

CORRECTED MINUTES OF ORAL EVIDENCE

taken before the

**MALVERN HILLS BILL COMMITTEE**

PETITIONS AGAINST THE BILL

Wednesday, 28 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:

Geoff Titmuss  
Valerie Goodbury

## INDEX

Subject	Page
<b>Mr Geoff Titmuss</b>	4
Evidence of Mr Titmuss	4
Response by Ms Lean	7
<b>Ms Valerie Goodbury</b>	16
Evidence of Ms Goodbury	18
Response by Ms Lean	20

**(At 10.35 a.m.)**

1. THE CHAIR: Good morning and welcome to this, the fifth public meeting of the Select Committee on the Malvern Hills Bill. There are a number of things that I need to mention by way of background. First of all, the petitioners from whom we are hearing, first in person and secondly, in the case of Ms Goodbury, remotely, are addressing us on the right to be heard. It should be understood that we are only concerned with whether you have a right to be heard. We have, of course, read what you have said in the petitions themselves, but we are not concerned with the substance of the points that you make. It is the right to be heard only.

2. The second point to make is that we gave a decision last week explaining our position on a number of issues, and you should bear those matters in mind when you are considering how to reply to the argument this morning. Petitioners who do have a right to be heard will be invited back at a later stage to present their arguments in detail. That is why we divide the matters up into two stages, so that they are kept entirely separate.

3. This is particularly for Ms Goodbury, if I may say so. If you are participating remotely, you should remain muted until you are invited to address the committee. You should also be aware that you will be visible on screens in the committee room throughout the proceedings and the online broadcast, so remain in your seat and be aware that you are actually being shown on camera during the meeting, even though you are not actually speaking. For those in the room, I remind you that phones should be put on silent and try to refrain from having conversations in the background, so that those who are addressing us can hear us and we can hear them.

4. A brief word about what happens in the unlikely event of a fire alarm. We have a different fire alarm system from some places. Instead of having the usual bells to sound fire alarms, in this building there is a two-tone siren. Should that occur—and it is followed by taped messages, which tell you what to do—what we will have to do is evacuate this room. Please do not wait to collect papers, because you will be brought back into the room later. The main thing is to evacuate as quickly as possible and follow the guidance of the clerks. Anyone who is outside in the corridor should follow the nearest security officer.

5. The proceedings are being broadcast and a full transcript is being taken, which will be published by Hansard. You should look carefully at the transcript of your session and

be sure that what it has done is recorded correctly what you were intending to say to us.

**Mr Geoff Titmuss**

6. CHAIR: I think we now can deal, Mr Titmuss, with your petition. The procedure we are going to follow is that I am going to call upon counsel for the promoter, first of all, to explain her position and to say why she says you do not have a right to be heard. Listen carefully to what she has to say. We will then ask you to reply and she may have a right to reply following what you have told us. Ms Lean, it is for you, please, to proceed.

7. MS LEAN: Thank you, my Lord. This petitioner is petition number 29 on the table that you have. In the petition it is said or indicated that a right to be heard would be based on the petitioner's status as a local resident living in Madresfield at the base of the Malvern Hills. The promoter has challenged or raised a challenge to the petitioner's right to be heard on the basis that none of the petitioner's property or personal interests are specially or directly affected by the provisions of the Bill. My Lord, I do rely generally on the principles articulated in the interim decision last week.

8. THE CHAIR: There we are, Mr Titmuss, if you would like to explain to us why your position is one in which you are specially and directly affected in a way that distinguishes you from other levy payers.

**Evidence of Mr Titmuss**

9. MR TITMUSS: Okay. Good morning. Can you hear me okay?

10. THE CHAIR: Very much so, yes.

11. MR TITMUSS: Yes. Since we are in London and not in Malvern, I have brought the Malverns to you with this photograph. Could it be passed to the Lords, please? It was too expensive to get a big copy for everyone, so it is reproduced on the paper that I have provided this morning. I have lived in Madresfield on the outskirts of Malvern for 29 years and this is the wonderful view of the whole length of the Malvern Hills from my garden. I am very lucky to wake up to that in the morning.

12. THE CHAIR: Can you just pause there, because I would like to pass this around the committee so that they can all see it? There is only one copy, so I would like to pass it

around. We will take our time to look at the view, if you would not mind.

13. MR TITMUSS: Yes. Tell me when you want me to continue. You may keep that, if you would like.

14. THE CHAIR: We imagine ourselves in your front room, looking at that view. Is that right?

15. MR TITMUSS: You are very welcome to come to my front room and have a look. Yes.

16. LORD INGLEWOOD: It is not taken from quite the same place, is it? I mean, very nearly but not quite.

17. MR TITMUSS: Sorry, how do you mean?

18. LORD INGLEWOOD: If you look at the foreground and the telegraph poles—I do not think that it matters, does it, but it is not quite the same as the one on the—

19. MR TITMUSS: It is a panorama. It is exactly the same photo.

20. LORD INGLEWOOD: Is it?

21. MR TITMUSS: Yes. It is exactly the same. It is a perspective issue, I guess.

22. THE CHAIR: Yes. It is much shortened, is it not, in the paper you have given us.

23. MR TITMUSS: It should be exactly the same photo. Have they shortened it when they printed it for me? Have they?

24. LORD INGLEWOOD: A little bit, perhaps.

25. THE CHAIR: Thank you very much. I think that we will have to put that away, because it is so big that it is difficult for us to concentrate. I think, as we have now seen the full picture, would you like to proceed with your submissions?

26. MR TITMUSS: I will, yes. A south Worcestershire development plan has identified the farmland between my property and the hills as ripe for development as employment land. That is the fields on the second photo, which are marked “the farm and the fields”

in the second photo. I would only then be one field away from this development. I am very disappointed with the south Worcestershire development plan, as I think it will be detrimental to the view from the hills as well as the view of the hills from Madresfield. The parcel of land is currently enclosed and protected from development by verges owned by the Malvern Hills Trust and so cannot proceed without an easement from the Trust.

27. This can be seen on the map on page 2. The location of my house is shown as the green spot. The farm fields that they would like to be employment land are shown bounded by the red line. This map is just a map from the Bill that I have just enlarged a section of. I hope that that is allowed. On there, you can see all the blue lines and the verges that are owned by the Malvern Hills Trust. They actually come right outside my house. As you will see, along Rectory Lane there is a blue line. That is 9.8 hectares that they would like to develop.

28. This Bill gives the Trust more powers to buy and sell land and I am concerned that this new Bill will change the protections available and the very attitude of the Trust towards the developments of this sort. I may be wrong and the Trust may completely agree that this development will be detrimental to the hills, but I have no way of knowing. If the development went ahead it would reduce the value of my property considerably, as well as the view, so I believe I am materially affected by the Bill, or may be, depending on the view that the Trust take of this development.

29. I would just like to now say please remember that most of the petitioners are just local residents and we are not familiar with petition law. At the time of submission, we were unaware of how private Bill proceedings work. There are a lot of long documents to read and it is very difficult for a local resident to take it all on board. Most of us were very concerned about the way the Bill was being drawn, with the chair of the trustees resigning, saying she was being bullied, with other trustees being barred from meetings as they were conflicted, with no visibility of the Bill until it was submitted to Parliament and with nearly the annual income of the Malvern Hills Trust being spent on the Bill.

30. It seemed to us that something was amiss with the way the Trust is being run and we are especially concerned that this Bill would further reduce local representation on the board and that a small group of individuals might take over the Trust for their own objectives. We are particularly concerned why the Trust wants more power to buy and

sell land and what they will do with it. This is why about 50 petitions were raised. We are not lawyers and, not knowing how the petition law works, many of those are now being disallowed. It seems ironic that the lawyers employed by the Trust to remove petitioners are paid for by the same petitioners through their precept payments. I believe that a lot of these concerns were raised in the Second Reading by various Lords, including very eloquently by Earl Attlee, so I believe we have already made an impact even if we are not allowed a hearing. We actually love the Malvern Hills just the way they are. Thank you.

31. THE CHAIR: Thank you very much. Ms Lean, I think we have to look at the clause that deals with disposal of land, do we not, in the view of what has been said? Mr Titmuss is complaining that he is disadvantaged by the Bill because of the opportunity the Trust would have to dispose of the land that he is telling us about. I am looking at Clause 73 in the Bill. Is that a new clause, or is it one that really matches what is already in the legislation?

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

32. MS LEAN: Forgive me, my Lord, I had understood that the concern raised was not that those fields were owned or under the jurisdiction of the Trust but that an easement would be required over Trust land in order to unlock the development. That clause would be the Clause 55 power, which is the one relating to access roads. In the filled Bill, my Lord, that is in the R bundle at R75, which is the power to, on such terms and conditions as the Trust deems fit—I am paraphrasing this slightly—authorise any person to construct, maintain, alter or improve roads or ways over the Malvern Hills affording vehicular or other access from any highway to land lying within or adjacent to any part of the Malvern Hills and appearing to the Trust to lack satisfactory access. That is the power to grant, as it were, easements of right of way from parcels of land to the highway over land in the Trust's jurisdiction.

33. I am aware that I have touched on this previously in respect of a petitioner, possibly last week. That is not a new power. That power, the power to grant or authorise the making of accesses over Trust land to the highway was provided for in the 1995 Act in Section 8, which inserted a new Section 7(a) into the Malvern Hills Act 1930. To the extent the concern is that the Trust could grant easements that might unlock development on other land, that is not a new power, so it is not a new or potentially new effect that would be

brought about as a result of this Bill.

34. My Lord, with regard just to two other points, if I may, the first is, forgive me, that this petitioner is not a levy payer. His property falls outside the levy area. Standing is claimed, as I understand it, purely by reference to being a local resident and what you have heard today in terms of the proximity of this petitioner's property to a development site that the petitioner is concerned could be unlocked if an easement were to be granted in the future.

35. The second is, my Lord, that I am conscious that I referred, at the end of yesterday's session, to diminution in value or concerns about reduction in value of property not being a basis in and of itself for standing. I mentioned I thought it was in the House of Lords HS2 report, but possibly not in the extracts before you. I have found the reference in the bundle. It is in fact in the Holocaust Memorial Bill, as I had a recollection it might be, paragraph 31, page 51 of the smaller of the bundles before you, the locus material bundles. This is the Select Committee on that Bill recording the submissions made by leading counsel for the promoter, which were made by reference to the HS2 report, that that committee had said that depreciated property value constituting non-statutory blight was not and had never been treated as a ground for petition.

36. The paragraphs that are referred to—paragraphs 15 and 16 of the rulings of 21 June 2016—are not in the clip of material we have provided you from the HS2 report. We tried to fillet down to the bits that we knew we would specifically refer to. We can happily provide those to your Lordships' committee if that would assist, because I am conscious that reference is made there to paragraphs 15 and 16 of the ruling of the HS2 committee. Paragraph 17 of that same ruling is the paragraph that refers to there being no right to review, that not being actionable at private law, unless you have got something like ancient lights. That is where it appeared in the HS2 report, but, again, it is not in the clip before you. We can happily provide that full clip if that would assist.

37. THE CHAIR: I think it would be helpful, please, if you could do that.

38. MS LEAN: We can make that available electronically over the lunch adjournment.

39. THE CHAIR: Yes, indeed.

40. LORD EVANS OF GUISBOROUGH: Chair, that paragraph 31 makes reference to non-statutory blight. I wonder if it could be explained what the difference is between what makes blight statutory or non-statutory.

41. MS LEAN: Certainly, my Lord. Statutory blight is a particular category of circumstances that come under the Town and Country Planning Act 1990 in particular. There are provisions in there where somebody whose property is potentially going to be acquired or is affected by being included, for example, in a development plan for a particular purpose can go through a process known as serving a blight notice, whereby they can ask the person who is going to be bringing forward the scheme to acquire their property in advance of getting the powers to do so, because the value of their property, essentially, is so affected because this scheme is coming along that they would not be able to sell it at its usual market on the open value and they want the promoter of the scheme essentially to be required to purchase from them in advance.

42. Statutory blight is if the land in question falls in one of the categories that are identified in the relevant schedule to the Town and Country Planning Act 1990. Non-statutory blight is often the term that is used. Another term that is used for it is something that might be called generalised blight, which is on the HS2 project, for example, where there were a number of properties that did not need to be acquired or have part of their land acquired for the railway scheme, but individuals felt that their value had been affected because people knew a big works project was coming along, which, although did not require the land to be taken, people would not want to be buying a property that was going to be next door to a construction area or which might have a new railway next to it, and so they did not know what the impact of that might be.

43. That is where, quite often, promoters of schemes like the HS2 project have established what are sometimes called discretionary, or sometimes, more accurately, called non-statutory, schemes. There will be arrangements where people say, "If these certain criteria are met and if you can demonstrate the value of your property has been adversely affected because it is under the shadow of the scheme, even though you would not qualify under the statutory blight procedures, we would be prepared to purchase your property on a non-statutory or discretionary basis". I hope that that has not provided too much information but the information you wanted.

44. LORD EVANS OF GUISBOROUGH: I am thinking, as a result of your response, that statutory blight is a piece of property that is mentioned in the Bill as being purchased or built on or changed in some way and non-statutory is something that might be affected but is not mentioned in the Bill. Is that too simplistic?

45. MS LEAN: My Lord, that is probably a reasonable workable definition for something like the HS2 Bill or a works project like that, yes. There are broader categories that fall within the Town and Country Planning Act or the statutory blight regime more generally. Yes, for a Bill like HS2 a good working definition would be that, if you have land that is included within the Bill plans as being potentially subject to acquisition then, yes, you would fall into the statutory blight regime. If you are outside the Bill limits but maybe you live close to a work site, that is when you would be under a scheme that was a non-statutory blight scheme.

46. LORD EVANS OF GUISBOROUGH: The consequence of that, as I understand it, is that the Bill before us, which we are discussing today, will not create statutory blight.

47. MS LEAN: Yes, my Lord. There is no land that is identified in respect of which the promoter would be given compulsory acquisition powers under this Bill. Yes, there is no statutory blight that attaches to this Bill.

48. LORD EVANS OF GUISBOROUGH: Can it create non-statutory blight?

49. MS LEAN: My Lord, in my submission, no, in the sense that the most usual way that you would get that clear, generalised blight or non-statutory blight arising would be where there are works powers, so there is going to be a construction project and there are going to be properties that are close to that that would not qualify for the statutory blight regime but are likely to experience effects during the construction phase that then may make them less attractive or valuable if they came up for sale on the open market. There is not anything of that equivalent in this Bill. That is why it would be my submission that, no, this is not a Bill where you might see categories or areas where there would be non-statutory blight.

50. Using the terminology generally of, “Might there be properties that are considered—there is a risk that they could be less valuable because some things might be happening?”, I think that that would need a valuer rather than a lawyer, my Lord. From a

lawyer's perspective, my submission would be that there is nothing in this Bill that clearly and obviously would give rise to non-statutory or that generalised blight.

51. LORD EVANS OF GUISBOROUGH: Thank you.

52. THE CHAIR: Is the expression "statutory blight" defined in the Town and Country Planning Act?

53. MS LEAN: My Lord, I do not think that it is. I would have to double check. I think that it is a shorthand that has tended to be adopted to distinguish between cases that fall under that regime, and so where the landowner could ask for their property to be bought, under the statutory mechanisms that there are in the Town and Country Planning Act regime, as distinct from cases that do not fall within that, which have previously been referred to as things like generalised blight. I think the terminology "non-statutory blight" has come in in the context of schemes and it is felt more appropriate to talk of schemes that are available for cases of non-statutory blight, as opposed to discretionary schemes. It may just be a slight choice of language. I do not think that the term "statutory blight" appears in the Town and Country Planning Act. I will double check that over the lunch adjournment.

54. THE CHAIR: I suspect that it is just a convenient shorthand.

55. MS LEAN: That is my understanding, my Lord.

56. THE CHAIR: Yes. Any other questions?

57. LORD INGLEWOOD: Could I please ask some questions about the basic proposition that Mr Titmuss is making? You have shown us on the plan that you have handed in the land that you are concerned about being developed is the land edged red.

58. MR TITMUSS: Yes.

59. LORD INGLEWOOD: What you are saying to us, as I understand it, is that that land can only be accessed by crossing the conservators' owned land. Is that not correct?

60. MR TITMUSS: It is obviously not 100% correct because they could come at it from the east side.

61. LORD INGLEWOOD: Precisely. That is what I was—

62. MR TITMUSS: The south Worcestershire development plan specifically shows it coming across Trust land from the town, from the west side.

63. LORD INGLEWOOD: Your point is that the planners see access coming across the conservators' land.

64. MR TITMUSS: They do.

65. LORD INGLEWOOD: But the developer, which is what struck me, could well have come in from—

66. MR TITMUSS: A bit more history for you: the land is owned by Madresfield Court, which is a large estate based around Madresfield. The Malvern Hills Town Council wanted some employment land, so they put out to various estates “Who has got some land that could be developed?” As I understand it, the Madresfield estate was not looking to develop this land, but, when asked, this was the only land it thought could be developed.

67. It is quite ironic really, because in the past the council has tried to put housing on this land, but the rules for housing did not permit it to go on to green farmland, but the rules for employment land do allow it to go on green farmland. Together with this, there was a large area of industrial land, which was the QinetiQ site in Malvern, so employment land, that was closed down and had houses built on it. This is not your committee, obviously. This is planning, and there is a lot of pressure on planning at the moment, but that is the history of the application for planning on that land. I am not convinced that the Madresfield estate actually want to develop it, but the town council want to develop it to satisfy their need for employment land.

68. LORD INGLEWOOD: From our point of view, looking at the Bill, this land can in fact be developed without any change, physical or otherwise, to the land that is owned by the conservators now.

69. MR TITMUSS: If they approached it from the east side, yes, but it is meant to be an extension of the town from the west side, not an extension of the countryside from the east.

70. LORD INGLEWOOD: Thank you. Then this is really a point, I think, for Ms Lean. The general powers in the Bill are constrained by the fundamental purposes of the Act. Is self-enrichment, if I can put it that way, affecting land within nine miles of Malvern Priory, which is capable of being conservators' land but currently is not—does that have any bearing on how they approach land in that category? Sorry, have I explained myself badly?

71. MS LEAN: Forgive me, I probably just have not followed it exactly.

72. LORD INGLEWOOD: Under the existing legislation, any land within nine miles of Malvern Priory can be, for want of a better way of putting it, subsumed by the conservators, no more. This land, which is nothing to do with the conservators, could be developed, which is basically at variance with the purposes for which the conservators exist. In terms of granting access, does that fact have any bearing on the attitude they should take? I suspect, if I can pre-empt you, the answer is no, but it just crossed my mind, listening to what was being said.

73. MS LEAN: My Lord, what I have in mind is that the first power to acquire lands within the nine miles of Great Malvern Abbey was that in Section 29 of the Malvern Hills Act 1884. That identifies the purposes for which land may be acquired within nine miles of Great Malvern Abbey, Great Malvern Priory, which would be land that they regarded as proper to be preserved as part of or in connection with the range of the Malvern Hills.

74. My Lord, in terms of an easement power, I think that that is slightly separate, because, in exercising the easement power, the conservators would, in the first instance, have to have regard to what is said in Section 7(a) of the 1930 Act; i.e. in deciding whether or not to grant it on such terms and conditions, they have got to have regard to impacts on things like the Malvern Hills. They are two slightly separate things. I am not sure. I may have to take instructions on this and check, but—

75. LORD INGLEWOOD: I think I may be making a point that is completely invalid, but it just crossed my mind that there could be a relationship and I wanted to clarify it if there were.

76. MS LEAN: Yes, my Lord. Can I ask, might I take that away, because I think I probably need to take some instructions just to check? I think that I have understood the

question my Lord is asking, which I think may come down to what factors the Trust considers when deciding whether to exercise its power currently to grant easements and whether or not its broader ability to acquire land within nine miles of Great Malvern Priory might have a bearing on that. I think I know the position, but I would like to confirm that before I come back.

77. LORD INGLEWOOD: That is better expressed than I put it, because the answer is yes. I was wondering though whether this had an impact on possible rights of locus standi for Mr Titmuss, but I suspect it does not.

78. MS LEAN: My submission would be, my Lord, that it does not, because, to the extent there is an interaction between the fact that the conservators have a power to acquire certain lands for certain purposes within nine miles of Malvern Priory and the fact they have got the power to grant a right of way over land they own, that exists today in the current legislative framework. It would exist in the Bill. For the purpose of standing, that is not a new interaction or new powers, or a change in the powers, that might mean that there is a new or fresh potential impact on this petitioner that does not subsist today under the legislative arrangements that subsist today. I certainly take my Lord's point and I will take instructions on that, if I may, over the adjournment to check that I do not inadvertently speak out of turn and then have to correct myself.

79. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Thank you. Can I just ask if either Mr Titmuss or Ms Lean know whether the employment land—what type of employment land? Is it small businesses? Is it industrial?

80. MR TITMUSS: It is not defined in the south Worcestershire development plan. It is just labelled as “employment land”. I would assume that it is not going to be massive warehousing, because that would obviously be very detrimental to the hills. I do not know. It is not defined.

81. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: We can see on the photographs the line of housing on the hills, which would overlook this development land—employment land rather.

82. MR TITMUSS: Yes

83. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Okay. Thank you.

84. THE CHAIR: Mr Titmuss, some of this has been very technical, I am afraid, and we will have to consider the points that are made. Is there anything else you would like to say to us?

85. MR TITMUSS: Yes, there are three things, if I can remember them. The first point was made that I am not a precept payer, which is true. I do not know—that is very historic, I think, who is and who is not, but I am not sure why it was raised, because, from all the things from this committee, I have heard that precept payer has no more rights than anyone else, so I am not sure why the point was made as it appears irrelevant.

86. The second point was that, on the map that I provided with the blue verges and areas of land that are Malvern Hills Trust land, the only reason that can be for those to be Malvern Hills Trust land is to prevent developments on the areas next to them, because they have no financial value. They are just there to block development around the Malvern Hills. I am sorry. I cannot remember the third point.

87. THE CHAIR: Take your time. There is no hurry.

88. MR TITMUSS: I will just finish by saying that it is really difficult for a member of the public who is not a lawyer to deal with these things of law that we are not used to. That is all, my Lord. Thank you.

89. THE CHAIR: Obviously we will have to look very carefully at the points that are made. What we propose to do is reserve our decision, because we need to look at some of the points that have been addressed to just check whether they are sound or not. The plan is that on Thursday we will announce our decisions on all the petitioners who have appeared before us this week, so you will know the result on Thursday by lunchtime. If we say you have a right to be heard, you will of course be invited back to present your case. Even if you are not being invited back, we still have your petition and, when it becomes relevant, we will bear points that you have raised in mind. Thank you very much for coming to see us.

90. MR TITMUSS: Thank you and I wish you all luck with this quite complex issue.

91. MS LEAN: My Lord, I am afraid I have found the time to pull up the Town and Country Planning Act briefly. The term “statutory blight” does not appear in the Town and Country Planning Act. The definition that is used there is—sorry, forgive me. It is just referred to as blighted land, and that is in Section 149 of the Town and Country Planning Act 1990, within Part 6, Chapter 2. The relevant schedule that specifies or defines the categories of blighted land is Schedule 13

92. THE CHAIR: Thank you. Do you have an answer to Lord Inglewood’s point yet?

93. MS LEAN: I am afraid that I do not have the instructions on that point. If I could come back with that over the adjournment, as to whether and to what extent the Trust would consider the fact that it has the power to acquire lands when it is exercising its easements power. I do not have instructions on that yet.

94. THE CHAIR: Can we come back to that when we come back at 2 pm?

95. MS LEAN: If we could, My Lord, I would be grateful.

96. THE CHAIR: Would you be content with that? Richard, are you happy with that at 2 pm?

97. LORD INGLEWOOD: I think we wait and see what she says, but I suspect that aligns, I think, with what I think.

98. THE CHAIR: Yes. Very well. Thank you very much. I think you can remain in your place if you like—

99. MR TITMUSS: Thank you. I will.

100. THE CHAIR: —because we are going to move now to Ms Goodbury.

**Ms Valerie Goodbury**

101. THE CHAIR: Ms Goodbury, I hope you have been able to hear what has been going on.

102. MS GOODBURY: I have, thank you.

103. THE CHAIR: It is now your petition that we are going to consider. We are going to

follow the same procedure. That is that, first of all, we will ask counsel for the promoter to explain why she says that you do not have a right to be heard. We will then ask you to reply to what she has told us. Then it may be there is some discussion after we have heard you, if there is anything else that needs to be talked about. Ms Lean, if you would like to begin by making your submission.

104. MS LEAN: Thank you, my Lord. This petitioner is petition number 33 in the list before you. From the petition, it is stated or identified that the petitioner is a levy payer and enjoys a legal right of access over Trust land. The promoter has raised a challenge to the petitioner's right to be heard on the basis that none of the petitioner's property or personal interests are specially and directly affected by the provisions of the Bill. My Lord, with regard to the petitioner's status as a levy payer, I rely on the principles set out in the interim decisions last week. Similarly, in respect of a right of access over Trust land or land within the Trust's jurisdiction, there is nothing in the petitioner's petition that discloses or asserts how that right of access would be affected by any of the provisions of the Bill itself.

105. THE CHAIR: I am looking at paragraph 7 of her petition. What she says is that she will be affected by the proposed changes "because egress from my property is directly on to land owned by the Malvern Hills Conservators. Any major change in the governance of the hills will be reflected in my immediate surroundings". It is a broad proposition of the possibility, looking at the powers that the conservators will have, of changes. Is there anything new in the Bill in that respect that was not there before?

106. MS LEAN: My Lord, it is a broad proposition and seemed to focus more on the fact that there may be changes in how the Trust is governed: any changes to governance will be reflected in immediate surroundings. There is no identification of any particular powers or provisions that this petitioner says, "This is a new or a fresh power that the Trust will have and this will legally affect or affect my legal right of access because". It appears to be a more general concern that is raised about the fact that there are going to be changes to governance. We just say that that is not the sort of point that brings a petitioner in within the category of having standing of right.

107. THE CHAIR: Does Standing Order 111 have a point here?

108. MS LEAN: Standing Order 111 may be considered to have an application. It was

not raised specifically because the petitioner has raised within the petition particular issues that she takes with clauses of the Bill. For the purpose of considering whether or not this petitioner's interests are specially and directly affected by the provisions of the Bill, it is our submission that that has not been identified in respect of the right that the petitioner enjoys to take access on to Trust land. The concerns or the potential impacts raised are of a similar nature or general to or shared by other people who consider they have an interest in or may be affected by the fact that there are proposed to be changes in how the Trust is governed.

109. THE CHAIR: Thank you very much. Ms Goodbury, I hope you have understood the points that have been made. It is now over to you to reply to them, please.

### **Evidence of Ms Goodbury**

110. MS GOODBURY: First of all, can I just say I do appreciate the fact that I am able to join in remotely? I was very disappointed that, for reasons beyond my control, I could not be there in person.

111. Before I start with what I was going to say, in view of what has just been said about the general powers, in the new Bill there is very much about the general powers that the new Act would bring in. As we do not know the details that those general powers would encompass, it is very difficult to comment on them. Anyway, that is beside the point, really.

112. I am a levy payer and I have voted in the elections for Malvern Hills Conservators for well over 40 years. The land on which my home was built had been encroached from the waste of the manor of Mathon. Some 30 years later, Malvern Hills Conservators were formed, a significant factor in their mandate being to stop further encroachment. Whenever I step outside one of my garden gates, of which I have two, I step on to conservators' land.

113. I submitted my petition to the House of Lords on 5 February 2025. It was not until 3 December that I received communication from the parliamentary agents on behalf of the promoter, which included the following: "In your petition you said, or it appears to be, that your right to be heard is based on the following: that you are required to pay the local levy that is raised by the promoter under the existing local legislation and/or that

you have a right to vote in the election for a Malvern Hills conservator, otherwise known as a trustee; that you are the owner of property which enjoys a legal right of access over the land owned and/or controlled by the promoter". They then say, at great lengths, why I have no right to be heard.

114. During as much of these proceedings as I have been able to watch, it seems to me that the examples that have been used to dismiss people like myself from being heard have very little in common with the Malvern Hills Bill, from the Holocaust Memorial Bill to the Bristol Corporation Docks Bill, both involving major construction work, to the authorities or corporations responsible for those Bills. If I heard correctly, it was actually said that this was the same as a local authority Bill. This is somewhat ironic in view of their present claim to be a charity and not a local authority. Maybe the organisation is unique and needs to be considered as such.

115. The Chairman did remark that, if ratepayers were allowed to petition, it could have amounted to about 30,000 petitioning. Could I respectfully point out that only about 40 individuals had made the effort to petition before we knew about what appeared to be a blanket ban on levy payers being heard? I do not know the meaning of the terminology used, but until recently we were known as precept payers, not levy payers.

116. A very brief history of the Malvern Hills Conservators. I believe that this is relevant. In 1879 an organisation was formed: the Association for the Preservation of the Malvern Hills. By 1882 they had drafted a Bill and they held two meetings. The first, for freeholders, tenants and commoners of Colwall, Mathon and Malvern, was held in Colwall, where the Bill was unanimously rejected. A repeat performance two days later in Malvern had the same result. What was the main problem? The leading proponent of the Bill was not a local man. He was without local knowledge and had only listened to the voices of those in Great Malvern who wished to utilise the hills and commons as an attraction for visitors, while ignoring the wider picture.

117. It was not that local people were unaware of the threats to the hills and the need for conservation. A local committee was formed. This time most of its members were from the west side of the hill and they were all local. As a result, in 1884 the first Malvern Hills Act, which they had promoted, became law. As you all know, four subsequent Acts have been passed, in 1909, 1924, 1930 and 1995.

118. It has been questioned as to why the 1995 Act was not used as a means of consolidating what had gone before. The answer is simple: cost. The idea was seriously considered, but rejected on the grounds that the expenditure would put a burden on levy payers and erode funds set apart for other purposes. I think that that is particularly relevant to the local Act and the money that is being spent.

119. This brings me to my final point of providing a little clarity about the charity. The way in which the charity status has taken predominance over the Malvern Hills Conservators, being an established local body, seems to be a misunderstanding as to how and why the registration came about and how little effect it has had until recent times. The reason why this took place in November 1984 was because it was thought that it would simplify the administration process for donations, legacies and the like, the intention being that it should be an add-on and not a replacement for its classification as a local body.

120. As the registration had taken place 10 years before the 1995 Act, it seems strange that the word “charity” does not appear even once in that Act. Surely it would have done so if the intention had been to change the way in which the conservators were governed in any way. By contrast, the word occurs 17 times in the present Bill. When did this drastic change take place? We also hear a great deal about everything being done for the benefit of the charity. It seems strange that, for those like me, the benefits would include an annual, rising, non-voluntary contribution to the charity. It would be interesting to know what *Erskine May* may have to say about non-voluntary contributors being heard. Thank you.

121. THE CHAIR: Thank you very much indeed. We will now pass to Ms Lean to see whether you have any comments to make as a result of what Ms Goodbury has told us.

### **Response by Ms Lean**

122. MS LEAN: My Lord, there are points which no doubt the promoter would wish to respond to when it comes to addressing these matters in a substantive case, but, for the purpose of the standing question, merely to say that nothing that has been raised, in my respectful submission, suggests or gives rise to a basis on which this petitioner can be set apart from others who pay the levy or have an interest in the hills as being specially or directly affected in a different way. I maintain my earlier submission that this petition would seem to fall clearly within the principles set out in the committee’s interim decision

last week.

123. THE CHAIR: I think that there is a suggestion of a point you might like to mention.

124. MS LEAN: Access is being mentioned, my Lord. I hope that I have swept that up with nothing in the petition that has been said today, in my view, respectfully, alters the earlier submission I put forward to you or provides a basis for departing from the principle, whether as to access or as to the status of levy payer, in the interim decisions last week.

125. THE CHAIR: Any questions? Ms Goodbury, thank you very much for taking the trouble to appear before us. I am sorry you were not here in person, but the view we have of you is very clear, and your speaking to us has been very eloquent as well and we have enjoyed listening to you. What we are going to do is reserve our decision. As I mentioned earlier in the case of Mr Titmuss, we will be announcing the decisions on Thursday, just before lunchtime, and you will be able to hear then whether you have a right to be heard. If you do, we will invite you back so that you can express more fully the points you have set out in your petition. For the meantime, we will end the proceedings at that point.

126. MS GOODBURY: Can I say one word?

127. THE CHAIR: I am sorry?

128. MS GOODBURY: If I can just say one word before I leave—

129. THE CHAIR: Yes.

130. MS GOODBURY: May I just say that I think most of us—the only grounds we could use were as a local inhabitant and as a levy payer, whereas there was no way to express my greatest concern, which is to do with the new governance and voting. I know that this is not relevant to what I am saying now. I am just raising that point. There was no other way in which one could put oneself into a category to cover that.

131. THE CHAIR: If it is any comfort to you, Ms Goodbury, that point has been raised in many petitions and we are well aware of the issue and will have to look very closely at the point, simply because, if it happens that we say you do not have a right to be heard, it does not mean the point has disappeared. Far from it. It is very much in the forefront of

our minds. I hope that that is some reassurance to you and, therefore, you may feel that your appearance before us has had some value. Thank you very much for taking the trouble to appear. Thank you.

132. MS GOODBURY: Thank you.

133. THE CHAIR: The proceedings will be brought to an end at this stage and we will sit again at 2 pm.