxation.

251. "I have jointly made the petition with my brother-in-law, Humphrey Bartleet, due to our mutual concerns about the new proposed Bill currently before you. My father-in-law, Robert Bartleet, Humphrey's father, was a resident here until his death in 1995, and was a precept and council payer. Robert was also an active parish councillor, and a long-serving Malvern Hills conservator in the 1960s, 1970s and 1980s, and did much for the Malvern and surrounding area. He was committed as a conservator to upholding its principles and Acts that ruled them. He believed, as my husband did, that the hills and surrounding commons were protected by those long-standing Acts for us all living here. These changes are very upsetting and destabilising, as the Malvern Hills mean so much to us all.

252. “Directly elected, Malvern Hills Conservators are a much-trusted part of the local area. They live locally and are known to local people who can talk to them, and they pick up information on what is going on. They can report it back. They can deal with minor issues on behalf of the conservators”. That is what my father did. He knew every farmer. He knew all the places and people. He was able to go to the conservators with first-hand knowledge. He also rode horses. He had first-hand knowledge of the farms, the commons and the hills. He was also an easement officer for a long time, when he went with a ranger to look at problems, and look at gateways, and see whether this could be done and that could be done. He was very hands-on. He was not paid a penny, of course, but he did it for the love of it and for the future.

253. “I therefore feel that, based upon my residential status, it is my duty to try to defend what Robert and numerous conservators before and since have invested: their time, energy and commitment, for the good of Malvern, to protect these priceless assets for the public benefit and future generations. Local involvement and representation were written into all the existing Acts that protect and preserve the hills in a transparent way, with a proper and sensible number of elected conservators or trustees serving the Malvern Hills and surrounding villages, so not whittled down to”—I think she was trying to say a tiny number, which she has read about, which is six elected ones and six coming from the trustees, and unfortunately none, apparently, from the councils and the Malvern Hills District Council, which she thought was appalling.

254. One of her main things is that the conservators will be reduced down. She says, “I struggle to understand the reason why this needs changing, unless it is to benefit other individuals or parties who have their own agendas and have no mandate from the people of Malvern to do so. It is this that I find distressing. I feel, with a burglary, that something irreplaceable may be taken from us unless this Bill is changed”.

255. She says, “I feel a loss, and damaging consequence to me personally. I wish to claim my right to have my petition presented by my brother-in-law, so I might believe that my great concerns are taken into consideration, and not just those of the Bill’s promoter, an organisation that is trying to delete those Acts of Parliament that have existed for generations to protect Malvern and the hills that we all identify with. The hills and commons must therefore be run openly and democratically, as we all pay for their upkeep. There are virtually no charitable contributions involved, and the precept

payers, such as myself, contribute 50% of the Trust's income overall, and around 95% of the income". I think it was 97%, but there is only 2%, apparently for charities coming from any charity. That is bequests and that sort of thing, I believe, from the public fees and charges, not donations.

256. To all of us, none of us feel it is a charity. It was given a charity number somehow, but it has always acted, up until recently in this proposed Act, as the old Malvern Hills Conservators, in the way it always did. Suddenly, there is a new group of people—this is my take on it—who have come in. They want to put in this Bill for whatever reasons. An amalgamation Bill—as I said before and as a lot of us have agreed here—is not a bad thing, and changes and improvements, but I feel that this is being used as an excuse. Yes, we will amalgamate it. We did not see anything. We were not shown anything until the Bill came in, but we were only shown these things like special powers. We all said, "Why do you need those? There are so many powers within the Bill already". I have read them all. Each Bill from the last 100 years has added things that needed to be added.

257. I will go back to what she said. "I believe that this statement to claim that my petition is heard is the least I can do for my father-in-law, my daughter, grandchildren, and my late husband, Dr Peter Mayner, a great contributor to much of Malvern over his whole lifetime. He knew some of this before he died in 2023, and was greatly worried by it. He was also a great supporter and contributor to genuine charities, not fictitious ones. All of the above is a summary of how the Bill detrimentally directly affects me and my family. This statement is what they would all expect of me now.

258. "I understand that the Select Committee examining the Holocaust Memorial Bill took a more relaxed view in 2025 of whom should have locus standi. I respectfully ask the committee to consider my position as a long-time resident of Malvern and a precept payer. Elisabeth Mayner". That is my sister-in-law. That is more or less all I have to say, except that I do have the extract, Clause 35, which is relevant. If you have read it yourself, I am happy to read it out.

259. THE CHAIR: I think we can read that for ourselves. Thank you very much. Ms Lean, do you need to say anything by way of reply?

**Response by Ms Lean**

260. MS LEAN: My Lord, very briefly on the Holocaust Memorial Bill, we have included it because we felt it appropriate to do so, being, as far as we were aware, the most recent consideration by a committee of right-to-be-heard challenges, and also because it did take a different approach on certain issues to do with standing than certainly in the House of Lords HS2 Committee.

261. My Lord, what I would highlight, if I may, is Clause 35, which Mr Bartleet has already referred to, page 52 of your bundles. I respectfully submit that the decisions and approach taken to standing in that case obviously had to be seen in the very particular circumstances of the Bill at issue there. My Lord, Lord Hope may recall that that was a Bill that started life as a public Bill, and became a hybrid Bill following consideration by the examiners, so there was obviously a dispute at the beginning as to whether there were any sort of private interests that were affected at all, such as might render it hybrid rather than public. I flag that the particular approach taken in that case, in our submission, is readily attributable to the very, very particular circumstance of that Bill, with, indeed, locus standi being awarded to some petitioners by reason of familial or personal connections with the Holocaust itself, given the particular relationship between the memorial and the Bill.

262. My Lord, I do not depart from the fact that there are obviously examples in which a more flexible approach has been taken on standing, but to highlight in my respectful submission that was not a case, for example, where it was suggested that somebody had a right to be heard as a right because they were a ratepayer or a levy payer of the City of Westminster, or matters such as that, that I have advanced to you in respect of the levy payers here today.

263. LORD EVANS OF GUISBOROUGH: My Lord, can I just ask, because we have referred to the Holocaust memorial Committee and to the HS2 Committee—I guess I can ask this question because I am still pretty new around here. Was there direction from the House in the way that there is this committee with either of those two?

264. MS LEAN: My Lord, on both the Bills, because they were hybrid Bills, there would have been an instruction at Second Reading, but the principle of the Bills were taken to be established, so it was a more discrete role for the committee. I hope I can say that. It was to consider the petitions that had been lodged against the Bill, rather than



having to consider the necessity and expediency for the Bill, including the unopposed and opposed clauses, in the manner of the instruction that has been given to the Lordships' committee. If it is helpful, I can try to dig out the particular instructions that were given.

265. THE CHAIR: I was on the Holocaust Memorial Bill, and I do not recall any instructions such as we have in this case. I do not think there was.

266. MS LEAN: No, my Lord. By instructions, I was meaning committal to the committee. Forgive me if I have misspoken, but I will certainly dig out what was said at Second Reading.

267. THE CHAIR: Having read quite a lot of HS2—I was in the second HS2 inquiry—I do not recall instructions in those cases either. It is an unusual situation to be faced with the kind of instructions we have in this case.

268. MS LEAN: My Lord, I certainly do not suggest that what was given was comparable. Forgive me if I have used the wrong terminology. There was an established committee that it was directed to. I will check what is in the reports about it.

269. THE CHAIR: Please do and let us know later. Thank you very much. Thank you very much, Mr Bartleet, for coming and addressing us, and for putting it before us in written form, which was easy for us to read and follow.

270. MR BARTLEET: Thank you, my Lord.

271. THE CHAIR: Mr James, we are going to have to rise at 1 pm. I think we may find there is a bit of a break in the proceedings, but I think what we will do is hear from Ms Lean, first of all, and see how we get on. We may have to stop halfway through your presentation. I hope you do not mind.

272. MR JAMES: Mine is expected to last about 10 minutes.

273. THE CHAIR: Okay. Ms Lean, maybe you will be able to finish. That is very good.

**Statement by Ms Lean**

274. MS LEAN: My Lord, in your table of petitioners, this is petitioner 48. As set out in that table, the petitioner is a levy payer in the parish of Malvern. The grounds on which the petitioner's right to be heard has been challenged are that no property or personal interests of the petitioner are specially and directly affected by the Bill. My Lord, that is done by reference to the basis on which interest is claimed, which is being a levy payer. I have covered that this morning, so perhaps with that introduction I can stop there and hand over to Mr James.

275. MR JAMES: Thank you, Ms Lean. May I continue?

276. THE CHAIR: Yes, please do.

**Mr David James**

**Evidence of Mr James**

277. MR JAMES: My name is David James, and I live in Malvern. I have lived there for 23 years. As a resident, I pay council tax, and that includes the Malvern Hills Conservators levy. I am also chair of the trustees of Manor Park, a community amateur sports club in Great Malvern. I support the work of the Malvern Hills Conservators, but I see no compelling reason why their governance and powers need to be radically altered. I should say that I am speaking as a layperson, and I am not a trained lawyer. I am certainly not familiar with parliamentary procedure, so if I use the wrong terminology or I do not follow etiquette, please forgive me.

278. The benefits of having the hills well managed, the natural aspects maintained and the hills open to all—these benefits accrue to everybody in the country, whereas I am told there are only 15,000 people who pay the Malvern Hills levy. Given that there are 70 million citizens in the United Kingdom who benefit, all of whom are able to access the hills, I am in a very special minority group, less than 0.03% of the UK population, who fund the conservators for the greater good of the nation. If you compare me to other levy payers, we are all affected in a similar way. However, since the hills are open to all, I am especially affected. I am very happy to continue funding the conservators' work. However, in return, I do expect some influence over the people, the trustees, who are put in place to manage the hills. I am not happy that the Bill reduces the influence I might possibly have over future trustees.

279. The promoter, despite their assertions that they have widely consulted, have actually done precisely the opposite. They have taken every opportunity to disregard suggestions, and they have sanctioned, we are told, 11 of their current trustees, because they are conflicted, i.e. they disagree with this Bill. I attended one of the public consultations in Malvern Link, and asked whether the Bill could be changed to extend the levy-paying areas to match the current geographic land ownership. I was told on that occasion by representatives of the conservators that such a change would be too difficult and would stir opposition, which would delay the drafting process. This indicates to me that the Bill has not been drafted for the greater good of the community, but to satisfy some nebulous concept of modernisation.

280. Were this Bill to be scrutinised in the Commons, I would be able to make my concerns known to my MP, and she could, if persuaded, pursue amendments on my behalf. However, since the Bill is first in front of your Lordships—and I am led to believe that it is here where the bulk of the detailed scrutiny and possible amendments are to be made—the only route I have available to have my concerns noted would be to be heard by this committee.

281. The Bill proposes to reduce the number of trustees from 29 to 12. This follows charity governance, where a smaller number of trustees is thought to be optimal. The promoters are keen on moving towards a charity governance model. However, today I am being challenged on my right to be heard, not under charity law but rather on parliamentary procedure, on the assertion that I am not directly and specially affected. If the conservators were primarily a charity, I could simply stop my donations, but because it is a tax-setting body, as a resident taxpayer I cannot withhold my contribution. This is why they should not be governed as if they were a charity, and why adopting charity-style governance, as the Bill proposes, is wholly unsuitable. In reality, their charitable donations from the last set of accounts were £33,000, and this is only a small fraction, 3%, of their annual income. They do not really have charitable income of any significance.

282. A better model for the management of the hills would be as a national park, and the national parks 1949 Act is well established and proven. We have the first Earl Attlee to thank for promoting the national parks legislation through Parliament. National parks have two statutory purposes, conservation and public enjoyment, which is precisely

what we need for the Malvern Hills.

283. I now come to my involvement in Manor Park, which is a 10-acre site in the centre of Great Malvern. It was put into trust in 1921 by Lady Catherine Grey for sport and recreational use, and today Manor Park is thriving. It offers tennis, squash, bowls and archery. Over 1,000 members play regularly, and I am currently chair of the trustees of Manor Park. For context, I provided a map to the Clerk earlier this morning, which I hope you have been given copies of. The map is actually the promoter's map from bundle 1, section E, which I have then overlaid, indicating where Manor Park sits within Great Malvern, just for context.

284. The Malvern Hills Conservators own a parcel of land adjacent to the Manor Park site, and we share a land boundary of roughly 200 metres. This bundle of land, or this field, is under the conservators' care. It is mostly used by dog walkers, and it is bisected by a public footpath. The four locks from Section 6 of the 1995 Act, which currently prevent this field from being sold, do not survive in that form in the proposed Bill, but reappear in Section 73 in a modified form. This raises the possibility that the use of that parcel of land may change as a result of this Bill becoming law.

285. I do not say that the current trustees have any sort of sale or different use in mind, but the Bill, were it to become law, would be in force for many, many years to come, and future trustees of the conservators may view it as a way of raising funds, particularly if you are governed along charitable lines, where charity trustees are obliged to maximise the financial value of their assets. As a neighbour to this parcel of land, I feel I have a duty of care to speak up on behalf of the members of Manor Park Sports Club, and as chair of the trustees of Manor Park, I do have a special interest.

286. It may well be that the committee determines I do not have locus standi. However, I understand that you have a discretion to allow petitioners to be heard, even those without a procedural right. My aims align closely with those of the committee and of all Members of Parliament. That aim is to ensure that the Bill is the best it possibly can be, and will ensure the Malvern Hills will be protected and conserved for many years to come. I do believe that the points I raise in my petition are relevant to your deliberations, and highlight weaknesses in the Bill, and these weaknesses would lead to significantly poorer governance and reduced accountability of the Malvern Hills Trust. I

would therefore welcome the opportunity to be heard by this committee and to explain the reasons for my petition in more detail.

287. THE CHAIR: Thank you very much. Are you a levy payer?

288. MR JAMES: I am indeed, yes.

289. THE CHAIR: You do not mention that in your petition.

290. MR JAMES: No, I am. Yes, I pay the Malvern Hills Conservators levy. We live in Half Key. It is just on the edge of the north end of Malvern. We are within the levy-paying area. If any members of the committee are visiting Malvern, I would be very happy to show them Manor Park Sports Club.

291. LORD PONSONBY OF SHULBREDE: Can I ask about the sports club? Does the sports club have any aspiration to use the field?

292. MR JAMES: No, not at all. We are just neighbours, and so far there has been no contention. I do not think we could, because the conservators would not be able to allow us to use it for sports use. We have 12 acres of our own, so we do not need the space.

293. LORD PONSONBY OF SHULBREDE: You would have a view on what the space is—

294. MR JAMES: Yes. I am trying to forecast something that might happen in the future, and I may not be the chair of the trustees of the sports club. My concern is that, were something to happen, a future chair would have less ability to influence what the conservators were doing.

### **Response by Ms Lean**

295. MS LEAN: The first point to highlight, if I may, is that—obviously, without wishing in any way, shape or form to detract from what you have heard from this petitioner about his involvement with the sports club and the concerns the sports club have—there is no reference in the petitioner's petition to the sports club, or him petitioning in his capacity of a trustee of, or other involvement with, the sports club. I just have in mind, obviously, the provision or convention in Standing Orders that the petitioner is to be limited to the matters that are raised in the petition.

296. THE CHAIR: Are you taking a point under Standing Order 111 in relation to this petition?

297. MS LEAN: My Lord, that is not in the letter of challenge itself. This is, I think, a separate point that has come out of the submission that was being made to you this morning. Forgive me, I have been just trying to find the relevant reference to it in *Erskine May*—that the matters that have been prayed in aid in front of you today are not matters that are raised in the petition, and ordinarily a petitioner is limited to the matters in his petition. In my submission, the position of the promoters remains that the only thing that is prayed in aid in the petition is being a resident of Malvern. We have obviously identified that the petitioner is a levy payer, and we have reflected that in our table, but nothing that has been advanced changes the position that I have put forward that that is not sufficient to give rise to standing.

298. The point I was responding to with regards to the sports club is that, in my respectful submission, that is also not something that should give rise to standing, not being something that is pleading the petition, or it being pleaded as a petition on the part of the sports club, and, as I understand it, it not being suggested that the sports club have any particular right or interest in being able to use the parcel of land other than being located next door to it.

299. THE CHAIR: You have the reference to *Erskine May*. Is it somewhere in the bundle?

300. MS LEAN: It is in the bundle, my Lord. I was just trying to find it. I think it may be an extract that may not have made it into the clip.

301. THE CHAIR: I am looking at page 33.

302. MS LEAN: Yes, my Lord. It is in the clip of the 1983 material we have provided you with from the 20th edition, which is at page 33. I was looking to see if I could find the comparable provision in the current version. I do not think the rule has changed. I was just trying to find the reference for it, probably in the wrong clip.

303. THE CHAIR: Yes. We do not have the current version in the bundle, do we?

304. MS LEAN: The current version is in the bundle, my Lord. That starts at page 14.

It is not one of the passages I had highlighted. My Lord, I have found it. It is page 14. It is the third paragraph down, and it is a reference to the Commons Standing Order. I was also trying to see if I could cross-check it in the Lords Standing Orders. “No petition will be considered which does not distinctly specify the grounds on which the petitioners object to any of the provisions of the Bill”—that is the Standing Order 111 point—“The petitioners can be heard only on the grounds so stated”. My Lord, I think there was a clearer expression of it in the 1983 or 1989 editions of *Erskine May*, but, in my submission, standing cannot be granted based on matters that are not pleaded and alleged in the petition, in my submission.

305. My Lord, I am conscious that my Lord’s committee had asked for an origins table, particularly when considering standing challenges, if it was said that there was no change with the Bill. Clause 73, which was the disposal of land clause that Mr James referred to, is one of the clauses that you have mentioned there. It is at page 164 in your reference bundle, which explains where you find the precursor to Clause 73 and the nature of the amendments that have been made. I say that is not sufficient to give rise to standing in this case, but just so you have the reference to where you will find the information about where Clause 73 comes from and how it may differ from powers that the Trust currently has.

306. THE CHAIR: Good. Thank you very much indeed. I think, Mr James, as before, we will reserve our decision on your petition as to whether you have standing. If we decide you do have standing, we will invite you to come back and develop your point in more detail. Thank you very much for coming.

307. MR JAMES: Thank you, Your Honour.

308. LORD INGLEWOOD: Forgive me, I have one very quick point for Ms Lean. I have not checked it, but this particular piece of land is in the middle of a more built-up area, as far as I can see it. Under the existing Bill, because it does not seem to be inalienable, any of the land owned by the Malvern Trust could therefore be sold. Is the capacity of the Trust to sell land enlarged by the provisions in the Bill? Is it made easier?

309. MS LEAN: Sorry, I am just hearing something to my left. May I quickly look to my left?

310. LORD INGLEWOOD: Sorry, but it seems to me it might have a bearing on the rights of this land.

311. MS LEAN: My Lord, I am very sorry; could I possibly take some instructions on that over the lunch adjournment? I have heard a muttering that it may be something about this particular part of land. I do not want to give you the wrong answer, if there may be a nuance.

312. THE CHAIR: Are you content with that?

313. LORD INGLEWOOD: Completely content.

314. THE CHAIR: That is a good suggestion. We will rise now, and we will come back at 2 pm and hear you with the answer to Lord Inglewood's question. I am sorry you will have to come back, Mr James, but if you would not mind, just so that you complete your session. If you come back after lunch, is that convenient?

315. MR JAMES: By all means, yes.

316. THE CHAIR: Good. We will end this session now and come back at 2 pm. Thank you very much.