

65. MS DALY: It is indeed, on the Chiltern Mainline.
66. MR STRAKER QC: That's the Chiltern Mainline, serving the Chilterns and dropping passengers off and so forth.
67. MS DALY: They can get off.
68. MR STRAKER QC: Thank you very much. That concludes that set of slides. I should just mention that at A1191 and A1192(1), Sir, you have letters from the Aylesbury Vale District Council and the Buckinghamshire County Council. I don't need to trouble you with those, but they plainly express the support of those bodies. Thank you very much, Sir. I'm sorry I undershot the 45 minutes that I indicated to you earlier.
69. CHAIR: I noticed Martin Temple sitting at the back of the room the other day watching the things unfold. Mr Mould do you want to...?
70. MR MOULD QC (DfT): Just one or two, yes thank you, good morning. You may recall that on Monday I showed the Committee and Mr Payne paragraph 116 of the National Planning Policy Framework, if you remember that; I'm sure you're familiar with it.
71. MS DALY: Indeed.
72. MR MOULD QC (DfT): And we agreed that the need for the railway to cross the Chilterns, broadly along the alignment which is shown on the plans, having been established by a Second Reading, there was a balance to be struck in giving effect to that policy between the impact of the railway upon the natural beauty of the Chilterns and the cost of mitigating that impact through whatever means of mitigation is selected for that purpose?
73. MS DALY: Indeed.
74. MR MOULD QC (DfT): And I don't understand your evidence to be seeking to be move away from that proposition?
75. MS DALY: I think I would elaborate on that, to say that – as I've said throughout my presentation – that whilst those tests may have been gone through, the three bullets

in paragraph 116, may have been taken into account by the promoter, our position is that insufficient weight has been given to the value of the landscape, and that this is a matter of judgement.

76. MR MOULD QC (DfT): Yes, your position is that the balance ought to be struck in favour of greater expenditure on tunnelling in order to secure what you say is the more effective mitigation of the impact of the railway on the conservation, on the protection of the natural landscape of the Chilterns?

77. MS DALY: Well, our position is that the natural designated of the AONB should be protected for future generations and my colleagues have given evidence on the economics of that, which I wouldn't seek to –

78. MR MOULD QC (DfT): No, but you get to a different answer, but it's through the same basic analysis of balancing cost against what you say is the most effective mitigation?

79. MS DALY: Yes, and I would encourage the Committee to take the long view – and is it 120 years that the railway is expected to be in existence –

80. CHAIR: No, that's just this Committee!

81. MS DALY: I am sure it feels that way, Chairman. And over that time period, if we put those costs into that sort of perspective, perhaps that would be more helpful.

82. MR MOULD QC (DfT): Yes, I see – I understand why you put it. Now, you quarrel with the proposition that the railway viewed against its effects on the AONB as a whole is a relevant point of consideration? I think you suggest that the promoter has gone wrong in assessing, as part of it –

83. SIR PETER BOTTOMLEY: I think having listened to the witness, who went in for agreeable understatement, saying it was a difference of view. That can be described as a quarrel. But the difference of view is where the balance should be struck?

84. MR MOULD QC (DfT): Yes. I understand the way you put it, I won't pursue that point any further.

85. SIR PETER BOTTOMLEY: And it's put – and I'm not suggesting we necessarily

turn to it, but on 7468(10), on the Peter Brett thing, it ended by saying, 'It can be concluded that the Chilterns long tunnel route remains a viable alternative to the government's proposed scheme with little impact on programme, and cost difference does not affect the business case'. That's slightly different to what we heard, which is that the benefit to the AONB would be justified by the extra cost of tunnelling?

86. MS DALY: Mmm.

87. MR MOULD QC (DfT): That's the case that's being made, and essentially, that is a difference in view about where the proper margin lies. Yes, I understand.

88. Just a couple of other points then, if we can turn to A1190(9), this is perhaps more for context than for anything else – I wouldn't want there to be any misunderstanding – you quote from the speech from the Minister in 1949 introducing the National Parks and Access to Countryside Act. We need to bear in mind don't we that the great change that that Bill promoted in relation to the public's enjoyment of places of natural beauty and amenity was the designation of the National Parks?

89. MS DALY: It was also the identification of areas that would become AONBs.

90. MR MOULD QC (DfT): Yes, but you see the reason I emphasise that is because if you just read the first line, 'By preserving and developing the beautiful parks of our countryside'. To understand the reference not only to preservation but development, that is focused particularly isn't it upon, as I say, the great policy of designating the National Parks, because there, the emphasis is not only on conserving the natural beauty, but it's also on encouraging public recreation within the National Parks. That is the second great theme, of the policy which was enacted in that statute? Is that the public should be encouraged through other things, development of facilities and so forth, to make use of those areas such as –

91. MR HENDRICK: The right to roam.

92. MR MOULD QC (DfT): The right to roam is part of it, I entirely agree with you, and this came 15 years after Kinder Scout, for example. But we shouldn't allow ourselves to be seduced into thinking that this quote is focused principally on a designation of the Chilterns as an area of outstanding natural beauty which, after all,

didn't come until 1965, should we?

93. MS DALY: This laid the ground for the identification of the amenity areas which became the AONBs; and if I might point out, that our second statutory purpose is to promote public understanding and enjoyment of the Chiltern Hills AONB, and also bring us up to date with the NPPF and the fact that that gives equivalent public policy status to AONBs as to – public policy protection to AONBs as to National Parks.

94. MR MOULD QC (DfT): Can I also – yes, for its landscape quality, yes. Can I just finally then to A1190(11) where you quote the statutory duty which was enacted by section 85 of the Countryside Rights and Ways Act 2000. I don't think it's your case that that affects the policy that the government, with the support of the House, has enacted for the evaluation of major development which is perforce, proposed across an area of outstanding natural beauty which, as we've seen, is set out in paragraph 116 of the National Planning Policy Framework. You're not suggesting that this affects that Policy are you?

95. MS DALY: It affects the question of due weight being given to the purposes of conservation.

96. MR MOULD QC (DfT): Well, it reinforces the point that one should have – to use the statutory language which the House has seen fit to enact – 'Shall have regard to the purpose which is there set out...'?

97. MS DALY: And this is where we would take issue, as I say, I think it's a matter of judgement, and the judgement of Natural England as the statutory advisor; and the statutory bodies, to concern and enhance there, would be that this duty is not fully addressed because there is insufficient mitigation within the scheme.

98. MR MOULD QC (DfT): Right. Finally, would you accept that the task – assuming that the judgement that you invite the Committee to make is not one that they share; I appreciate that's not your case, but assuming that is the position – would you accept that the task of mitigating the railway has not yet been completed?

99. MS DALY: I would accept that it's not yet been completed because we're making a request for an alternative amendment to the scheme. I appreciate – I think the point

you're possibly making is that the promoter is still working on design principles and such like?

100. MR MOULD QC (DfT): Yes.

101. MS DALY: And I appreciate that, but I think the evidence of my colleague, Bettina Kirkham, actually – I can't recall which Member very helpfully asked her to score from 1 to 10 how much could –

102. MR MOULD QC (DfT): Mr Clifton-Brown I think it was –

103. MS DALY: The scheme be mitigated, and I think that summarised – her response I think summarised – sorry if I'm leaping ahead –

104. MR MOULD QC (DfT): Not at all –

105. MS DALY: But I think her response summarised; I would share that response. I don't know if I'd exactly give it a '6' but the extent –

106. MR HENDRICK: How is it possible to mitigate a feature such as the viaduct?

107. MR MOULD QC (DfT): Design – I'm sorry, perhaps you're asking the witness?

108. MR HENDRICK: I'm asking –

109. MR MOULD QC (DfT): Oh right, you're looking at me. You're asking me. By good design.

110. MR HENDRICK: So you're saying by making it look more attractive?

111. MR MOULD QC (DfT): By making it look more attractive by – if indeed, you consider that what you see on the image is not attractive – by considering the landscape treatment of the railway as it approaches and leaves the viaduct; by considering ways in which the landscape works take place on the embankments that approach the viaduct, can be folded into the landscape through taking a cue from the field patterns in the immediate vicinity; through reinstating hedgerows that have had to be lost to the scheme. Mr Miller will be dealing with this in a little more detail in a few moments. All of that takes place, as Members know, under the aegis of a statutory regime under Schedule 16 to the Bill, which requires not the promoter to make decisions about what

the detailed design of the scheme should look like, but requires local authorities to make decisions about those matters, and which we have said which decisions will have been informed through the preparation of our detailed designs through close engagement with those stakeholders, including the Chiltern Conservation Board in this area, who will have a particular interest in holding us to securing the best mitigation that can reasonably be achieved if the judgement of the Committee is that the railway should remain on surface as it passes through this area, rather than going into full tunnel. That is the process.

112. CHAIR: The normal planning process which the local authorities have to approve a lot of these designs; and the only question is whether one should go farther than that, given the special characteristics of the area?

113. MR MOULD QC (DfT): Yes, thank you very much.

114. MR CLIFTON-BROWN: Can I just ask, briefly – it was a question I was going to ask Ms Daly earlier on. Everyone from the Romans to the Victorians have built viaducts and in some instances, they are well designed, I would ask you, do you not think they actually enhance the landscape because they provide a linear feature with which to contrast the distant views?

115. MS DALY: I think the built environment can enhance the natural environment. However, again, I would refer back to the evidence of my colleague Bettina Kirkham, where she talked particularly about the topography and the long views, and the cutting through and the imposition of structures; and I would say in this case, I would not support that idea.

116. MR CLIFTON-BROWN: It does depend a bit on how they're designed doesn't it?

117. MS DALY: I don't think – I am afraid I don't think that could make a substantial impact, positive impact. Clearly, you can design things better than not, but I don't see it taking away the harm.

118. MR CLIFTON-BROWN: Thank you.

119. CHAIR: Yes?

120. MR STRAKER QC: Just one matter, if we leave up 1190(11), and we see there the regard which is required to the purpose of conserving and enhancing the natural beauty, that purpose of conserving and enhancing the natural beauty, do you think it can be met by a surface level HS2?

121. MS DALY: No, I don't.

122. MR STRAKER QC: As far as the point that you've made in connection with preservation for future generations, touching upon sustainability arguments – we know there are various components of sustainability, one of which obviously is the social as opposed to the economic – could you just help the Committee if you don't mind, as to how you see this matter of preservation for future generations?

123. MS DALY: I suppose I've touched on the point of social good and public good in terms of the way in which the AONB is held in regard by people and people's pride in the area.

124. MR STRAKER QC: Thank you.

125. MS DALY: I think that answers the point?

126. MR STRAKER QC: Thank you very much.

127. CHAIR: Thank you very much Ms Daly, clearly you're very enthusiastic about the area in which you work.

128. MS DALY: Indeed, thank you.

129. CHAIR: Any further comments, Mr Straker, before we move to the promoter?

130. MR STRAKER QC: I don't want to make any further comments at this stage, sir, but if after the promoter's evidence has been given, if I could make a few further comments, I'd be very grateful?

131. CHAIR: Absolutely. Mr Mould?

132. MR MOULD QC (DfT): Thank you. I'm going to ask Mr Miller to come forward if I may. While he is coming forward, can I mention to the Committee, that we have prepared a written note in response to some points made by Mr McCartney in