THE ROLE OF CIVIL SOCIETY IN MEGA-TRANSPORT PROJECT DECISION-MAKING: THE CASE OF THE PROPOSED HIGH SPEED RAIL CONNECTION, HIGH SPEED TWO (HS2)

Daniel W. Durrant

University College London, Bartlett School of Planning. The OMEGA Centre

ABSTRACT

This thesis asks; how are megaprojects legitimated, with civil society seen as a source of the legitimacy that state and market institutions often lack. Civil society is conceived as a political realm in which decisions are challenged and in which there is also public deliberation of the issues decisions generate. With civil society organisations (CSOs) increasingly seen by policy-makers as a means of delivering public goods the role of civil society is changing. In order to reflect this change a broader concept of civil society is developed within this thesis. This, in turn, contributes to the megaproject literature as the participation of civil society is increasingly seen as a prerequisite for more open forms of decision-making.

The planning and appraisal of High Speed Two, a proposed UK high speed rail connection, provides a case study in which the roles played by CSOs are interpreted using ethnography, based upon observations conducted within the 'public' formed of CSOs responding to the proposals, and discourse analysis of key policy documents. The history of the project and the governing principles of speed, of operation and implementation, are identified in the framing of the policy discourse as are the ways in which organisations challenging these principles develop alternative proposals. The findings are that the approach to planning and appraisal has, in this case, remained largely closed to civil society. The practices of the delivery bodies, governed by market principles and exhibiting undue haste to implement the project, have generated considerable mistrust and, for many, delegitimised the process and the institutions delivering it. This failure of public bodies suggests a failure to appreciate the importance of CSOs in establishing appropriate institutional frameworks for megaproject governance. These are required if decisions of this type are to be seen to reflect broad public rather than narrow private interests.

DECLARATION

I, Daniel Durrant confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis.

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Chapter One: A 'dire disorder'?

"In short, the yet unfinished and unopened Railroad was in progress; and, from the very core of this dire disorder, trailed smoothly away upon its mighty course of civilisation and improvement." (Dickens, 1848/1970 p121)

1.1 Introduction

Writing as public transport was beginning its role in shaping the modern era Charles Dickens captures the duality of new transport infrastructure. On the one hand there is the local disruption the "first shock of a great earthquake". On the other there is the "mighty course of civilisation and improvement" (ibid). Yet for late modern societies the direction and destination of modernity and technological progress are much less clear. Mega-transport projects are often controversial, distinctive features of modernity (Flyvbjerg et al., 2003). They have consequences creating winners and losers (OMEGA Centre, 2013a) yet in advanced democracies local level 'losers' are (in contrast to the Victorian era) enfranchised and empowered. More recently, as some of its consequences become apparent, modernity itself is being challenged (Beck, 1992, 1994). Since the 1960s and 1970s the rise of environmentalism has led to increasing legal powers of local groups to oppose disruptive infrastructure. Challenges to projects, until recently, shaped by a modernist 'infrastructural ideal' (Graham and Marvin, 2001) of the good life, have been a feature of a number of prominent 'planning disasters' (Hall, 1980). It now appears that people living in advanced democracies are less willing to accept the costs and are increasingly sceptical about the benefits of many different types of infrastructure including mega-transport projects (MTPs).

Parallel to this rise in public scepticism is the shifting role of the state. It is no longer a neutral player (if it ever was), weighing up the competing claims of winners and losers and deciding what course of action will deliver public benefit. Political changes since the 1980s, the rise of neoliberalism or 'Washington Consensus' has seen the role of the state conceived more in terms of facilitating the market (Crouch, 2011). One consequence of this changing role has been a loss of legitimacy of both state and market institutions (Habermas, 1975; Dryzek, 1995). The state may still have authority but it is harder to legitimate decisions. It can no longer claim to reflect societal norms and values when justifying its actions in terms of public interest. Furthermore, following the 2008 financial crisis the idea that markets can deliver public benefit is increasingly hard to sustain. As a result, it becomes increasingly difficult to command the public support necessary for controversial decisions or costly, disruptive megaprojects.

At the same time (and possibly as a consequence of) the declining legitimacy of state and market, civil society appears to be in the ascendancy. Globally the growth of civil society has been the subject of transnational studies, appearing to offer a buttress or even alternative to the state and a challenge to the 'Washington Consensus' (Salamon et al., 1999). Claims are made that it offers greater legitimacy through its inclusive nature and connection to the grassroots. This is something governments have been keen to associate themselves with in order to enhance their own political legitimacy (Taylor and Warburton, 2012). In the UK policy makers from left and right have seen civil society as a means of delivering the type of goods and services public policy is concerned with such as education, health housing and, to a lesser extent, transport. Civil society has been a key constituent of a Blairite 'third way' (Salamon et al., 1999), and more recently with the Conservative Party's 'Big Society' initiative (Cabinet Office, 2012). It is often commented that membership of the National Trust (A UK charity established to conserve environments and historic buildings) exceeds the total membership of all the main political parties (National Trust, 2014a). This is undoubtedly a simplification of a more complex issue however it suggests a wider shift in allegiance away from politics and politicians as decision-makers. At the same time campaigning and conservation bodies are increasingly part of the political debate. This is not simply a thesis on the decline of faith in state and market institutions; rather it shapes the context in which the research is conducted.

The third dimension of the multiple crises facing late modern societies, indeed humanity as a whole, is the environmental crisis of uncontrolled climate change. The irony is that just as states are called upon to act they lack the economic resources and possibly the legitimacy to do so. Large transformative projects that aim to switch to lower carbon forms of infrastructure may be part of the necessary action states must take. With transport accounting for 20 per cent of the UK's CO_2 emissions (Department of Energy and Climate Change, 2015) transport infrastructure appears to be one of the areas where action is appropriate. Such action would appear to be in the interest of a broad public. In this case the public, or those affected by a shift to lower carbon transport technologies is not restricted to the United Kingdom. However, with potentially unstable future energy costs, there are benefits that accrue at the national level of more energy efficient transport infrastructure. This than raises the question of whether or not opposition to such projects ought to be considered as contrary to the wider public interest. Opposition to transport projects that offer lower carbon forms of transport could be seen as a Not in My Backyard (NIMBY) response, one that reflects only narrow, personal, private or local interests.

The need for legitimation

There is a question of the ways in which project promoters legitimate decisions to proceed with a particular MTP. Legitimation in this context refers to the processes and mechanisms by which democratic consent for decisions, that commit public resources (particularly in times of austerity), create winners and losers and cause considerable local disruption, is acquired. In advanced democracies MTPs are often state led. If not led by the state, then it is still a major player in granting consent and establishing regulatory regimes. States can and do act based on their legal authority and justifying decisions on the basis that they are acting in the common interest. Yet there are risks if decisions are taken based only on legal authority and self-justification in the absence of some form of wider public consent. The obvious risk for governments is that public dissatisfaction with MTP decisions filters through to electoral choices and they are punished by the electorate for unpopular decisions. With the long duration of projects and the complex mix of issues that influence electoral choice this may be a risk politicians are willing to take. Nevertheless, in the context of a crisis of legitimacy, there is a risk that a series of 'planning disasters', decisions perceived by many to have gone wrong; "to take a course of action that [was]…later substantially modified (or reversed or abandoned) after considerable commitment of effort and resources" (Hall, 1980, p2), *undermines faith in decision-making*. This risk has been identified by Altschuler and Luberoff as a 'tragedy of the commons'. Such problems have been the subject of considerable scholarship with Ostrom et al's (1999) response to Hardin (1968) that with the appropriate institutional framework common resources can be effectively managed of particular relevance. The term's use in this thesis largely refers to its specific use in the literature on megaprojects. This is where a history of poor cost and use estimates and projects that consistently take longer to deliver than promised, erodes public trust in decision-making to the point that decision-making itself becomes difficult (Altschuler and Luberoff, 2003 p247). However, trust in decision-makers in this context could also be seen as a common resource, one that could be depleted by persistent 'strategic misrepresentation' (Flyvbjerg, 2008).

A common *justification* used by MTP promoters, is the appeal to a technocratic authority, that a project is necessary to meet an objectively defined need. The adoption of this justification wraps proposals up in 'narratives of necessity' that exclude alternative options and invite distortion to obscure the fact that a specific solution is the preferred or only one (Owens and Cowell, 2011 p15). This poses two problems. The first is that it is dependent upon contested concepts of modernity. These are narratives of progress based on a belief in the widespread benefits of technological change driven by economic growth. More specific is the assumption that need in this context is something that can be established as objective. The second problem for the technocratic justification of decisions is that it exhibits a tendency towards offering

itself as an alternative to democratic authority. One can see the 'dictator envy' of non-democratic regimes that can take long-term action free from the electoral cycle (Runciman, 2013) and it is reflected in the policy discourse in the desire to 'take politics out' of infrastructure decisions (Armitt, Review, 2013).

If justification alone is not sufficient for states to act and, in a general sense, their legitimacy is in question then how should MTP decisions of the type examined in this thesis be legitimated? Given its growth and apparent legitimacy, discussed above, this thesis takes the view that a greater understanding of the role of civil society provides a valuable contribution existing knowledge on megaproject decision-making. Whilst there are calls for a greater involvement of civil society in decision-making (Flyvbjerg et al., 2003 p111) thus far much of the literature has tended to focus on the relationship between the state and market institutions that plan and implement megaprojects. This thesis draws on the work of Habermas (1975, 1989, 196) that sees legitimacy as flowing from civil society, rather than from the state or the market (based on a similar tripartite distinction to the one adopted in this thesis figure 1.1) – to address questions of the form of democracy necessary to legitimate MTP decisions.
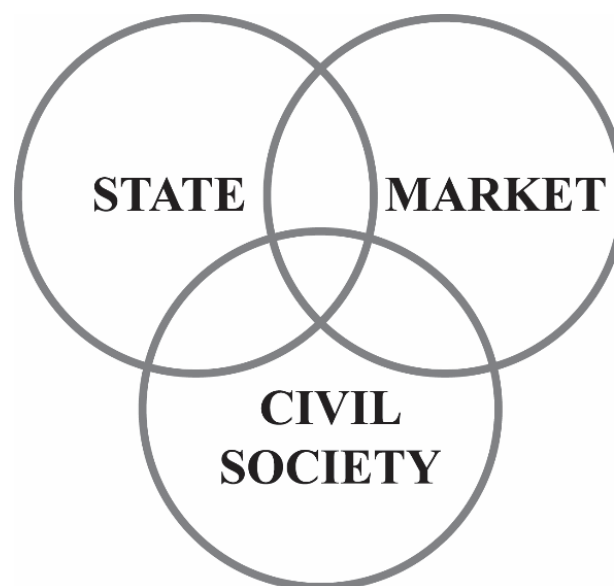
Figure 1.1: State Market and Civil Society.

The public interest?

In making use of the term that describes interests distinct from the private interests often assumed in allegations of NIMBYism, or that motivate market transactions, it is important to acknowledge public interest is a contentious concept. Those that have examined the concept of public interest in contemporary planning point out the criticisms that such universalising concepts are problematic in plural societies (Campbell and Marshall, 2002 pp164-165) as the assumption that it is possible to define a single interest fails to acknowledge, and may even

suppress, difference. Yet as an ideal the public interest is still seen as providing a normative basis for planning practice (Alexander, 2002 p227), is also implicit in much of the literature on megaproject decision-making. The criticisms of 'rent seeking' (Flyvbjerg et al., 2003) and 'passionate minorities' (Hall, 1980) both point to private or narrow interests whose domination of decision-making is problematic as it is contrary to some notion of a wider public interest. This raises the question of how, if one rejects the concept of public interest, it is possible to criticise attempts by private interests to capture the state for their own ends.

Despite the criticisms there appears to be value, for a study of how the use of public resources and potential harm to private interests are legitimated, in a concept that accepts some notion of an overarching, shared interest. Yet the question remains of how this public interest is defined. In this respect the literature identifies two important components of the concept that point towards different claims that choices, actions or decisions are in the public interest (Alexander, 2002; Campbell and Marshall, 2002). The first is procedural, decisions can be seen to be in the public interest if a set of rules or procedures have been followed. This leaves open discussion of which set of procedures are the correct ones. It may be that the liberal concern with the protection of individual rights provides the "best means of achieving consistent, universal and impartial decisions" (Campbell and Marshall, 2002 p178). On the other hand it may be that dialogical procedures provide a means of achieving consensus as to what constitutes the public interest, something associated with participatory forms of democracy (ibid). The second component of the public interest is the substantive; this concerns the consequences of actions. This could mean that they deliver some utilitarian aggregated concept of the greatest good (for example an increase in GDP) or they may distribute goods to a particular group or community in a way that is deemed consistent with the public interest (such as providing a transport link to a community or area with limited transport in a context where equal access to transportation is considered in the public interest).

The literature in the public interest in planning has been of use in sketching out some of the parameters of the concept. Claims that an action or decision is in the public interest require some form of legitimacy. Therefore, this thesis takes questions of legitimacy to be, in essence, questions of public interest. In seeking to examine questions of how decisions are legitimated this is an enquiry into how the public interest is defined. To define the term at the outset may prejudge the conclusions. Notwithstanding this the dynamic and tension between procedural and substantive definitions is clearly a significant one. This is taken as central to the claims as to whether or not MTP decisions are legitimate based upon the procedural fairness of the way decisions are made or on the justice of the way goods and services are distributed as a result.

The influence of the Pragmatists

In answering questions of how MTPs are and should be legitimated it is useful to draw on a body of philosophy, social and political science that has been asking how democratic principles are applied and what forms of democracy are appropriate for the modern world. These are questions of how to address the crisis of democratic institutions, the consequences of technological change and the needs of societies that encompass a plurality of views and interests. Philosophical Pragmatism has contributed greatly to the work of Habermas whose answers to these questions are based in communication, public reasoning and a democratic civil society. It is in tune with the normative stance taken in this thesis that the participation of civil society is essential for decision-making to be fully democratic. However, it also reflects the epistemic position that collaborative knowledge generated through processes that seek to encompass the full range of perspectives is essential to answering the type of questions examined in this thesis.

As a school of thought Pragmatism began as an attempt by American philosophers to understand the failure of democracy represented by the civil war where democratic institutions failed to peacefully resolve the economic and moral conflicts of slavery. Arguably there are parallels here with the apparent failure of our current institutions to resolve the moral and economic conflicts over climate change and a more equitable society. What emerged from this struggle was a realisation, by these early Pragmatists that;

> "What had chocked democracy was an inflexible, uncompromising commitment to principles. What was needed was a different attitude towards our beliefs: a less ideologically confident, more tentative and critical attitude..." (Brandom, 2011 p44)

This different attitude concerned;

> "*political* beliefs: the ones we use to orientate our *practical* understanding, in particular those that involve *cooperation* or decisions about what *we* should do." (ibid p45)

This cooperative formation of belief as a basis to practical, political and moral decisions is an important contribution made by those early Pragmatists, C,S.Pierce in particular. However, it was John Dewey who developed the philosophy and its application to public policy. Of particular relevance is Dewey's realisation of both the opportunities and challenges of modernity and technological change. He foresaw the 'network society' (Castells, 2010) in which communication and transport technologies create interdependence and the conditions for democracy. However, he was acutely aware of the way in which the complexity of modern society created the conditions for technocratic rather than democratic government. He saw that modernity had swept aside the civil society, the local associations and institutions that de

Tocqueville (1835-40) had observed in *Democracy in America* without replacing them with anything else.

> "The ties which hold men together in action are numerous, tough and subtle. But they are invisible and intangible. We have the physical tools of communication as never before. The thoughts and aspirations congruous with them are not communicated, and hence are not common. Without such communication the Public will remain shadowy and formless, seeking spasmodically for itself, but seizing and holding its shadow rather than its substance. Till the Great Society is converted into a Great Community, the Public will remain in eclipse. Communication alone cannot create a great community." (Dewey, 1927 p142).

Here he discusses the solution which he sees as both communicative and as involving the building of institutions (what he called the democratic Public) within civil society that give form to the shared experience of social change. The aims of converting the 'Great society' into the 'Great Community' refer to the challenge, taken up by those theorists influenced by Dewey, of applying the principles and practices of face-to-face democracy to the complexity and plurality of the modern world.

1.2 Research Aims

This thesis takes the decision by the UK government to embark upon a high speed rail (HSR) project, High Speed Two or HS2, to connect London with Birmingham in the West Midlands and then continue on to Leeds and Manchester (figure 1.2) as a case study of contemporary MTP decision-making. With current cost estimates at £40.6 billion (Butcher, 2014) and major disruption threatened along the route and at the planned London terminus, Euston Station, the proposals are already proving controversial. The overarching aim of the thesis is to interpret the role of civil society and specifically civil society organisations (CSOs) in generating and potentially resolving the controversies generated by this decision. This is also a normative aim as, given the way in which civil society is seen as the source of the legitimacy states depend upon, the assumption is that there ought to be a role for civil society in this case. In adopting the tripartite distinction shown in figure 1.1 (of institutions as located within either the state, market or civil society) this thesis assumes that, just as state and market institutions have a role to play in the planning, appraisal, delivery and operation of contemporary MTPs, so should CSOs. Due to the concern with the form of democracy required in this context, the research outlined in this thesis aims to examine and interpret the way in which CSOs *shape* the discourse surrounding decisions on HS2. From the evidence of this case study it aims to understand whether they can improve MTP governance and whether a role for civil society

confers greater legitimacy on decisions. The early stages in the planning and appraisal of HS2 are treated as a single case study and a means of examining how more general issues of the legitimacy of MTP decisions are played out.

1.3 Research Questions

As this thesis aims at an interpretive study based on inductive reasoning (in which the premises build up and support the conclusion), as opposed to the deductive testing of hypotheses, achieving these aims and establishing these premises will be through answering a series of research questions. The central question asks; *how are planning appraisal and ultimately delivery decisions legitimated in the case of HS2?* This implies that in this case decisions may appear not to be legitimated or at least be struggling to achieve legitimacy. Whilst theory provides a concept of a 'legitimatory system' (Habermas, 1975 p49) observing this and the

Figure 1.2: HS2 Route (Source HS2Ltd, 2011a).

process of legitimation requires a much clearer definition. The first part of this definition requires a set of questions about what is meant by decisions and decision-making. This is complex and discussed in more detail in chapter four. The reason for this complexity is there is not a single clearly identifiable decision to proceed with the proposals discussed in this thesis. In fact there is, as of early 2015, no formal decision by the UK parliament to proceed with HS2 instead there are many smaller decisions that have shaped the current proposals. Yet these decisions are highly significant as it is through this process of decision-making that some options are promoted whilst others excluded.

In identifying relevant questions the OMEGA Centre studies are of particular value as here the decision-making of project promoters is defined as four distinct yet interrelated practices; *planning, appraisal and delivery* – and ultimately operation (OMEGA Centre, 2013a). Whilst these are valuable in understanding the process operated by project promoters the concept of legitimation implies a wider social process in which legitimacy is either given or withheld. This is also a form of decision-making but one that is distinct from and at the same time a response to the decisions of project promoters. What are required, in order to address the central question of legitimation, are questions that reflect the distinction between the initial planning and appraisal of HS2 and the public response. The first of these questions relates to the nature of the process of planning and appraisal conducted by these project promoters. The term 'project promoters' is taken here to refer to the group of civil servants, consultants and political decision-makers who are either responsible for or charged with implementing HS2. However, this group has loose boundaries, there are former ministers who are no longer in government but are still vocal supporters of the project, there are also groups within the rail industry who have sought to promote HSR and this particular project.

What is the character of the planning and appraisal process for HS2 conducted thus far?

This question draws on the lessons learned from previous studies that these phases of any MTP ought to be treated as 'open systems' (OMEGA Centre, 2013a pp18-20) in the sense that decision-making is open to a broad public or range of stakeholders. In examining the character of these processes it is possible to ask whether or not they do indeed exhibit an open or closed character. This is clearly significant if the planning and appraisal of HS2 is indeed open to the contributions made by civil society. However, there is also a second part to this question that relates to this tension between open and closed systems. This is something that is relevant to the case study but also to wider questions of the nature of governance and technical decision-making in advanced democracies. This is again part of the normative stance taken by this

research and relates to the concerns of the Pragmatists that technocratic practices ought not to replace more democratic forms of decision-making.

The assumption implicit in this examination of the character of planning and appraisal in terms of open or closed systems is that open processes are more closely associated with democratic governance whereas closed systems are associated with technocratic regimes. Yet in seeking to interpret the evidence of the case study this thesis will examine whether this assumption is correct. By definition pure technocratic governance does not exist in advanced democracies, unless one takes the position that *all* democratic choice is a sham. Whilst some areas may be given over to technical decision-makers there is almost always the opportunity for elected representatives to override these decisions. Therefore, it is more often a question of where the balance between technocratic and democratic governance lies. Also given the evidence that an understanding of context is critical to understanding MTP decision-making (OMEGA Centre, 2013a p24-25) it seems logical to assume that governance will exhibit different characteristics in different contexts. The interpretive approach allows the thesis to address questions of where the dividing line between an open, democratic style of decision-making and closed, technocratic governance has been drawn in this case. It is possible to ask whether this contributes to or helps to resolve the controversies that surround the current proposals and what this says about the way in which contemporary states make controversial infrastructure decisions.

What is legitimation in this context?

It may be possible to take from Habermas the concept of legitimation, defined as the subjection of state power to "rational-critical public debate" (Habermas, 1989 p28), yet this concept alone is too general to provide a research question in itself. There is a further problem in that the observation of legitimation is the observation of an ongoing process. It is not feasible from the perspective adopted in this research to conclude whether or not a decision has been legitimated yet it is possible to ask whether or not those affected regard decisions as legitimate. Whilst this may not lead to general conclusions about the perceived legitimacy of decisions it does not preclude the use of data such as opinion surveys that give some indication of how decisions are perceived by a wider public. What this approach allows is an interpretation of the extent to which the process of legitimation has been effective within the public affected by the current proposals. The use of the term 'a public' or 'publics' as singular or plural nouns may be specific to the social sciences yet it is valuable due to overlap with the concept of a stakeholder which is commonly used to describe groups and individuals affected by decisions. Therefore, the answers to questions of legitimation in this case can inform debates on the participation or engagement of stakeholders even if the term stakeholder is taken to be too narrow and potentially exclusionary in defining who has an interest in decisions.

The detailed research questions that contribute to an interpretation of the process of legitimation concern the nature of the public formed in response to decisions on HS2. There are the questions of what organisations and individuals make up this public. There are also questions of the nature of the public debate generated. Is it critical or supportive of decisions? If it is critical, why and what is it critical of? One final question concerning the nature of the debate is the question of rationality. As discussed above the controversies surrounding MTP decision-making reflect different rationalities, there is the technocratic rationality that attempts to define the legitimacy of decisions in terms of (what are presented as) objectively identified facts. Then there are the rationalities of rational actors seeking to protect or maximise their interests. This relates to the question of NIMBYism (Laws and Rein 2003 p190; Cotton and Devine-Wright, 2011) and reflects assumptions within disciplines (such as planning) that often favour the strategic view of the benefits of development over local concerns.

What is the role (or roles) of civil society organisations?

As questions of the role or roles of civil society are answered within the thesis it is possible to establish from the outset what is meant by the term, at least for the purpose of this research. Here civil society is defined as the *organisations* of civil society due to its institution building role, identified by Dewey. One can already see calls for a greater role for civil society in the literature on megaproject decision-making. For Flyvbjerg et al. this is an area of public life where its contribution is conspicuously absent and as a result "megaprojects often come draped in the politics of mistrust" (2003 p5). Civil society is seen as ensuring transparency functions as an 'instrument of accountability' (ibid pp111-115). This envisages it playing a political role in scrutinising the activities of state and market project promoters, yet studies that have identified a 'global associational revolution' (Salamon et al., 1999) point to a multitude of different roles. In 1999 environmental advocacy accounted for only three per cent of employment in the non-profit sector in Western Europe. In contrast social services (twenty seven per cent), health (twenty two per cent) and education (twenty eight per cent) account for considerably more (ibid p17). Whilst levels of employment provide only a rough indication of levels of activity they strongly suggest that the sort of role envisaged by Flyvbjerg et al. is only a small proportion of the activities of civil society (or non-profit) organisations.

The direction of policy, discussed above, reflected in the Coalition Government's 'Big Society' and before that in the Blairite 'third way' sees civil society increasingly as a means of delivering public services: a role very different from political scrutiny. Given the evidence that it is a major provider of goods and services, particularly 'welfare services' (Salamon et al., 1999) it appears logical to ask whether or not civil society may do more than simply play the political role suggested by Flyvbjerg et al. Indeed, given the normative aims of the research

it seems logical to ask whether or not there are roles that it could or should play that might confer greater legitimacy and produce decisions that are widely considered to be in the public interest.

1.4 Summary of the thesis

The remainder of this thesis sets out the arguments that underpin these assumptions; the methods used to examine the research questions; and the evidence the research has produced on the role played by CSOs in legitimating decisions on HS2 before concluding with broader points about the role that civil society could play in MTP decision-making. Chapters two and three contain a review of the literature. This begins with the literature on the concept of a 'crisis of legitimation' in which the political decisions of the state and also to an extent the decisions of market institutions are increasingly suspect. This establishes a generalised climate of suspicion around the (predominantly state) decisions to embark upon costly and disruptive projects. The critiques of MTP decision-making found in the literature take two main forms. There is the substantive critique that they often fail to deliver what is promised and then there is the procedural critique reflected in the allegations of democratic deficits in MTP decision-making. In considering this particular critique, the type of legitimacy required for projects such as HS2 is discussed. This introduces key concepts such as the distinction made between input and output-oriented forms of legitimacy (Scharpf, 1999) with deliberative democracy introduced as an input-oriented mechanism that engenders a more open form of decision-making.

Chapter three considers in more detail Habermas' concept of legitimation as the subjecting of the authority of the state to critical public debate. Here civil society and the publics that form around socio-technical decisions such as those to embark upon MTPs are of particular relevance as a forum for the public debate required to legitimate this type of decision. A concept of civil society is developed in chapter three based on the different (economic and political) roles played by different CSOs. This chapter sets out the influence of the philosophy of the Pragmatists, and their concerns with the risk that specialist expertise supplants democratic decision-making, an issue of particular relevance to this study of HS2. Finally, chapter three considers the character of technocratic decision-making as (at least in advanced democracies) a question of where the balance is drawn between technocratic and democratic governance styles, influenced by contextual factors.

The interpretive methodology used in this research is outlined in chapter four. This is based upon an epistemology in which knowledge is taken to be socially constructed with important social and institutional facts structuring the discourse. The basic process of the research, what

was analysed and observed and who was interviewed, are established along with the basic phases the research went through. Chapter four also establishes the case study methodology and identifies the different 'units of analysis' (Yin, 2009) used in this research. The methods used, the combination of ethnographic observation and discourse analysis, are discussed with one particularly relevant discussion in this chapter being the importance of reflexivity and the role of the researcher when using ethnographic methods.

Chapters five and six begin to set out the first set of research findings in the form of an illustrative case study with chapter five following the development of the current iteration of HS2 from the genesis of the idea for additional UK high speed lines to the presentation of proposals for Phase One before Parliament. This illustrates the development of the project itself whereas the response to the project (the public that has formed around the Government's decision) is identified in chapter six. Although this public is not exclusively made up of CSOs they form a major part. The alternative proposals for HS2 are identified from a range of different organisations, but most important within this are the key CSOs as it has been within this collection of organisations that the majority of the research has been conducted.

Further, more analytical, findings are set out in chapters seven, eight and nine. This begins with the finding that rather than an open process of planning and appraisal, the process conducted by HS2Ltd (the public body charged with developing plans for and ultimately delivering HS2), has largely been closed to civil society. This is based on an analysis of the policy frames that have shaped the proposals and the practices of HS2Ltd. Chapter eight considers the evidence of the role played by different CSOs in this context. A distinction is made between those that operate at a national level, a local level and those groups that occupy the space between (representing a region or larger than local area). The findings here are that different groups perform different roles in terms of political scrutiny. CSOs have also sought to produce alternatives to the current proposals for HS2 and in some cases these go beyond mere suggestions as an organisation will devote considerable time and resources to *producing* an alternative; for example, a financial tool or an alternative design for a station or part of the route. These alternatives reflect the economic role played by CSOs as producers of goods and services.

The final set of findings discussed in chapter nine concern the process of legitimation. These relate to the way in which the actions of HS2Ltd, particularly at the local level, undermine the organisation's legitimacy, something that calls in to question claims that the project as a whole is intended to deliver outputs that benefit a broad public. When combined with the evidence of a narrow framing of the benefits of the project identified in chapter seven this suggests that it is hard to conclude that HS2ltd can claim that the decision-making process has been open

and transparent or that the outputs deliver widespread benefits. Rather it appears that the key benefits accrue to business travellers and relate to global competitiveness.

The thesis concludes with a discussion of the importance of CSOs in developing institutional frameworks for contemporary MTPs. The final chapter contains a series of recommendations regarding the role that CSOs might play in a more open process of planning and appraisal. This includes the benefits this might bring in terms of institutional design, increased participation, wider appreciation of costs and benefits and a forum for deliberation that may resolve some of the tensions inherent in disruptive MTPs and lead to decisions that are more widely perceived as legitimate. The hope here is that a greater role for civil society may avoid some of the 'planning disasters' (Hall, 1980) that have been a feature of UK infrastructure projects. Chapter ten also reflects upon the value of the concept of civil society developed in this thesis and the influence of the Pragmatists on the research. Theories of megaproject governance that focus more on the relationship between state and market are discussed and criticised as the thesis closes with a call for civil society to be seen as central to any definitions of success in mega-transport infrastructure projects.

Chapter Two: Defining public benefit and delivering public goods

"the supply [of public goods] on offer will be advertised only at occasional exercises in public choice, called elections, at which large indivisible bundles…will be offered. It is rather as if, in the market economy, the buyer was forced to choose between a bundle consisting of a Mercedes car, a ton of bananas and a spin dryer, and another consisting of a bicycle, a ton of potatoes and a holiday in Spain, without any consideration of his preferences for any one item. Thus citizens get merely the choice of voting for the bundle with the highest aggregate attraction, or utility even though it may contain individual items they dislike." (Hall, 1980 pp225-226)

2.1 The challenge of contemporary citizen choice

In his wry look at elections as a means of exercising choice over megaprojects Peter Hall identifies the confused nature of the options selected through this mechanism. For some, particularly local people, MTPs are that individual unwanted item. For others there may not be a strong preference either way and the way in which a project is sold (or framed) is critical. The contemporary citizens making the choice appear to have become more critical and more inclined to distrust the authority of public institutions. Markets have increased consumer choice exponentially yet representative politics, already a poor mechanism for choice over megaprojects, has been weakened in the face of globalisation (Norris, 1999 pp23-25). This chapter considers this social context and the way in which the legitimacy of modernity and the rational technical justification often applied to megaprojects appears, itself, suspect. In the following review of the literature on megaprojects, decision-making and MTPs a series of overlapping dichotomies are identified and synthesised (figure 2.1). These form a conceptual framework with which to interpret the character of project governance in this case. The two critiques identified relate to different justifications, with decisions justified in terms of their substantive outputs on the one hand or their procedural inputs on the other. The chapter considers first the substantive critique and then the procedural one concluding with one further important emerging critique. This is the way in which there is often a failure to realise the potential of these huge technological endeavours to provide the opportunity to learn lessons about the value of participation within decision-making under conditions of complexity and uncertainty.

Literature on MTPs and Megaprojects	*Substantive critique:* do they deliver what is promised?	*Procedural critique:* Is decision-making fair, open and transparent?
Notion of justice	*Distributive justice:* are rights, public goods and services fairly allocated as a result of decision-making?	*Procedural justice:* does the process by which decisions are reached meet norms of openness, participation and inclusiveness?
Legitimacy claimed	*Output-oriented legitimacy:* are the institutions involved are unbiased and qualified to ensure a distribution of goods that is in the public interest?	*Input-oriented legitimacy:* does citizen input into decision-making meet the standards of procedural justice?
Style of decision-making	*Closed:* is the contribution of those outside of the decision-making process ignored or excluded in favour of those inside?	*Open:* is citizen input invited and does it have a clear role in shaping decisions?

Figure 2.1: Conceptual framework.

2.2 The crisis of legitimacy

This initial section sets some of the above critiques in a wider context. These are the criticisms of Flyvbjerg et al. (2003; Flyvbjerg, 2007, 2008) of the distortion of cost and use estimates due to the rent seeking behaviour of project promoters and Altschuler and Luberoff's (2003) warnings of a 'tragedy of the commons' in which trust in infrastructure decision-making is lost as a result. This context sees a shift in state-market-civil society relationships and the resulting need to "recast governance agendas" (Healey et al., 2003 p60). It is likewise characterised by a generalised loss of faith in democratic public institutions and the rationalities that underpin them. Neoliberalism has produced a sustained attack on the capacity of the state to deliver efficient, cost effective public benefits. Yet the limitations of the market are also increasingly apparent. The physical sciences and climate science in particular has generated new knowledge of anthropogenic global warming and the increasing energy demands of modern patterns of consumption, of which increased mobility is a significant

feature (Hickman and Bannister, 2014). This adds a further imperative to the questions of whether or not markets can properly internalise destructive externalities (Polyani, 1944). In addition to this there is the growth of inequality (Dorling, 2011; Wilkinson and Pickett, 2011), the stagnation of real wages in the US (Chang, 2010) and other OECD countries (The Economist, 2014) combined with the recent economic crisis. This has demonstrated the inability of markets to consistently deliver widespread prosperity and increasing material wealth for the population as a whole (in advanced democracies) as opposed to a small section of it.

In studying MTP decision-making it is appropriate to focus initially on the perceived legitimacy of state institutions. The relationship between state and market is seen as a central issue. MTPs are 'expressions of public authority' (Altschuler and Luberoff 2003, p2) with the established critiques of Flyvbjerg et al. drawing attention to the problem of rent seeking by private interests. Indeed, it is this critique that leads to the conclusion of Flyvbjerg et al. (2003) that civil society has a greater role to play. It should not be assumed that civil society is immune from a loss of faith in institutions. The criticisms of civil society and the actions of CSOs are addressed throughout this thesis. Nevertheless, it is important to focus attention, initially, on the loss of legitimacy facing state and market institutions. This thesis locates this 'legitimation crisis' first, in the shifting relationship between the market and the state and second, in the conditions of late modernity. Here publics, in advanced democracies, are increasingly sceptical of the benefits of technological progress; such as, for example, the rapid efficient travel offered by MTP promoters.

The shifting role of the state

From a neoliberal perspective the decline in trust is due to an excessive role for the state in managing the economy. It has led to an overburdened government unable to deliver on its core functions of maintaining law and order and creating the necessary conditions for free markets (Tanzi, 1997). This position advocates a greater role for the market in managing the economy, governed by the principles of competition and fair exchange. For Habermas the interlinking of the social democratic state and the economic system that increased greatly over the course of the Twentieth Century (at least until the 1980s) is equally problematic (1975 p36), yet for different reasons. He argues that prior to the state taking on a steering role within the economy economic decisions were legitimated through the principle of fair exchange. The state's involvement undermined this mechanism. According to Habermas as the state began to set the terms within which the market operated these decisions required political legitimation. For example, the state, through Parliament increasingly involved itself in the railways in the UK. Initially, this was through regulation of the private rail companies and ultimately through nationalisation (followed by privatisation) in the post-war period. Legitimation refers to the

procedures or mechanisms through which 'the people' grant consent for decisions (Parkinson, 2003 p183). The dominant mechanism for this is representative democracy. This is not problematic for elite political theorists such as Schumpeter and Weber. Choice of representatives, via the mechanism of elections, provides a technocratic elite with the required legitimacy to decide how much or how little the state ought to involve itself in the market. In contrast Habermas sees representative democracy as an insufficient mechanism for legitimation

For Habermas (1975 p37) representative democracy alone results in a passive citizenry whose only rights are to withhold consent. What is required is active participation in decision-making. This reliance on what he sees as inadequate mechanisms for the legitimation of decisions made by the state or government bodies opens up the risk of a 'crisis of legitimation' (ibid p48). This is due to the susceptibility to multiple crises inherent within the capitalist system. There is the risk of economic crisis caused by the failure of the economic system to produce sufficient goods and services or an 'administration crisis' due to the failure of administrative systems to produce sufficient rational decisions. What is significant for this thesis is the 'legitimation crisis' brought about when the 'legitimatory system' (ibid, p49) provides insufficient legitimacy for the decisions of the state. This is the concept of legitimation discussed in more detail in the following chapter as for Habermas the economic and political systems do not produce legitimacy. Rather legitimation occurs neither in market nor state institutions but within civil society through public deliberation.

The distinction between legitimacy and legitimation of state decisions

The crisis of legitimation in which both state and market institutions lose legitimacy is taken, in this thesis, as central to understanding the role civil society has to play in MTP decision-making. To be clear legitimation is *not* legitimacy. Parkinson (2003), following Beetham, divides the latter up into legality, justification *and* legitimation. Legality is the 'rules of the game', the legal framework within which decisions are made. More relevant here is justification which rests upon a normative foundation made up of claims to be acting in the 'common interest' (ibid p183). The claims that policy decisions deliver collective benefits are measured against two benchmarks, substantive and procedural. First, it is a requirement that "policy outcomes match the substantive goals of the society in question" (ibid). This is the argument that the outputs of policy making must be in the common interest. Second, that the procedures by which policy is made are just and that they include those who are affected. This is the argument that the inputs into policy decisions must also be legitimate. The final element of legitimacy, as defined by Parkinson, is legitimation which refers to the procedures by which consent is granted.

It is not uncommon for controversial policy decisions such as those taken on MTPs to be based only on legality and justification (often drawn from technical expertise). They may also be based upon legality, justification and what is (from a Habermassian perspective) the insufficient legitimation of representative democracy. It has been argued that politicians have the duel tendency towards maintaining consensus on the one hand and seeking to differentiate their party by offering increasingly attractive bundles of public goods on the other (Hall, 1980 pp224-242). These same politicians tend to align more closely with the interest of producers than of consumers (which relates to the arguments of Flyvbjerg et al. regarding the regulatory capture by rent seeking interests). Yet conversely decision-making is also vulnerable to the ability of a 'passionate minority' (Hall, 1980 p11) to subvert majority rule and block decisions or projects that may deliver aggregate benefits.

The need for legitimation

From the Habermassian perspective the state acting alone will always struggle to fully legitimate decisions to embark upon costly disruptive MTPs. The best that can be achieved is that decisions are not rejected by a passive citizenry. Yet this risks either, rent seeking (Flyvbjerg et al., 2003) and the production of unwanted and economically sub-optimal public goods, or the blocking of beneficial projects by a passionate minority (Hall, 1980). The neoliberal solution is simply for the state to do less and for the production of infrastructure to be either left to, or directed towards the needs of, the market (Henisz et al., 2005). Yet there are questions; first those regarding the ability of markets to deliver social or environmental justice. Second, there are questions of whether or not allowing private sector actors to direct public resources increases the risk of rent seeking. The production of infrastructure by market institutions may ultimately be at odds with the concept of public goods (or merit goods—see below). These are goods that are needed and yet not supplied by the market, for example, the kind of public goods necessary to shift from higher to lower carbon emitting forms of transport. It is important to note that the three elements of legitimacy discussed above are not essential preconditions. Decisions can be made and implemented without full legitimacy in the Habermassian sense. Yet to proceed with inadequate legitimacy under the conditions of uncertainty and complexity that characterise MTP decision-making is problematic risking the loss of faith in decision-making Altschuler and Luberoff (2003) warn of. It is the practical and moral problems of decisions that are perceived as illegitimate and the role played by civil society in addressing them that are examined in this thesis.

The risk society

This thesis takes the plurality and complexity of late modern *societies* as defining features of the context in which decisions to embark upon costly, disruptive, long-term projects with

uncertain outcomes are made. In the case of high speed rail, MTPs offer speed and ease of movement. Yet these are societies characterised by uncertainty, scepticism (Giddens, 1994) and the realisation that modernity brings with it risks as well as benefits (Beck, 1992). The increased mobility and the shrinking of space offered by MTPs can be seen as 'constituent features of modernity' (Spiekermann & Wegener, 1994 p653): "The history of modern societies can be read as a history of their acceleration" (Steiner, 1991 quoted ibid). Yet this vision of modernity, maybe even modernity itself, is not met with universal acceptance. To some extent this has always been the case as the quotations from Dickens in chapter one suggest; they reflect a resignation to rather than a passionate embrace of progress. Nevertheless, it appears that scepticism about the benefits of progress carries greater weight than in the past. The evidence of nuclear accidents, BSE and above all climate change undermine faith in technical solutions and expertise. To the citizens of late modern societies, it appears that speed and ease of movement bring at least as many risks as they do benefits.

> "[W]hen the dangers of industrial society begin to dominate public, political and private debates and conflicts…[T]he institutions of industrial society become the producers and legitimators of threats they cannot control." (Beck, 1994 p5)

Whilst Habermas shows that a general loss of legitimacy comes as a result of the shifting role of the state Beck points towards a role for *institutions* as producers of risk. Rather than passive victims of a loss of legitimacy they are active in producing the circumstances in which legitimacy is called into question. There are two key implications from the work of Beck and others who have examined the conditions of late modernity. First, there are the political implications. These are discussed in more detail in the following chapter as they relate to the changing role of civil society. For now, it is sufficient to note that the conflicts generated by institutions of industrial society become politicised in a way that traditional political institutions (political parties, governments and public bodies) fail to manage. What had previously been closed, depoliticised debates between technical experts are opened up to the 'sub-politics' (Beck, 1994; 1997) of civil society. The second implication relates to trust in expertise.

Expert knowledge and local knowledge

The status and character of expert knowledge is of particular importance due to the way in which the justification for MTPs will often draw upon this knowledge as one of the sources of legitimacy, as discussed above. Due to the global consequences of technical innovations, for example, the risks associated with nuclear power, technical knowledge has become highly politicised. In MTP decision-making it is the character of expert knowledge and way in which it is deployed that are significant. As Giddens (1994) has noted the relationship between expert

and 'local knowledge' is often an uncomfortable one. "[E]xpertise is, in principle devoid of local attachments...[I]t is based on impersonal principles, which can be set out and developed without regard to context" (ibid, pp84-85). This is relevant because of the way large disruptive projects will create winners and losers (OMEGA Centre 2013a). Costs are often localised as some areas have to bear the disruption caused by the construction and operation of transport infrastructure. Yet benefits are often generalised, spread over a wide area (the nation or the economy, for example), and aggregated from a large number of minor benefits. Expert knowledge deployed in this way, for example, through practices such as cost benefit analysis (CBA) sets local knowledge of the costs against expert knowledge of the wider benefits.

The second problematic use of expert knowledge is in the creation of certainty where none exists. This form of knowledge is often rhetorically deployed, for example, in long-term passenger demand forecasts where it creates the appearance of certainty far into an uncertain future. Giddens (1996 p86) shows how, until recently, there has been an uncomfortable confusion between the role of the expert and authority. Even in modern societies experts can be seen to play the role of the guardians of traditional societies providing calming, authoritative knowledge in the face of troubling uncertainty. Arguably, this is exactly what is still attempted in the rhetorical use of expert knowledge. Yet the consequences of the end of deference towards a single source of authority and the realisation that all knowledge is falsifiable are "both liberating and disturbing" (ibid). As the scepticism towards expertise increases and the authority of experts in late modern societies declines it is possible to see groups and individuals rejecting all expertise. Giddens cites the denial of climate change as one example of this rejection of expertise (something that has increased apace since the mid-1990s when the article was written).

2.3 What are Mega Transport Projects?

It is useful at this point to consider why it is relevant to examine MTPs within the context of late modernity and the crisis of legitimation. There is a specific definition of a project of a certain scale and cost[1] yet the reasons these projects are a valuable field of enquiry are not simply the issues of scale. They are certainly 'agents of change' (OMEGA Centre 2013a) reshaping spaces, territories and economies. They are inextricably linked to the political decisions of the state and yet in advanced democracies they cannot be planned or implemented without market institutions. They are bound up with visions of modernity with values and ideologies clearly 'embedded' within their physical form (Graham and Marvin, 2001). It is

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[1] "projects that entail a construction cost of over US$1 billion (at 1990 prices), completed since 1990." (OMEGA Centre 2013a)

the relationship to an uncertain future that makes the study of these projects both relevant and pressing. They are "large bets on the future" (Dimitriou, 2011) and yet due to their scale they are bets in which society as a whole is involved. Citizens are involved as taxpayers and potential beneficiaries or as losers if the projected benefits fail to materialise or even if the localised costs are too great. Yet the increasing future uncertainty, generated by the knowledge of climate change, raises the stakes.

2.3.1 MTPs are controversial

There is a long list of contemporary MTPs that have attracted opposition and generated conflict; *TGV Med* in France (Leheis, 2012); Amsterdam-Rotterdam-Breda high speed rail (OMEGA Centre, 2013b; Salet et al., 2013); Boston's 'Big Dig' (Altschuler and Luberoff, 2003; OMEGA Centre, 2013c); and the Oresund Link between Denmark and Sweden (Richardson, 1999; OMEGA Centre, 2013d). High speed rail appears particularly controversial with large protests against the Italian *Alta Velocità* (Della Porta and Andretta, 2002) and Stuttgart 21 in Germany (Novy and Peters, 2012; Schmidt-Thome and Mantysalo, 2013). In a number of cases there have been some productive benefits from the conflict, shifting governance and decision-making practices in the case of *TGV Med* (Leheis, 2012) and creating spaces for public deliberation and direct democratic decision-making in the case of Stuttgart 21. Nevertheless, in the latter case there were also severe political consequences. The controversy surrounding the project has been identified as a key factor in the historic victory for the German Green Party in the 2011 Baden-Württemberg state elections returning Germany's first ever Green state premier (Novy and Peters, 2012).

In the UK Hall (1980) has documented a history of controversy, revision and cancellation of major projects from urban motorways to new airports. There has been successful opposition to the Conservative Government's road building programme of the 1990s (Doherty, 1999). More recently a coalition of residents, politicians, national NGOs and direct action groups successfully opposed runway expansion at London's Heathrow Airport (Stewart, 2010). Local opposition has also played a key role in shaping the UK's first high speed rail line the Channel Tunnel Rail Link (CTRL/HS1). This ultimately led to a very different, less disruptive, route alignment with increased intermediate stations (Faith, 2007; OMEGA Centre, 2013e). In some respects it is not surprising that large, costly, disruptive projects, creating winners and losers, also generate controversy and opposition. However, as the discussion of the crisis of legitimation facing public institutions and the nature of the risk society suggests, something has changed. The winners are sceptical and the losers are more vocal and powerful. As the recent history of MTPs in the UK shows opposition is not always unsuccessful.

2.3.2 Why are MTPs and Megaprojects so controversial?

There is a rich body of academic and professional knowledge on the problems associated with decision-making on large infrastructure projects. Terms vary with some referring to megaprojects (Merrow 1988; Alteschuller and Luberoff, 2003; Flyvbjerg et al., 2003) and others mega-infrastructure or mega-transport projects (OMEGA Centre, 2013a). What these definitions share is first, the issue of scale. These are exceptionally large projects because of the financial costs, the (physical, political and social) space they occupy and their strategic nature. Second, the state, and with this study the democratic state, is a key actor. Finally, there is a concern with the outcomes of the project and whether they deliver more or less than they promised at the point at which consent was granted. On the one hand there is a sense in which the issues of scale and the strategic nature of megaprojects make them unique. On the other hand, some of the issues of controversy, legitimacy of decision-making and how advanced democracies balance costs and benefits are common to a wider range of projects. For this reason the following review of the megaproject literature takes in issues common to a range of infrastructure.

Following the framework set out in figure 2.1 the literature on megaprojects is separated into two, complementary, critiques. The first is the *substantive* critique; it is the question of whether or not megaprojects deliver on their promises. This concerns the physical and institutional structures and whether they achieve their stated aims. These may be the relatively verifiable aims of cost and performance yet there are also wider claims made for megaprojects. These range from the desire to create awe inspiring structures that are signifiers of a certain vision of progress (Trapenberg Frick, 2008) to the claims of the promoters of HS2 that the project will "transform the country's economic geography" (HS2Ltd/DfT, 2011 p7). The critique here is that these substantive claims are overoptimistic and projects often fail to deliver.

The second critique is *procedural*; this is the question of how decisions are made. It is clearly linked to the substantive critique as a good decision is, at least in part, one that achieves the aims or resolves the problems facing decision-makers and those on whose behalf decisions are made. Yet good decisions are not purely defined by their consequences. There is a well-established notion of procedural justice; that the process by which decisions are made should be open and transparent. This can be seen to be an important factor when trust in project promoters is an issue (Devine-Wright, 2012 p18). The critique here is that projects often fail to meet the standards of procedural justice. It is this second critique that is the main concern of this thesis given the emphasis on legitimation. Notwithstanding this point, the procedural issues must be considered alongside the substantive critique. This is as, particularly in this

context, procedural claims have a substantive component as they concern the means by which different options are accepted or rejected and *vice versa* as there are also procedural dimensions to how a final substantive option is defined as the most appropriate one.

There is also a third theme within the megaproject literature that is important for this thesis. This concerns learning in the governance of megaprojects. The development of a closely guarded body of knowledge amongst the global private sector consultancies whose business is the management and delivery of megaprojects, is an issue in its own right (OMEGA Centre, 2013a). However, the normative position adopted in this thesis is that, given the investment of, largely public, resources and the need for consent, attention should also be paid to the learning of public sector and civil society actors. This is in the hope that it might lead to better decision-making in terms of *both* substantive outputs and procedural inputs.

2.3.3 The substantive critique; costs and benefits

The work of Bent Flyvbjerg and others (2003) has been prominent in focusing attention on the 'megaproject paradox' of overestimation of benefits and underestimation of cost. Preceding the work of Flyvbjerg was work by Peter Hall (1980) and Edward Merrow (1988) both of whom drew attention to the problem of cost overruns and the relationship between private sector promoters and the state. When seeking causes for these problems Hall and Flyvbjerg et al. consider the role of politics and institutions in detail. A significant section of academic literature on infrastructure and megaprojects in particular can be located within, or at least (implicitly) acknowledging, Graham and Marvin's (2001 pp62-89) 'modern infrastructural ideal'. Infrastructure, modernity and visions of technological progress are seen as inextricably linked. This is bound up with the theories and practices of modern urban planning. Rationalities that conceive of urban areas and regions as coherent units in which standardised infrastructure brings together mass production and consumption. Finally, Graham and Marvin draw attention to the role of the nation state. Infrastructure defines, governs and contains the territory of the state and ultimately the "idea of *society*" (Foucault quoted ibid p73, original emphasis). The state has a role in the standardising and regulating the natural monopolies created by most forms of infrastructure (high levels of 'sunken' capital, the need for up-front and long-term investment means competition rarely emerges).

Under this 'infrastructural ideal', Graham and Marvin argue that infrastructure networks were *considered* 'public goods' (ibid p80). In the strict sense it is hard to describe transport infrastructure and services as public goods. They do not fit the commonly used definition of goods that are non-rivalry and non-excludable. Merit goods may be a more accurate term as transport infrastructure, in particular, generally requires some form of state support yet is seen

as having positive externalities for society as a whole. Notwithstanding this it is the *consideration* of transport infrastructure as a public good, in the sense that these are goods provided by the state, which is important (this is relatively accurate in the case of HS2 as it is publically funded). In this thesis, following Hall (1980) the term is used in this sense to describe collective goods and services where the state is heavily involved in provision. Yet the issue Graham and Marvin draw attention to is more than one of definition.

Much of the literature on megaprojects in the fields of planning and politics considers infrastructure in these same terms (Hall, 1980; Perry et al., 1995; Altschuler and Luberoff, 2003; Flyvbjerg et al., 2003; OMEGA Centre 2013a). This is in the sense that they see the provision as essentially a public activity even if there are different positions on the exact role that markets have to play (see Flyvbjerg et al., 2003 on risk capital). As Graham and Marvin (2001 p88) point out the 'modern infrastructural ideal' may never have been fully realised, yet it has also never been fully rejected. They are right to feel ambivalence towards the fracturing of this ideal. There is indeed much to criticise, the one-size-fits-all homogeneity and dominance of the, usually male, expert that excludes other forms of knowledge and experience (ibid p136). Yet the literature cited above holds to the belief that the provision, particularly of large transport infrastructure, is essentially public and as such should be in the public interest. Indeed, it is the overarching argument of the substantive critique of megaprojects. This is that they fail to produce outcomes that benefit the public as a whole rather than a small group.

Transport specific issues

As discussed in chapter one, seeking to deliver public benefit may be a valuable ideal, even if providing an exact definition proves problematic in complex, plural societies. The reasons for failure to deliver public benefit are equally complex, not least as they change depending on how it is defined. In order to better understand the issues of defining and calculating the benefits of megaprojects it is helpful to restrict the discussion to mega-transport projects (MTPs). Aside from the benefits of moving the discussion closer to the specific issues raised by the case study, a focus on transport illustrates both, how knowledge of climate change has expanded the potential definition of public interest in contemporary MTPs, and also the entrenched practices of defining public benefit through cost benefit analysis (CBA). There is insufficient space to review the vast literature that considers what forms of transport infrastructure can, does or may deliver public benefit. Many of the answers to these questions will be context specific anyway. This thesis concerns the way these questions have been addressed in a specific case. Nevertheless, it is important to consider, in broad terms, the substantive environmental, economic and social benefits contemporary MTPs are increasingly expected to deliver.

The environmental benefits of MTPs

As discussed, the environmental impact of technological change is a major concern in late modern societies. Some environmental concerns will be with local effects; others, such as the capacity for transport infrastructure to engender a shift away from higher carbon emitting forms of transport, are more global. In seeking to understand the critique of the substantive claims made by MTPs the following section briefly considers the strategic environmental benefits, particularly carbon reduction. Yet in reality it is often hard to neatly separate local impact and wider substantive claims. For example, the 'Do No Harm' ethos that has, theoretically, governed megaprojects in the US (Altschuler and Luberoff, 2003 pp27-24) is in itself a substantive claim that undue local environmental damage will not result from the construction or operation of large infrastructure projects. Nevertheless, the need to reduce energy consumption and the subsequent CO_2 (and other greenhouse gas) emissions, alongside the following discussion of how benefits are defined, provides a valuable insight into the diverse outputs that are expected of contemporary MTPs.

At present transport is the second highest emitting sector after energy generation. It contributes twenty per cent of all UK greenhouse gas emissions with road transport the most significant source (Department of Energy and Climate Change, 2015) and twenty three per cent of energy related emissions globally (IPCC, 2014). The imperative to reduce emissions can be seen reflected in transport debates in the sometimes complementary and sometimes contradictory practices of demand management and modal shift (Smith, 2008). On the one hand there are those that argue that, what Flyvbjerg et al. term a 'zero friction' vision of modernity, simply increases the demand for and use of transport infrastructure. They argue that in order to deliver the substantial emissions reduction required political decision-makers must cease offering more and greater ease of movement and reduce all carbon emitting modes of transport (Hillman, 2004). Those that favour demand reduction cite not only environmental but social and democratic consequences as 'hypermobility' undercuts local ties, associations and ultimately local democracy (Adams, 2001 p6). In the debate on HS2 calls for demand management can be heard from groups calling for lower speed, lower specification alternatives that they see as less damaging (Stokes, 2011a). In contrast pro-rail groups, even those that have challenged some aspects of the current proposals, favour a modal shift from road to rail (Railfuture, 2011a).

There are also those who argue that technological change has a central role to play in providing transport solutions in a world in which oil is either scarce or its use is undesirable (Gilbert and Perl, 2010). This emphasis on a particular type of modal shift as a solution can be seen as more dependent upon a 'technical fix' such as advances in battery technology (ibid) with others holding out hope for hydrogen as a fuel (Smith, 2008). What is significant is the way in which

the environmental performance of transport systems is inextricably linked to visions of the future (Hickman and Bannister 2014). In understanding the claims made for MTPs the environmental benefits illustrate most clearly the extent to which they reflect certain assumptions about the future. In order to appreciate how this in turn might shape the outputs of MTPs it is as important, not only to understand the visions of a low carbon future but also less prosaic ones. These visions are arguably more likely to shape the outputs of projects whose institutional structures and methods for defining benefit lock them into unsustainable 'path dependency' (Curtis and Low, 2012).

The economic benefits of MTPs

There are two pertinent questions in understanding the economic claims made for MTPs, the first is the question of how benefits are defined and the second is the question of where they are felt. In order to answer the former it is important to understand the conventional methodology through which public benefit is determined. The standard method, in the UK, of calculating the overall benefit of projects used in both Green Book (HM Treasury, 2011) and the Department for Transport's (DfT) WebTAG appraisal toolkit (DfT, 2014) is essentially CBA. The tools seek to monetise costs and benefits so that they can be accurately weighed against each other to provide a benefit cost ratio (BCR). DfT is clear that WebTAG is a tool that supports, and is separate from, political decision-making (ibid p1). It is accepted that some important impacts are impossible to monetise yet still need to be placed before political decision-makers in order to ensure they are presented with a full account of the impacts (ibid p3). In order to understand the assumptions inherent in CBA it is important to appreciate the high value placed on travel time savings. These provide a deceptive measure of the value that can be gained from saving traveller's time based on the assumption that this time has a fixed monetary value. There are a host of technical critiques of this practice (Naess, 2006; Mackie, 2010 p16-17) the most notable being the aggregation of a large amount of small time savings to produce a high value. This assumes both that small savings can be converted into productive rather than leisure time and that all travel time is unproductive, an assumption that has been heavily criticised in the case of HS2 (HS2AA, 2011; Stop HS2, 2011).

There are other important critiques of the means by which supposedly neutral monetary values are arrived at. This requires sophisticated methodologies that are often opaque, obscuring how a final numerical value is derived (OMEGA Centre, 2010 p24). This risks creating a 'black box' governed by technical experts that closes down rather than opening up the process of appraisal (ibid). Market valuation and assumptions based on willingness to pay are poor methods of evaluating the costs to environments (Sen, 2000), it is also inconsistent with the 'precautionary principles' common in appraising environmental impact (Shapiro and Schroeder, 2008). Finally there are acknowledged moral and ethical considerations of whether

it is possible or even desirable to seek to monetise some impacts (OMEGA Centre, 2010; Mackie, 2010). Even supporters of CBA acknowledge there are questions of its appropriateness for large transport projects. In particular, its difficulty in dealing with the long timescales and spatial and land use impacts associated with such projects (Vickerman, 2007). Other supporters point out that, from their perspective, CBA is sound but vulnerable to the 'strategic behaviour' in the overestimation of benefits and the underestimation of costs (van Wee, 2007; Priemus and Flyvbjerg, 2007). It is acknowledged that the methodology is vulnerable to poor quality inputs but that the solutions are seen in terms of better data and more care (Vickerman, 2007).

The position of CBA within the critique of the way in which the benefits of MTPs are defined supports two interlinked arguments. The first is that this means of defining benefits is basically sound and that the problem is either one of insufficient or wilfully inaccurate information. On the one hand this appears contradicted by a desire for more comprehensive information and attempts to monetise more and more values. If this goal was achieved, even if it could be claimed that the majority of values were included within CBA, then it would be hard to claim that it was not a decision-making tool. Second, for it to be simply a decision support tool requires a rational, open debate in which CBA can be used as a means of acquiring information. Yet this is dependent upon a, ultimately political, way of defining benefits which sits above the methodology. However, this leads to the second argument as once CBA enters the political realm the pressure to distort the tool to produce the required outcome increases exponentially with the consequences of the decision (Campbell's Law[2]). Rather than providing an *ex ante* appraisal it ultimately becomes a "*post hoc* justification of favoured infrastructure projects." (Curtis and Low, 2012 p37). This second argument is that CBA is fundamentally flawed and that it is impossible to neatly separate decision support and decision-making. Those that take this position (OMEGA Centre, 2010) argue for alternatives such as multi-criteria-analysis (MCA) as a means of ensuring decision-makers take into account a wider range of quantitative *and* qualitative indicators and seek to make transparent *judgments* on the basis of the evidence.

Distinguishing between CBA and alternatives such as MCA is an important debate yet it is beyond the scope of this thesis. It is worth concluding that any putative decision support tool has to address Campbell's Law (the question of political distortion) and there are those that see MCA as equally prone to bias (van Wee, 2007). What can be taken from this discussion is that whilst CBA is at its worst opaque, technocratic and that monetisation creates an inherent

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[2] "The more any quantitative social indicator is used for social decision-making, the more subject it will be to corruption pressures and the more apt it will be to distort and corrupt the social processes it is intended to monitor." (Campbell, 1976 p46)

bias there is always something more than this in decision-making. The literature that criticises the outputs of MTP decision-making, what benefits are delivered and how resources are allocated, has largely focused on this issue of the estimates of costs and benefits. The figures have been examined to ascertain whether they are sufficiently comprehensive or accurate. Whilst this has been a worthwhile field of study different methodologies are required in order to understand the political nature of decision-making. This is something taken up in more detail below when discussing the procedural critique with a discussion of the methodology required in chapter four.

Where are the economic benefits of MTPs felt?

The question of the geographical impact of MTPs, and the challenges in using conventional CBA to measure it, has been raised by Vickerman (2007). He draws attention to the issue of projects that connect an economically strong core and a weaker periphery and the risk that benefits will favour the core over the periphery. This is the second question regarding the economic benefits of MTPs, the question of where those benefits are felt. In the literature that is supportive of HSR as a means of 'irrigating' the regions (Hall and Chen, 2013) the French cities of Montpelier and Lille in particular are cited as examples of where it has made an important contribution to regional regeneration (Hall, 2013a).

The advocates of the regional benefits of HSR point to the evidence of the way a previous increase in speed on the UK network, the InterCity 125 and 225 introduced in the mid-1970s aided the transition from post-industrial to knowledge economies (Chen and Hall, 2011 p705). Here time-space impacts of increased speed and bringing cities within the critical one and two hour journey time from London can be seen to have had "substantial and demonstrable effects in aiding this transition" (ibid, 704). This is based on the increased strength of local economies and a rapid growth of service sector jobs particularly in knowledge-intensive sectors. Here speed is important, not in itself, but in bringing cities in to the orbit of London. A benefit that, according to Chen and Hall HS2 offers to cities in the North and Midlands that would be 'folded into' the capital's commuter belt (ibid p703). As with the debate over CBA the academic literature on the economic impact of HSR is divided with others (Tomaney and Marques, 2013; Vickerman, 1997) arguing that on balance the evidence suggests that where there is an effect it tends to favour the core city. The research by Tomaney and Marques questions the extent to which the cities identified by Chen and Hall gained due to their specific economic structure and at the expense of other regional cities (2013, p422-423). They point to data on GDP per head that indicates consistent regional disparities that the benefits identified by Chen and Hall have not reversed (ibid).

2.3.4 The procedural critique; democratic legitimacy in megaproject decision-making

The procedural critique of MTP decision-making is something cited in the observers of the response to MTPs. This is the allegations of a 'democracy deficit' (Flyvbjerg et al., 2003) used by Scandinavians to describe the way in which civil society is excluded from MTP decision-making and the allegations of 'de-democratisation' levelled by opponents of Stuttgart 21 (Novy and Peters, 2013). There are critiques of the process by which MTP decisions are made, specifically the generation and selection of options (Priemus, 2008; Samset, 2008), which will be considered in the later part of this section. Yet these questions are essentially political and as such it is useful to step outside the megaproject literature to consider the work of political scientists who have sought to theorise the issues of potential democratic deficits. The following section considers the democratic critiques of epistemarchy (the rule of experts) and the way in which representative politics under neoliberalism create spaces in which epistemarchy flourishes. The ability of deliberative democracy to counteract this tendency is also considered. Following this the work of Fritz Scharpf (1999, 2003) on 'input and output-oriented legitimacy' is examined as a means of conceptualising the distinctions between the procedural and substantive critiques of MTP decision-making. It is similarly helpful in understanding the contrast between deliberative democracy and the 'post-political' tendencies of hollowed out representative democracy that lead towards epistemarchy.

Epistemarchy and 'Post-politics'

As discussed above expertise and expert knowledge often forms a justification for policy decisions. Yet, as seen in the discussion of CBA this can easily shift from informing to *taking* decisions. From a democratic perspective this is troubling in that it leads to post-democratic (Crouch, 2004) or post-political (Swyngedouw, 2009) decision-making by elites and the potential for epistemarchy or the rule of experts. If democracy is the mechanism through which decisions and choices are made (either directly through voting or indirectly through elected representatives) then this introduces another mechanism and the officials who operate this mechanism take on the role of decision-makers. In advanced democracies it is not uncommon for some, governing, roles to be non-elected. Robert Dahl (1989 p58) identifies a role for non-elected institutions that hold their position by virtue of specific expertise. Yet Dahl sets a high bar for such roles regarding such guardianship as 'quasi-judicial' seeing the function restricted to the protection of basic rights such as the freedom of speech or association on which democracy depends. If the role of such guardians is extended into authority over *substantive* matters, then the scope of the democratic process is reduced (ibid p191). Whilst this is useful in drawing attention to the position of nonelected officials it tends to imply the guardian role

is relatively static. However post-war trends that see a shift away from elected bodies and an increasing role for the judiciary in political decision-making (Ferejohn, 2002; Hirschl, 2006, 2008) point towards a more fluid relationship between democratic bodies and nonelected guardians such as the courts and judges.

Contemporary theorists have identified the extension of interventionist powers through an increasing role for 'unauthorised actors' such as experts, managers and consultants (Beck, 2007 cited in Swyngedouw, 2011) as a feature of the way that governance has shifted beyond the nation state. This is a consequence of the way in which politics has retreated to a narrow consensus between political parties of the left and right. This is a situation in which democratic institutions remain, yet in a hollowed out form. The electoral system still provides a means of making limited choices between political regimes. Nevertheless "electoral debate is a tightly controlled spectacle, managed by rival teams of professional experts in the techniques of persuasion" (Crouch, 2004 cited ibid). What is likely to remain, according to Richard Rorty (2004, cited ibid) is a kind of 'benevolent despotism'.

In describing the practices and rationalities of control Swyngedouw draws on Foucault's governmentality (2009 p606). This management of conduct through ideas and practices that establish a narrow consensus is useful in understanding the way in which CBA 'governs' MTP decision-making (Sturup, 2009). Nevertheless, it is important to remember that Swyngedouw (2009) accepts governmentality as a perpetually failing project. The extent to which groups outside of the conventional decision-making process can succeed in dragging issues into the political realm serves as an indication of limits to which control of the 'conduct of conduct' is possible. Swyngedouw is highly sceptical of participation in decision-making seeing it as a managed form of consensus subsuming the 'properly political' equality based conflicts present within decisions (ibid). Yet others examining infrastructure decision-making in a post-political, neoliberal context have been less sceptical. It may be the case that governmental processes seek to depoliticise decision-making and entrench thinking about risk and issues of the 'national interest' in, often private sector, 'centres of calculation' in order to "render the field [in which these 'centres of calculation' operate] legible for government" (Groves et al., p342). Nevertheless, campaigners against infrastructure projects often reject these practices of governance. They can be seen to challenge epistemarchy directly through taking on strategic and technical arguments and ultimately challenging technocratic definitions of the national interest (ibid).

Deliberative Democracy

Different governance practices that redistribute power and address the conflict between private and community interest is the solution suggested by Groves et al. These offer to redress

the imbalance of power between opponents of infrastructure that define issues such as 'the national interest' in one way and the public and private sector promoters who seek to define it in another. Despite Syngedouw's scepticism towards participation one form of democratic governance that appears to offer an alternative to the hollowed out representative political process is the more participative deliberative democracy. If one takes as a starting point Dahl's (1989 p97) 'strong principle of equality', that a substantial proportion of adults are adequately qualified to govern themselves and accepts that those who are affected by a decision ought to have some input into how it is made. Then it is not hard to accept that the legitimacy of decisions rests, at least in part, with those who are affected by them and "who ought to have a chance to participate in deliberation about the outcome." (Drysek, 2004 p77). This extends the democratic principle as decision-making is no longer restricted to elected representatives, operating in a context governed and shaped by technical expertise, but open to wider participation.

Deliberative democracy is an important concept as it is seen to offer a corrective to modes of governance that have led to the current environmental and legitimation crises. These have been attributed to the twin demands of Enlightenment rationality: instrumental rationality and objectivity (ibid p4). Both can be seen in MTP decision-making. Instrumentality describes the governmentality of appraisal methodologies such as CBA that create rationalities directed towards a specific end, in this case the maximisation of monetised and monetisable benefits. This supports the latter, the demand of objectivity, as it assumes that such methodologies provide an objective measure of benefit. Furthermore, instrumental rationality can be seen in the forms of participation criticised by post-political arguments. This is because participation in decision-making must operate within the bounds of a neoliberal rationality that defines market institutions as the primary means by which public interest is defined and delivered. Deliberative democracy is suggested as an alternative to forms of participation that are oriented towards state and market institutions. That is in the sense that it is (particularly with MTPs) inevitably private or public bodies that are seeking to solicit participation. Deliberative democracy (or discursive democracy, the term used by Dryzek), in contrast, is seen as oriented towards the public sphere a realm distinct from state and market (ibid p23).

Public deliberation has been defined as;

> "a dialogical process of exchanging reasons for the purpose of resolving problematic situations that cannot be settled without interpersonal coordination and cooperation" (Bohman, 2000 p27)

Alongside Dryzek's location of this form of democracy within the public sphere this definition further locates deliberation within 'problematic situations' with interpersonal communication

providing the method whereby these problems are resolved. It is difficult to discuss deliberative democracy without reference to the Habermassian concepts of ideal speech and communicative rationality. The latter is characterised by the free open discussion in which all relevant individuals are able to participate with final decisions taken on the force of the better argument rather than any form of coercion (Edgar, 2006 p23). This is predicated on Habermas' notion of 'ideal speech' a concept that has its origins in the American Pragmatist philosopher Charles Saunders Pierce's 'community of enquiry'. Here there can be no imbalance of power between participants and no one can force their ideas on anyone else. No one can be excluded from discussion or prevented from raising challenges and objections (ibid p65).

Such concepts have been dismissed as utopian and idealistic in failing to reflect the reality of communication dominated by power (Flyvbjerg, 1998). Certainly they appear to set a high bar for legitimate decisions. To fully understand the centrality of these, relatively early, concepts would require more detailed analysis of the large body of work Habermas is still producing than there is space for within this thesis. Nevertheless, more recent work appears to take a less dogmatic view of the deliberative paradigm. Following Bohman he ascribes the democratic process of the generation of legitimacy as dependent upon "(a) publicity and transparency for the deliberative process, (b) inclusion and equal opportunity for participation, and (c) a justified presumption for reasonable outcomes" (Habermas, 2006 p413). This appears to adopt the principles of communicative rationality and ideal speech in a language that is harder to dismiss. There is still considerable space for debate over the practical implications of these preconditions. For example, how far can inclusion and equal opportunity to participate be practically extended. Notwithstanding this the above principles are ones that, one would hope, would be hard to dispute.

The 'epistemic dimension' to democratic procedures (Habermas, 2006) is critical here. This is the way that (particularly deliberative) democracy provides not only a means of deciding but also a means of knowing. Democracy can be seen to perform two functions (Parkinson, 2003 p189) selection and choice-making on the one hand and information-gathering on the other. The former is the most obvious as it concerns the selection of representatives or the choice between options in referendums. It is the latter that is most relevant to deliberative democracy. It is tempting to ascribe deliberative democracy purely to the information-gathering function. It might appear to avoid the criticisms of ideal speech and communicative rationality by setting high standards for the gathering of information whilst accepting more realisable standards for actual decision-making. Yet to do this would be a mistake. To understand why, it is helpful to explain the information gathering function of democracy in more detail. Analysis of almost any decision-making process will reveal some discussion of different interests and positions. Power is rarely absolute or exercised without some means of

balancing interests, this requires a process for knowing what those interests are. In the democratic process in the UK there is clear space within the legislative process for deliberation prior to voting. Democracy rests on rights such as freedom of speech and association and it is through speech and association with others (such as within political parties or interest groups) that representatives gain some of the information they require to make decisions.

Yet there are areas where decisions are *taken* by deliberative means. Most notably in the courts with trial by jury where in some serious cases a unanimous verdict (complete consensus) is essential for a decision to be made. It is important for a strong democracy to retain the principle that in some circumstances informed citizens can and will take rational decisions. At its best it can combine the information-gathering and decision-making functions and there is a growing body of evidence of where deliberative mechanisms have been applied to solving complex problems. Hajer and Waganaar (2003) bring together numerous examples from Europe and the United States and Canada; Mackenzie and Warren (2012 pp95-124) cite examples from British Columbia of the involvement of Citizens Assemblies and 'deliberative public engagement' in science policy and constitution writing in British Columbia; and in the UK Mohr et al. (2013) have examined the contribution made by 'publics' in science policy making). This is not to underestimate the practical problems of deliberative decision-making yet to dismiss it completely would be to make the mistake of rejecting an ideal because it is not matched by reality.

'Input-oriented and output-oriented legitimacy'

In understanding; the substantive and procedural critiques of megaprojects; the distinction between a (potentially technocratic) representative politics (or post-politics) on the one hand and a more deliberative, participative form of democracy on the other; and the distinction between open and closed decision-making discussed below; a central concept within this thesis is Fritz Scharpf's (1999 pp8-13, 2003 pp5-6) description of input and output-oriented legitimacy. Scharpf examines one area that draws similar allegations of democratic deficit, the transnational, multi-scale decision-making of the European Union (EU). He argues that *input-oriented legitimacy* favours deliberative inputs based on notions of procedural justice (ibid). This brings in the procedural questions of *how* decisions are made. In the case of MTPs these questions concern who is allowed to participate in decision-making and who is excluded, whose inputs are considered as rational, unbiased and valid and whose are considered irrational, self-interested and invalid.

Output-oriented legitimacy emphasises the quality of *institutions*, their ability to solve common problems, and the fairness of rights or resources distributed through a decision-making process. In contrast this is based on notions of distributive justice (ibid). Scharpf

argues that at the level of the EU the input legitimacy of deliberative decision-making, dependent upon the 'pre-existing thick-identity' (1999 p8) of the community, family or trade union for example, is no longer viable. The thick identities that he sees deliberative democracy as dependent upon can be exclusive and narrow. This is in contrast to the thinner or looser collective interest articulated through representative democracy. At this scale these thin, broad based interests can be more effective in, for example, controlling the externalities of market transactions. These broad based interests can gain legitimacy as long as there is the perception of common interests that is broad and stable enough to justify *institutional arrangements for collective action* (ibid p11). When applied to MTP decision-making the argument follows that if the outputs or products of a decision-making process largely meet the needs of broad publics, delivering goods and institutions that are in the public interest, then legitimacy can be claimed through the output-oriented mechanisms of representative politics.

In isolation Scharpf's two forms of legitimacy describe different tendencies within the practice and institutions of the liberal democratic state. Yet once this is considered in the light of the post-political critique of these institutions the dynamic between input and output-oriented legitimacy takes on a different significance. If, rather than institutions for collective action in order to meet common interest, institutional arrangements favour the narrow interests of the neoliberal state, then what exactly do these arrangements represent? As Raco (2013) suggests the delivery of outputs through the handing over of complex urban projects to private sector expertise may come at a price. Whilst on the one hand these delivery networks can mobilise significant capacity. Not simply the capacity to deliver but furthermore to take the 'loosely articulated priorities' (ibid p193) of the state and define the nature of outputs that are delivered. On the other hand political input becomes regulated, mitigated and controlled. Political participation becomes a 'risk factor' to be managed rather than embraced (ibid p194). The price paid in this context is that, in the haste to construct institutional arrangements that can ensure the delivery of *substantive* outputs, these arrangements ultimately regulate and inhibit public participation in decision-making.

The consideration of options

Given the focus on the early stages of MTP planning and appraisal in this thesis these stages of the project in which options are developed and selected are of particular significance. Both Samset (2008) and Priemus (2008) identify this timeframe as critical. Yet there is often a question of when the initial stages of a project commence. As the history of the Channel Tunnel (Gourvish, 2006), and likewise the Oresund Link, show the 'early stages' of a project can last for some time, in both cases over 100 years. Taking a project manager's view of the project lifecycle Samset (2008) identifies three phases (the front-end phase, planning and implementation and operation, from the initial concept). However he sees project management

as subordinate to a political process prior to this in which needs are articulated through a dialogue with various stakeholders (ibid p176). It is this early stage that is considered essential both for legitimacy and for the quality of the initial concept that is developed in the front-end phase of the project. The Norwegian approach outlined by Samset requires the development of three alternative options. The selection of one of these options is a political choice and not one made by civil servants or project promoters. He acknowledges that there is still a question of what counts as an option, for example, this could see three that are similar such as three alternative bridge designs or on the other hand it could see three radically different options a fixed link, a ferry service or demand management. However this approach does force a transparent consideration of options particularly as each has to be prepared to the same level of specification to avoid an obvious front runner.

For Hugo Priemus (2008) the Dutch experience points towards similar conclusions. Here a thorough analysis of the initial problem that a project is conceived to solve is essential (Priemus, 2007). He points out that problems and solutions are perceived differently by different parties and that establishing a strong consensus ensures the selected option will be endorsed by as many parties as possible in later stages of the project (Priemus, 2008 p107). Yet as he points out in both the Betuwe Freight Line and HSL-Zuid (a high speed passenger line) the consideration of options was deficient with variants either not considered at all or one option fixed upon at an early stage (Priemus, 2007 pp641-642). In the Dutch examples the dynamics behind this tendency to fix on a single option early in the process differ in each case. One clue as to why this occurs comes from another study of an infrastructure project. In the case of the South Wales Gas Pipeline Groves et al. (2013, p344) observe the way in which problems are defined purely in terms of facilitating economic growth. The technical advice of private sector experts combines to create a powerful 'narrative of necessity' (Owens and Cowell, 2011 p15) that closes off alternative options and invites distortion.

Open and Closed decision-making

The importance of the early stages of decision-making illustrates a critical dynamic within any decision-making process. This relates directly to the dichotomy between a focus on substantive outputs and deliberative inputs. This is the need for both openness and closure identified as an important tension in MTP decision-making (OMEGA Centre, 2013a). On the one hand there is a need for an 'open systems' approach. This is one that takes in information on competing values and interests, desirable outcomes and ones that are to be avoided. This is essential "as a result of their continuous interaction and interdependency with the changing 'context(s)' they serve, traverse and impact upon" (ibid p18). Yet closure is still an "inevitable, necessary and desirable" feature of decision-making (Stirling, 2008 p285). It is required in

order to take any decision, be that to select an option, to commence with or abandon a project. Nevertheless undue or overly rapid closure can be problematic, an issue that is of particular relevance to the following case study. Opening the process to multiple inputs has been identified as important for legitimacy, trust and the robustness of final decisions in the planning phases of mega infrastructure projects (Salet et al., 2013) and in the process of appraisal (Stirling, 2008). Open decision-making may be ultimately more compatible with democratic institutions (ibid p281) and failure to appreciate this may undermine those institutions.

2.3.5 Learning and megaproject decision-making

The final critique of megaprojects found in the literature concerns the way in which these huge socio-technical endeavours generate considerable knowledge. This should be captured and used for public benefit (given the role of the state in financing many of these projects) as this knowledge is essential in order to improve future planning and delivery. Given the increasingly complex context into which MTPs are delivered and the need to provide the infrastructure for less carbon intensive forms of transport, the need is all the more pressing. As the Dutch examples discussed above illustrate the practices of fixing on a solution can lead to more robust options being missed or excluded. This may be, in part due, to the governance practices discussed above yet institutional arrangements also play a role creating path dependency and locking in practices and behaviours (Curtis and Low, 2012). Nevertheless these institutional arrangements are not fixed.

> "Institutional meaning [and, one might add, governmental practice] has to be internalized in the minds of participants in order for it to become effective." (Salet et al., 2013 p1990)

The process of learning for institutions and individuals challenges this process of creating meaning. Planning as learning has a long heritage in this respect (Schmidt-Thome and Mantysalo, 2013; Salet et al., 2013). This is born out of the way in which planning has sought to control complex environments of which it is impossible to gain comprehensive knowledge. This necessitates a continuous learning process akin to that of an individual as they learn to adjust, adapt to and ultimately shape complex circumstances (Schmidt-Thome and Mantysalo, 2013 p122). It is in response to conflict and specifically the conflicting preferences and values, particularly in the early stages of MTPs when options are considered (or not), where one sees this potential for learning. It is in these circumstances that the 'transformative potential' such learning exerts on institutional arrangements may be realised (Salet et al., 2013 p1990).

A decision-making process that is open to inputs; one that regards deliberation as a means of acquiring information and making choices about how to respond to the complex social, economic and environmental context contemporary MTPs respond to; must surely reflect a capacity to learn. It may well be that many of the substantive and procedural critiques of MTPs could be meliorated by a greater degree of genuine openness. Why this has yet to be observed is indeed a puzzle. One, troubling answer may be found in the OMEGA Centre study. The evidence here is that where there has been learning it has not been directed towards understanding how to define or deliver public benefit in complex contexts. Rather it has been "jealously guarded for commercially competitive gain, often ultimately at the expense of the public purse" (OMEGA Centre 2013a p31).

Summary

This chapter begins to establish the premise that in order to interpret the legitimation of decisions in this case one requires a conceptual framework that situates the key concept of *input* and *output-oriented legitimacy* in relation to questions of (procedural or distributive) justice and (open or closed) styles of decision-making. Closed decision-making is of particular significance as it leads to allegations of technocratic governance styles that are hostile to democracy and conceal the essential political nature of decisions. This is directly relevant to the study of MTPs which are, by their very nature, shaped by decisions based upon expert knowledge which may, under certain circumstances, adopt a technocratic character. MTPs provide a context in which many questions concerning the relationship between state and market institutions, different types of knowledge and the type of democratic institutions required by late modern societies are played out. This relates back to the conceptual framework through the key criticisms of megaproject and MTP decision-making in the literature; the (substantive) critique that they fail to deliver on their promises, and the (procedural) critique that decision-making occurs within a democratic deficit.

Chapter Three: Legitimation and a concept of civil society

> "What is true is that the quality of our political and economic activity and of our national culture is intimately connected to the strength and vitality of our associations." (Walzer, 1991 p6)

3.1 The manifold roles of civil society

In the controversy that surrounds many MTPs one type of civil society action is often the most prominent. The actions of civil society organisations can be seen to be establishing what Dewey described as "certain dikes and channels so that actions [of decision-makers] are confined within proscribed limits" (1927 p53). Through protest and opposition, groups are seeking to constrain and 'confine' decisions within socially acceptable limits. Yet a quick glance at the role of civil society in the governance of late modern democracies reveals something much more than simply checking the actions of public or private decision-makers. The interests of citizens and particularly the organisations they form can reach much further. Civil society is increasingly involved in the co-production of public goods. It *delivers* housing through housing associations, education through free and public (private) schools, social and medical care through charities that provide for the elderly and those with disabilities. Civil society also provides economic development through development trusts and social enterprises in addition to the manifold local associations clubs and societies that manage public resources such as green spaces and playing fields. Some of these organisations are avowedly political, others less so. Some receive most or all of their income from the state others generate income from private donors or their own enterprise. In short, it would be a grave mistake to ascribe only a single role or set of roles to the multitude of activity undertaken within what could be termed civil society.

Defining the 'loose and baggy monster' (Kendall and Knapp, 1995) that is variously, and often interchangeably, described as non-governmental organisations (NGOs), the voluntary sector or third sector is notoriously difficult. In an attempt to encompass the different facets and to achieve an appropriate level of exactness this thesis has adopted the overarching term civil society. Walzer's definition of this as "the space of uncoerced human association and also the set of relational networks" (1991 p1) is sufficiently broad. Yet there is a need to further develop this in order to establish an applicable concept and to guide this enquiry; a task taken up in this chapter. This narrows the multitude of roles played, specifically by civil society organisations (CSOs), to a few that are significant for this thesis. Prior to this, in light of the

emphasis on the role of legitimacy and trust, it is necessary to consider one particular role played by civil society. This is Habermas' concept of legitimation, the legitimising of state power through rational critical public discourse. Following this there is a discussion of the importance of the Pragmatic philosophy (or method) that provides a normative, philosophical lens through which this thesis views the case study and findings of the research. Finally the chapter concludes with an examination of the literature on technocratic governance styles as, given the focus on the role of experts and expertise in this thesis it is important to consider exactly what is meant by the term.

3.2 Legitimation

According to Habermas (1989) and Dryzek (1995) legitimation occurs through deliberation and the active involvement of publics in decision-making. Essential to this process is the idea of reason, and that power, of the state, is subject to and legitimated through 'rational-critical public debate' (Habermas, 1989 p28). Two important concepts are central to the understanding of this process first, the concept of a *public* (or publics) and second, that of the *public sphere*. These are institutions in the broadest and loosest sense of the term, practices of social life rather than formal constituted bodies. Yet it is important to note that there is a continuum between these institutions that support the associational and relational networks described by Walzer and the formal CSOs that deliver the range of public goods and services described above. To illustrate this point one can imagine a group of citizens coming together to support or oppose a situation in their neighbourhood or the world at large. What begins as an informal association or set of relations may become organised and form organisational structures. Some of these structures may remain within civil society, they will form the charities, associations and campaigning organisations that are features of public life. Some of this activity will be directed towards the state and seek to expand its role in governing the economy. Yet they may also seek to engage in economic activity, fundraising or trading for a social purpose, in order to provide goods or services that they believe are not currently available.

Publics

The Deweyan concept of a public gives institutional form to the idea that those who are affected by a decision, in Dewey's terms those who have an interest, should be able to participate in decision-making. In *The Problem of the Public* he casts the net wide to include all those effected by the consequences of 'a transaction', decision or proposal;

> "Sometimes the consequences are confined to those who directly share in the transaction which produces them. In other cases they extend far beyond those immediately engaged in producing them... In the first, interest and control are limited

to those directly engaged; in the second, they extend to those who do not directly share in the performance of acts. If, then, the interest constituted by their being affected by the actions in question is to have any practical influence, control over the actions which produced them *must occur by some indirect means*". (Dewey, 1927 p35 emphasis added)

This is a valuable concept as it describes the way decisions create not only consequences but they also 'constitute' publics. Specifically, the public is formed from those who are affected but not directly involved as part of the decision-making process. Individuals, by virtue of the fact that they have interests that are affected by a decision, form a public. Once they seek to come together in associational networks, or establish new organisations they seek to exert control over those decisions. This is the 'indirect means' by which a public seeks exert influence.

In complex technical decisions of the type made by advanced democracies when they make choices on costly disruptive infrastructure projects the public may not be able to define all the consequences. Rather they seek to constrain the actions of decision-makers within a set of limits, in short the public defines which costs are acceptable and which ones are not. As Dewey puts it;

> "It is rather the public itself, being unable to forecast and estimate all consequences, establishes certain dikes and channels so that actions are confined within proscribed limits, and insofar have moderately predictable consequences." (Dewey, 1927 p53)

Nortje Marres (2007) has explored the well-known debate between John Dewey and the journalist Walter Lippmann over how and whether publics can be involved in complex technological decisions. Lippmann argued that modern society had become too technologically advanced for the public to be involved. Instead he called for an intellectual elite to manage complex, technical and scientific issues. In contrast Dewey, an advocate of science and scientific rationality, saw the solution in more participative forms of democracy as technical issues were not some unique class of decision separate from the rest of human experience. Both Dewey and Lippmann acknowledged that under some circumstances the resolution of technical problems necessarily takes the form of democratic politics. Marres uses the term 'public issues' to describe these solvable problems (ibid p768). Yet Dewey did not assume that our existing democratic institutions were sufficient to address these 'public issues'.

> "According to Dewey, publics come into being as an effect of changing consequences of human action, *which existing institutions cannot accommodate*" (Marres, 2007 p769 emphasis added).

This points to the role of the public in forming the new institutions necessary to manage complex technical problems.

> "Dewey argues…that in technological societies issues continuously arise that prove resistant to settlement within existing institutional arrangements. This leads him to adopt an experimental approach to institutional design, in which political institutions must be continuously redone." (ibid p777)

An example of this is the way campaigners such as Dickens called for (Wolmar, 2008 p147), and eventually achieved greater regulation of the railways, expanding the role of public bodies such as the Railway Inspectorate. It is this inability of existing institutions to accommodate publics formed by decisions that creates a role for civil society. It is within civil society that publics form new organisations and adopt Dewey's 'indirect means' of influencing decisions. These 'extra-institutional practices' Marres highlights play an 'indispensable role' (2007 p777); this role is both defining the issues thrown up by technical decisions and establishing the institutional frameworks to resolve them.

There is one final feature of the concept of a public that is valuable for a theory of deliberative democracy. This is the way the focus on resolving specific issues moves deliberation away from the assumption that it is a mechanism for governing society as a whole. Deliberative democracy may draw many of its principles from the face-to-face democracy of ancient Athens, yet few would want to return to this model. The concept of a public 'decentres' deliberative democracy (Bohman, 2004 p25) which no longer has to explain how it would be the *central* mechanism for governing complex plural societies. Rather it becomes a mechanism for addressing and developing the necessary institutions to solve specific problems. There is already evidence of this approach being explored within policy making in the UK for the way it allows the reframing of complex scientific and technical issues and contributes to more open decision-making (Mohr et al. 2013 p14)

The public sphere

Whilst the concept of a public is useful in understanding the responses to technical decisions or proposals the concept of a public sphere explains the way in which these are directed towards the state. For Habermas the space in which legitimation occurs is a 'public sphere' of private individuals forming together as a public in response to the state (Habermas, 1989). A product of the Enlightenment the *Bourgeois Public Sphere* evolved in response to the decline of absolute monarchy and as a consequence of the separation of the state from the person of the monarch (ibid p19). The original elite participants, the radicals of the Enlightenment, saw themselves as opponents to the public authority which was at that time vested in the *ancien regime.* These early democrats were seeking to constrain and curtail state power through

rational political discourse (Calhoun, 1992 p9). Yet this *Bourgeois* sphere was transformed into the 'contemporary public sphere' under the tensions of its internal inconsistencies. On the one hand it established a mechanism for the formation of public opinion (via critical debate) the establishment of general interests, and the 'dissolution of domination' into reason (ibid p88). On the other hand it was elite and exclusive with membership restricted to the male bourgeoisie: 'men of letters' such as Dickens. A public sphere whose membership was restricted to property owning heads of households was transformed in the face of the mass participation in politics of the Twentieth Century. This was inconsistent with the principles it established. Defining *general* interests (that is interest that are general to the population as a whole) and dissolving domination were incompatible with the restriction of membership to a bourgeois elite.

The notion of a 'legitimatory system' (Habermas, 1975 p49) connects the decision-making of the contemporary capitalist state to the associational networks of civil society as these provide (or withhold) the legitimacy state decisions ultimately depend upon. This is due to the need of governments to make themselves rationally accountable to the people (Edgar, 2006 p86). As he argues in *Beyond Facts and Norms*;

> "The core of civil society comprises a network of associations that institutionalizes problem solving discourses on questions of general interest inside the framework of organized public spheres." (Habermas, 1996 p306)

The concept of the public sphere is important as it comprises of a whole range of communication, of which this political will and opinion formation by citizens represents a small part. Habermas is pessimistic about the contemporary public sphere which he sees as depoliticised, dominated by mass media and advertising: a realm in which critical political debate has given way to mass consumption. The majority of the public sphere, the space not taken up by the deliberation of citizens, is filled with advertising, propaganda and political rhetoric. Yet despite this Habermas still sees it as an "organizational substratum of the general public of citizens made of citizens who seek acceptable interpretations for their social interests and experiences and who want to have an influence on institutionalized opinion- and will-formation." (ibid p368). What this conception of the role of institutional forms within civil society begins to do is to connect the uncoerced and self-organising activity that occurs within civil society to the process of political decision-making through communication.

The public sphere, when not taken up with deliberation, may well be passive; dominated by the mass media, rhetoric and propaganda. Yet it has the potential to shape the decisions of the state;

"In periods of mobilization, the structures that actually support the authority of a critically engaged public begin to vibrate. The *balance of power between civil society and the political system then shifts.*" (ibid p379 emphasis added).

Habermas may be justifiably criticised for the way in which his account ignores the role of the working class and women in establishing many of the institutions on which the public sphere depends, a free press for example. Yet what he successfully achieves is the identification of the foundations of the normative ideal (Calhoun, 1992 p39-40); that communication through critical public debate, based on reason, is the key to both overcoming domination and establishing general interests as a standard against which processes of legitimation are measured.

3.3 Towards a concept of civil society

As discussed in chapter one, in the UK with the Big Society (Cabinet Office, 2012) and also globally the involvement of civil society in politics and policy making is seen by some as increasing. At the end of the Twentieth Century a large transnational study amassed evidence of a 'global associational revolution' characterised by a massive upsurge in voluntary activity across the world attributed to the growth of the middle classes and the communication revolution (Salamon et al., 1999 p4). This is set against the 'crisis of the state' referring to the inability of modern states to cope with the combined problems of development, social welfare and environmental protection. Then, it was seen as offering an alternative to the neoliberal consensus. Salamon et al. highlight the importance of civil society *institutions* and the way they "give expression to citizen concerns, hold governments accountable, promote community, address unmet needs, and generally improve the quality of life" (ibid p38). Over a decade later, with the surprising persistence of the neoliberal consensus and another global economic crisis, the relevance of civil society, is if anything greater (Crouch, 2011 pp145-161). In light of this recent policy initiatives in the UK − David Cameron's Big Society (Cabinet Office, 2012), the Localism Act, produced by the Department of Communities and Local Government (DCLG, 2011) and the previous government's 'Empowerment Agenda' (DCLG, 2009) – may be criticised as tokenistic or marginal. Yet they represent an ongoing trend with policy makers increasingly interested in a greater role for civil society both *politically* and *in the delivery of public goods and services*.

As discussed, it is notoriously difficult to define civil society, as an institution it has porous and indistinct boundaries. Dewey's concept of a public and Habermas' public sphere are useful mechanisms yet they provide only a vague outline. Walzer's definition of associational and relational networks has the value of breadth yet at this level civil society also dissolves

into family and friendship networks. Furthermore, other boundaries can be equally difficult to define. CSOs deliver functions of the (welfare) state such as housing, health care and economic development and receive public money for doing so. CSOs are likewise often active within the market producing and trading goods and services albeit in support of a social purpose. The relationships between civil society and the state and to the market are the two key facets of civil society for this thesis. This is as the problems of MTP decision-making, identified in the literature, hinge upon the relationships between state and market actors with civil society proscribed as a remedy; notably to the problem of transparency (Flyvbjerg et al., 2003).

A single concept from the literature that fits the purpose of this research has proved elusive. This thesis takes the normative stance that civil society *should* play a greater role in decision-making. Yet what might that role be? Should it be purely political, seeking to constrain the actions of decision-makers, defining the issues and setting the boundaries for decisions? Or should it be *economic*, are there goods and services that are not presently provided by state and market institutions? This latter point may seem strange given the huge resources MTPs required. The scale may appear to rule out significant involvement of civil society. Notwithstanding this it is important to remember that not all CSOs are small, poorly resourced or lacking capacity to participate in the governance and delivery of MTPs. Since the 1980s there has been a 'sea change' in the policies of both Conservative and Labour (and also the Coalition) governments that see a shift towards CSOs as partners in delivery and decision-making at a national and local level (Taylor and Warburton, 2003 pp327-328). For example, civil society delivers the majority of what was public (now social) housing in the UK. If the regeneration benefits that are often sought are considered, then there is scope for the involvement of organisations that promote local economic development. There is the appraisal of environmental impact and the management of mitigation measures. In international development NGOs can be seen to play a role in supporting initiatives seeking to ensure good governance of major infrastructure projects, for example funding economic and environmental impact assessments (Clark, 1995 p594).

The need to distinguish between the political and economic roles of civil society comes primarily from the requirement for a broad definition of what is meant by the term *economic*. Weber identified economic action as a distinct category of social action concerned with the control over resources. (1978 pp62-65). Whilst he saw this as necessarily including modern, commercial, for-profit business enterprises this definition also includes activity that predates the capitalist economy concerning the satisfaction of 'utilities' (ibid). The term has come to be associated with the capitalist economy where the satisfaction of utilities is primarily

achieved through interaction with for-profit enterprises. Yet it is important to acknowledge that these enterprises are not the sole producers and managers of resources. Historically the state has also been a provider of resources although modern states achieve this through interaction with commercial enterprises. The need for a broader definition of economic activity, in this case, comes from the focus upon civil society as a producer of resources. Crucially this is economic activity that is not always governed by the profit motive or market values. Again the need for a distinction between economic and *political* is acknowledged by Weber (ibid p63). For Weber political action concerns the use of force however the concept adopted here, one that is more appropriate to a context where violence is not a significant feature of the conflict; *political* refers to the exercise of power, either by or directed towards the state. This is important as it distinguishes one role for civil society identified by Flyvbjerg et al. (where transparency is ensured by the participation of civil society holding the power of the state−or private actors− to account) from activity concerned with the provision of goods and services.

In order to develop a concept that takes into account both the *political* and *economic* roles played by civil society this thesis has sought to synthesise the work of two pairs of important theorists. Those who focus more on political relationships describe "a sphere of social interaction between economy and state" (Arato and Cohen 1994 p *ix*). The concept developed in this study takes from Arato and Cohen the notion of a political civil society which provides far greater scope for democratisation of institutions and decision-making than either state or market (ibid p417). In contrast there are those that focus more on the economic role for civil society and its relationship to the market (and economic activity in its widest sense) and who talk in terms of a 'third sector';

> "simultaneously influenced by state policies and legislations, the values and practices of private business, the culture of civil society and by the needs and contributions that come from informal family and community life. What is different with third sector organisations, then, is the fact that they represent and balance a plural bundle of norms and values" (Evers and Laville 2004 p5)

Both concepts share the notion of a space between state and market. Yet the difference lies in the boundary between civil society, market and state. It is important to understand the differences and similarities between the work of Arato and Cohen on the one hand and Evers and Laville on the other. Therefore, the following sections examine first the relationship between state and civil society, predominantly through the work of the former and then between civil society and the market through the work of Evers and Laville.

3.3.1 The political role

For Arato and Cohen civil society plays a mediating role *between* state and market (1994 p *xi*). The 'antagonistic relationships' that can be seen in the opposition to MTPs occur;

> "only when these mediations fail or when the institutions of economic and political society serve to insulate decision making and decision makers from the influence of social organizations, initiatives, and forms of public discussion." (ibid)

When they use terms such as 'public discussion' they are referring directly to Habermas' ideas of communicative rationality discussed in the previous chapter. Deliberation is governed by the twin principles of *universality* and *autonomy*. They define *universality* as the interpretation of needs and interests, and the unbiased moral testing of principles, something that must be freely articulated. It also requires participants in a discourse to be open to a multiplicity of perspectives (ibid p21). The *autonomy* they refer to is not that of an atomised individual. It is based upon the assumption that shared identities are acquired through the adoption of social norms and developing critical capacities with regards to norms. It is a theory that has "at its core an intersubjective, interactive conception of both individuality and autonomy" (ibid).

Arato and Cohen' conception of civil society is as a space in which the type of conflicts and issues reflected in MTP decision-making can be worked out, not simply conflicts over technical issues but much deeper disagreements over norms and values. This is through open, critical, discussion in which any individual (who is at the same time defined by the membership of a community) may participate. For them conflict represents a breakdown of the relationships between civil society, state and market. As with Habermassian ideal speech this is open to criticism as naive or setting unrealistically high standards. Yet from the perspective of a study into the contribution civil society might make to decision-making it holds out the prospect of a space and a mechanism by which issues and norms can be defined. Central to this is the idea that decision-makers are not insulated from the influence of social organisations. If nothing else this offers a solution to the allegation that the relationship between state decision-makers and market organisations is too close. Other valuable components of this concept of civil society are the importance of a multiplicity of perspectives ensuring that it is not exclusive, undemocratic or inherently conservative. Finally, the intersubjective concept of a person as inseparable from a wider community offers an alternative to the neoliberal view of a 'free, possessive individual' (Hall, S. 2011).

The relationship to representative politics

In the face of the legitimation crisis discussed in the previous chapter civil society is seen by some as offering a complementary form of participative politics balancing the dominant

representative form of democracy (Buček and Smith, 2000 pp2-3). In contrast to political parties that seek representation across a broad range of issues, civil society appears to be more issue based. This is not problematic in itself indeed it may be a strength as long as a plurality of interests and issues are represented. Following Habermas, Arato and Cohen favour more participative forms of democratic engagement as a way to "maintain the democratic character of the political culture or of social and political institutions." (Arato and Cohen, 1994 p19). They are positive about the role of social movements in exerting influence over representative democratic institutions endorsing normative principles of participatory democracy. Yet rather than seeking to locate the 'genesis of democratic legitimacy' in some idealised conception of a polity (one that is erroneously based on notions of how democracy may have been practiced in ancient Athens) they locate it instead within the 'highly differentiated' and plural civil society that one finds in advanced democracies (ibid).

Whilst the theory of Arato and Cohen provides a concept of civil society that stresses its role as a space for deliberation, political will formation and participative politics this is an ideal. It may be a valuable one, nevertheless it only partially describes the range of political activities undertaken by CSOs. In order to gain a clearer picture, it is also necessary to examine more empirical work on the involvement of civil society in politics and policy-making. It is important to note that this is highly context dependent and differs between countries and even sectors. What differences do occur are a product of different political discourses and welfare states (Casey, 2004 p242). Regimes differ in their openness with variations in the strategies adopted by CSOs in different national contexts. For example, an open regime can be seen as characterised by more attempts to lobby directly and to pursue 'assimilative strategies' by working directly with the existing public bodies such as political parties and state bureaucracies. In contrast closed regimes elicit more confrontational responses characterised by public demonstrations and civil disobedience (Kitschelt, 2009 pp68-69). Lobbying political parties via informal 'old boys' networks is identified as a feature of the UK's political environment (Casey, 2004 p243) with a distinction between *insider* and *outsider* organisations (ibid p252). This reflects differences in strategies with the larger, often the national CSOs, generally characterised as *insiders.* For example, larger environmental charities can be seen to have good access to policy circles and they tend towards lobbying rather than focusing wholly on protest (Rootes, 2009 p26).

Protest and opposition

The concept of civil society developed in this thesis has sought to look beyond the protest and opposition that are often the most visible features of the civil society response to MTP decision-making. Nevertheless, it is an important aspect of the political role ensuring there is both scrutiny and challenges to decisions. Internationally there are numerous examples of

protests some of which have produced improvements. In the case of the French *TGV Med*, often cited as an example of good practice (Flyvbjerg et al., 2003 p114; Smyth, 2013), considerable public opposition led to significant innovations in planning that saw the development of new decision-making structures facilitating greater participation. Innovations such as the establishment of a 'College of Experts' to arbitrate on technical matters, produced a project generally considered to be a technical, architectural and economic success (Leheis, 2012 p37). While it is unclear how many of the innovations were reactive (also they have not been applied to other projects) it appears that in this case the balance of power shifted in favour of the local authorities and local communities away from the infrastructure promoters and providers (ibid p 44).

Boston's 'Big Dig' provides a mixed picture of civil society involvement. National and regional NGOs were involved at some levels and at some times. The development of options was a closed process with numerous options (one for each letter of the alphabet) developed behind closed doors before 'Scheme Z' was presented to the public (OMEGA Centre, 2013c p8). During other phases of the project following a change in political leadership more participatory processes were adopted. A Bridge Design Review Committee was established with 42 stakeholders represented including regional, national and local environmental groups alongside citizen groups and representatives of professional and business interests (ibid p19). There is also the allegation that there has been a transformation of the mitigation process into a political arena that goes "well beyond the amelioration of harmful impacts" (Altschuler and Luberoff, 2003 p233). Something that suggests rent seeking is not restricted to private sector actors with local interests and environmental groups also seeking to extract benefits from publicly funded projects.

There is evidence from Italy that the opposition to high speed rail can open up fault lines between local and national organisations. This can be seen reflected in politics with local environmental movements seeking to de-legitimise the political class with allegations of corruption whilst remaining close to, and influential upon local level politicians (Della Porta and Andretta, 2002 p64). The political conflict was framed in terms of a struggle between centralised and local decision-making with local political institutions allied to the protests in some cases (ibid p60). In open phases of policy making these local political actors gained legitimacy through their ability to change elements of the proposals and achieve concessions. Yet this opportunity decreased as decision-making became more closed and centralised (ibid p74). This case also shows a local and national split within the protest movement with local groups more likely to express what are termed NIMBY (not in my back yard) interests with national bodies more interested in institutionalising themselves in order to be able to address wider environmental issues (ibid p70). This split is characterised by bureaucratisation of the

larger NGOs with good connections to decision-makers, anxious to preserve these in order to retain influence on policy making as part of a wider game. In contrast to this the local groups stressed their participatory nature yet lacked institutional power (ibid p75). The final important dynamic highlighted by Della Porta and Andretta, is the way in which the opening and closing of the policy process affects the dynamics of publics organised in response to the issue. In particular, the way in which openings in the policy cycle see more cooperation between both national and local CSOs and local government (ibid p73).

Examples of other, smaller, infrastructure projects in the UK point to the way civil society opposition has functioned in this country. In responding to the South Wales Gas Pipeline, a project deemed to be in the national interest, local groups can be seen to question "in public the strategic social priorities behind the project as a whole at the same time as linking local impact concerns across different sites" (Groves et al., p350). In the UK context, key infrastructure decisions on risk and need are no longer located in the public sector but rather among regulators and private bodies such as National Grid plc, in which strategic decision-making is largely the domain of technical experts governed by market principles. This leads to a process where the consideration of social and environmental impacts is at a low level (ibid pp343-4). The response of local groups has been to challenge the dichotomy between national interest and local impact seeking to challenge the definition of need, the 'narratives of necessity' (Owens and Cowell, 2011), as something defined by private economic interests. They have sought to reframe the debate;

> "this was not between a fixed national interest and local interests. Instead, it was between the role of essentially unaccountable, private commercial interests in shaping the national interest and the proper contribution which diverse localised community interests (in place, amenity, safety, etc.) could make to shaping assessments of national need." (Groves et al., p354).

What is particularly significant is the way local opposition does not stay at the local level. Local groups have demonstrated the ability to take on the strategic and technical basis of arguments for infrastructure projects. These groups 'cross scales' (ibid p350) or challenging the definitions of national interest and the rationalities that underpin them. This case suggests national interest and exactly who benefits are less clear under neoliberal regimes. As infrastructure systems 'splinter' (Graham and Marvin, 2001) benefits may not be comprehensive, to the nation as a whole, but may accrue only to small groups.

Increased rights to participate

Counter to, and yet running alongside, this trend towards decision-making becoming distributed amongst agencies, private sector and hybrid bodies is an increasing body of legal

rights to participate in decision-making. In the UK planning process for Nationally Significant Infrastructure Projects there is considerable emphasis on 'extensive consultation' in the pre-application phase (National Infrastructure Planning, 2014). Government guidance is that consultation "must take place at a sufficiently early stage to allow consultees a real opportunity to influence the proposals" (DCLG, 2014). The dynamic inherent within the changing relationships between formal institutions and civil society, as decision-making becomes more distributed, has been a feature of UK governance and policy-making for some time (Bloomfield et al., 2001 pp508-509). Indeed, the connection between the trends towards greater participation and neoliberal reforms raises questions of whether these practices do in reality "rebuild the public realm at the service of citizens" (Healey, 1997 cited ibid). This is a pertinent question for this thesis. Yet for now it is important to acknowledge this direction in public policy towards participation in decision-making. Also that it is seen by some as offering greater transparency and a positive trade-off in which the loss of the formal power of representative institutions is offset by the increased trust generated by greater civic engagement (ibid pp509-510).

This trend is by no means restricted to the UK. This is also reflected at an international level in the Aarhus Convention (1998) of which the UK is a signatory. The UK is further bound by the incorporation of the principles of the convention into the EU Environmental Impact Assessment Directive (EU Directive 2014/52; Articles 18-21). Based on the three pillars of; access to information, participation in decision-making and access to justice, Aarhus offers a rights based approach to achieving the "goal of protecting the right of every person of present and future generations to live in an environment adequate to health and well-being" (Wates, 2005 p2). It has been seen as focusing on procedure over substantive standards and failing to support the more radical potential of participation in decision-making (Lee and Abbot, 2003 pp106-7). It is also seen as favouring the large transnational NGOs involved in its drafting (Wates, 2005 p10). Despite being seen as weak and permissive it has been well received by NGOs and governments (Lee and Abbot 2003 p81) and is seen as driving the adoption of procedural environmental rights in Europe and Central Asia (Wates, 2005 p1). It is important in that it sets out the legal basis for the participation of civil society and "*the public affected or likely to be affected*" (EU Directive 2014/52; Articles 18-21emphasis added) and establishing a distinctive role in environmental decision-making for NGOs (Lee and Abbot, 2003 p86).

Another perspective on the Aarhus convention is as an example of 'judicialisation from below' (Epp cited in Hirschl, 2006 p725) in which "[l]egal mobilization from below is aided by the commonly held belief that judicially affirmed rights are self-implementing forces of social change" (ibid). This is due to the belief that the courts can be trusted to protect certain

important values and rights against political abuse (Ferejohn, 2002, p55) providing one explanation for the global shift towards, often existential, political decisions being taken by the courts as opposed to elected representatives. What is significant about the concept of judicialisation from below and the 'rights hypothesis' (ibid) is that judicial institutions are viewed, by CSOs and interest groups as more reputable decision-making bodies than elected officials and government institutions (Hirschl, 2006). This is significant as CSOs are seen as active participants in this process, as can be seen with the Aarhus Convention some CSOs (the international NGOs) are intimately involved in the construction of a framework of legal rights. This is of particular relevance in areas of decision-making where some see the legal realm as more suitable.

> "Rules that need, for whatever reason, to be responsive to technical issues are often best formulated in [legislative] settings where expertise is available and professional norms can shape the policy discourse." (Ferejohn, 2002, p65)

This raises questions of the way judicialisation creates a specific realm of legal-technical expertise, crucially, a form of expertise that *some* CSOs share with state and market actors.

NIMBYism and the legitimacy of civil society

The dynamic between local impact and the claimed benefits of infrastructure creates allegations that local opposition is essentially a self-interested threat to achieving public interest. The tendency towards seeing local protests as illegitimate among the promoters of infrastructure has been identified in a whole body of literature on the issue (McAvoy, 1998; Burningham, 2000; Cotton and Devine-Wright, 2011; McClymont and O'Hare, 2008; Devine-Wright, 2012). Altschuler and Luberoff's study of the 'Big Dig' raises a further issue of the instrumental use of local protests by obscured (in this case commercial) interests (2003 p107-108). This raises questions of whether protests are simply an expression of the local impact of a project or whether they can contain other agendas. The issue of whether or not local opposition is legitimate is an important question. Whilst the concept of legitimation defines legitimacy as something that emanates *from* civil society, this issue raises questions concerning the legitimacy *of* civil society. For Arato and Cohen the democratisation of civil society is both inherent and necessary (1994 p417). They base their position on the communicative coordinating principles that govern civil society supported by rights to communication and basic rights that, for example, protect minorities and prevent discrimination.

In contrast Walzer is inclined to see civil society as 'sufficiently' democratic "if in some, at least, of its parts we are able to recognize ourselves as authoritative and responsible participants" (1991 p9); a statement that raises several of the different claims to legitimacy

made by civil society. First there is legitimacy through increasing participation and the pluralism of bringing a range of voices into the dialogue (Buček and Smith, 2000 pp2-3; Taylor and Warburton, 2003 p322). Second, the authoritative legitimacy of civil society (or third sector organisations, the term used by Taylor and Warburton) refers to the legitimacy derived from the production of technical information, research and reports. Empirical evidence suggests this is often the key concern of government in the UK when seeking third sector partners (Taylor and Warburton, 2003 p333). In this case there is a suggestion that representativeness, or the lack of it, is only invoked by government when there is disagreement with the line taken by a particular organisation. Third, organisations see themselves as having a form of moral legitimacy through remaining close to their values and grassroots and retaining an open, responsive culture. This is the 'downwards accountability' to the members, users, communities and interests CSOs represent (ibid p325).

The size of an organisation's membership is also a feature of the type of legitimacy they can claim. There is the implication that this can translate into electoral action or protest (Casey, 2004 p251). Yet membership also poses problems. The professionalisation necessary to manage a large membership and lobby effectively on their behalf inevitably creates a gap between the paid staff and the grassroots, especially if activity becomes closely aligned to government (ibid p251). Nevertheless, even large memberships cannot be taken as a proxy for representing all sections of society as they can be skewed towards more socially advantaged groups. The membership argument is based on the uncoerced nature of civil society as a source of its legitimacy; if membership is not forced then it must be, to some degree, an indicator of political preference. One final claim to legitimacy is that it is bound up with the specific organisational structures found within civil society. In the UK Charitable status requires the purpose of an organisation to "benefit the public in general, or a sufficient section of the public [and] not give rise to more than incidental personal benefit" (Charity Commission, 2013 p7). Other legal structures such as the Community Interest Company prevent organisations distributing their assets for private benefit and the structure of Cooperatives embeds democratic decision-making within the organisation (Co-operatives UK, 2013). Notwithstanding this organisational structures have not protected large, high profile cooperatives from failures of governance and financial management (Myners, 2014) and charities, likewise do not appear immune from the declining trust in public bodies (Noble and Wixley, 2014).

3.3.2 The economic role

An alternative concept of civil society comes from Evers and Laville (2004) who use the term 'third sector' rather than civil society. This is important in going beyond the conception of

civil society as a forum for political protest and examining its role in the production of goods and services. Whereas Arato and Cohen are concerned with the political activity of CSOs and their role in democratisation of civil society and representative democracy this second pair of theorists concern themselves more with their productive activities. They do not regard the activity as economic *per se* but rather it represents a different type of productive activity governed by a different set of principles. Drawing on Polyani's (1944) three economic principles they define the economic activity within civil society as based on the principle of *reciprocity* distinct from the *redistributive* principle of state economic activity and the *market principle* that governs free market transactions (Evers and Laville, 2004 pp16-18). Polyani, a Viennese contemporary of Hayek, provides a prescient critique of the fallacy of self-regulating markets arguing that;

> "To allow the market mechanism to be the sole director of the fate of human beings and their natural environment indeed, even of the amount and use of purchasing power, would result in the demolition of society." (Polyani, 1944 p76)

He identifies the historical process by which the notion of markets as self-regulating evolved out of economic mechanisms that were formerly 'embedded' within social structures. The economic systems functioned as "accessories to economic life" (ibid p71) and were compatible with the norms and values of the social systems in which they were absorbed. This is in contrast to current market values that so often appear dominant and at odds with the values of civilised societies. In the absence of social controls over the free market (in what Polyani describes as the 'fictitious commodities' of Labour, Land and Money) would wreak havoc. It would devastate the individuals, families, societies, the natural world and the businesses and economies that are the bearers of these 'fictitious commodities'. Yet civil society is one means of providing these 'social controls'. It contributes to the embedding and legitimation of market mechanisms through its entanglement in the 'network of associations' and plurality of forms of ownership (Walzer, 1991 p6).

The forms of ownership Walzer refers to are the civil society organisations that engage in market activity yet retain community ownership operating for social or public benefit. These are cooperatives, charities that trade or provide goods and services (such as housing associations, private schools or theatres) and social enterprises. The latter in particular was heavily promoted under the New Labour government (1997-2010) as an opportunity to provide a testing ground for innovation in public policy (Leadbeater, 1997 p94). This ideal of civil society increasingly delivering public services has proved equally popular with the Coalition government. This is seen by some as the one-way flow of influence between the market and civil society that is a characteristic of the relationship between the public and private sectors under neoliberal regimes (Crouch, 2011 p95). It is this point that is at the heart

of the distinction between the concepts adopted by Evers and Laville on the one hand and Arato and Cohen on the other. The latter develop a *differentiated concept* of civil society as distinct from the market and the state (Arato and Cohen, 1994 p19). For them encroachment by either into the realm of civil society is problematic. It is necessary for the proper functioning of the mediating role that civil society remains distinct from state and market.

The 'third sector' described by Evers and Laville sits within a *mixed* economy of welfare with public goods and services provided by a combination of organisations. Rather than a realm distinct from state and market they see it embedded within a tripolar system (figure 3.1) of market, state and informal communities and economies (Evers and Laville, 2004 p14). The definition suggested here accepts organisations that distribute benefits democratically amongst a community of members, workers or owners as part of the third sector (ibid p13). What this definition offers is a view of civil society that acknowledges its role as a provider of (welfare) goods and services. It is not simply directed towards the policy making process or challenging, scrutinising and constraining the decisions of state and market actors. It acknowledges the picture, drawn at the start of this chapter, of CSOs involved in a multitude of activity that goes beyond defining needs and interests and begins to meet those needs.
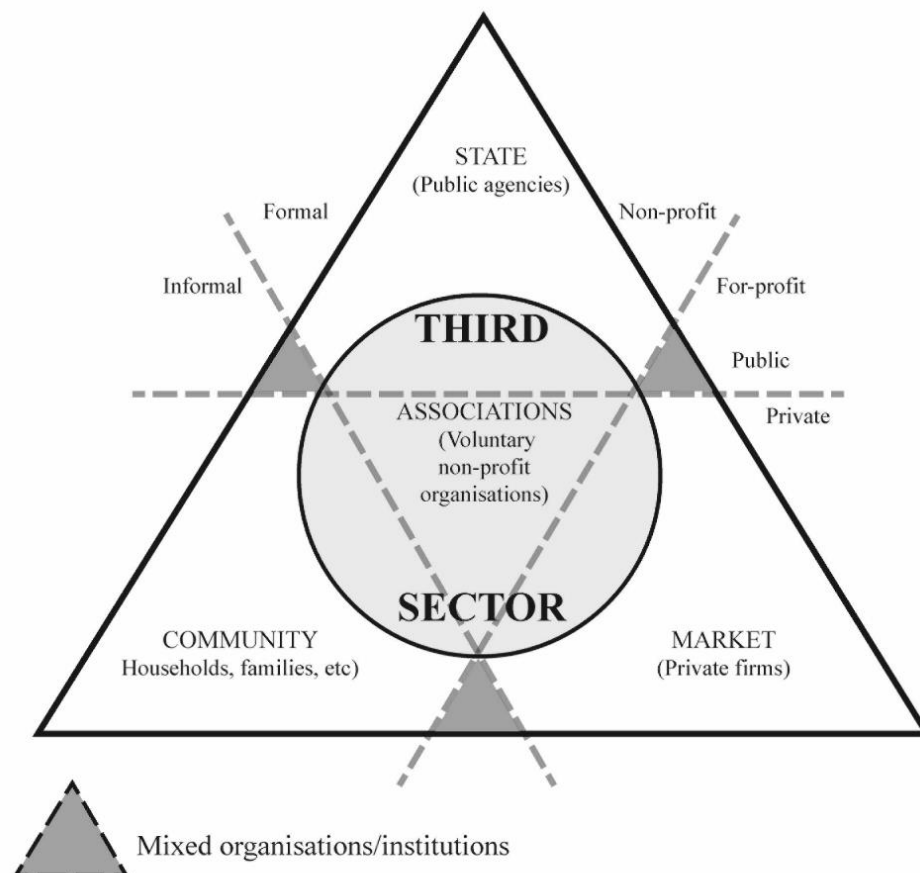
Figure 3.1: The third sector as part of the welfare economy (*source:* ibid p17).

It should not be assumed that this view of civil society sees the relationship between CSOs and market organisations as without risks. Evers (2005 pp743-4) examines a series of problems associated with what he terms 'hybridization', mixed governance arrangements that include market, state and third sector parties. The first of these is the balance between *social* and *commercial* objectives for organisations that seek to achieve both. Second, there is an inherent tension between the *management imperative*, the need to make quick decisions, and the logic of increasing participation. Third, he describes a tension between *diversity* and *inequality*. He cites the example of when organisations rely on local resources rather than receiving central public funding. This can lead to uneven provision of services, one that reflects the economic situation of the communities they serve as affluent areas, by definition, have more economic and often social resources. This can result in a vibrant civil society in areas where individuals have the time and resources to participate. In contrast, less affluent localities where the benefits could be felt, or where civil society could play a role in voicing issues, can be poorly served. The final set of risks and opportunities identified are the benefits of participation in decision-making against the risks of *clientelism*. Here the benefits of CSOs participating in decisions needs to be weighed against the danger that they begin to align themselves with the decision-makers and elites rather than the broad based interests they are supposed to represent.

3.4 Synthesising the 'economic and political roles' of civil society

The concept of civil society proposed within this thesis takes features of both theories discussed above. It takes the *political* role (focusing on the relationship between civil society and the state) as that of Arato and Cohen. It is seen as, potentially, a space in which the problems associated with MTP decision-making can be challenged but ultimately worked out. From this perspective the conflict often associated with such decisions represents a failure of its mediating role. It is a position that acknowledges that the principles of communicative rationality set a high ideal, yet the evidence exists (in the examples cited in the discussion on publics) that deliberative spaces can and do open up. This political component of the concept allows an exploration of the benefits of such spaces and provides a conceptual framework against which to compare opportunities for participation and deliberation. The response this offers to the procedural criticisms identified in the literature in the previous chapter ought to be obvious. By extending the democratic principle this concept allows the examination of whether an acceptable balance between democratic and technocratic decision-making has been struck and whether or not the involvement of civil society ensures the balance is broadly accepted. The role of communicative rationality and the formation of publics in response to decisions also offers a way to address the further procedural criticisms and some of the

substantive criticisms. The way in which values are revealed and boundaries established sees civil society not only setting limits but also producing information about the value placed on environments, places or features of community life. Finally, the space created for deliberation could be seen as inherently open with the potential to establish a space for learning if civil society plays a more productive role in decision-making. This does not exclude the more agonistic conception of civil society advanced by Flyvbjerg (1998). It does not accept as axiomatic a dichotomy between ensuring transparency and accountability and participation. Indeed, transparency and a degree of openness are preconditions for the participation of CSOs. As Kitschelt (2009) shows conflict and protest are associated with political regimes that tend towards closure, excluding civil society. In contrast regimes that are more open see more collaboration between CSOs and decision-makers. As Evers (2005) points out this brings with it its own risks such as those of co-option yet this requires actors within CSOs to retain both a critical perspective and internal decision-making structures that do not separate the executive from the grassroots.
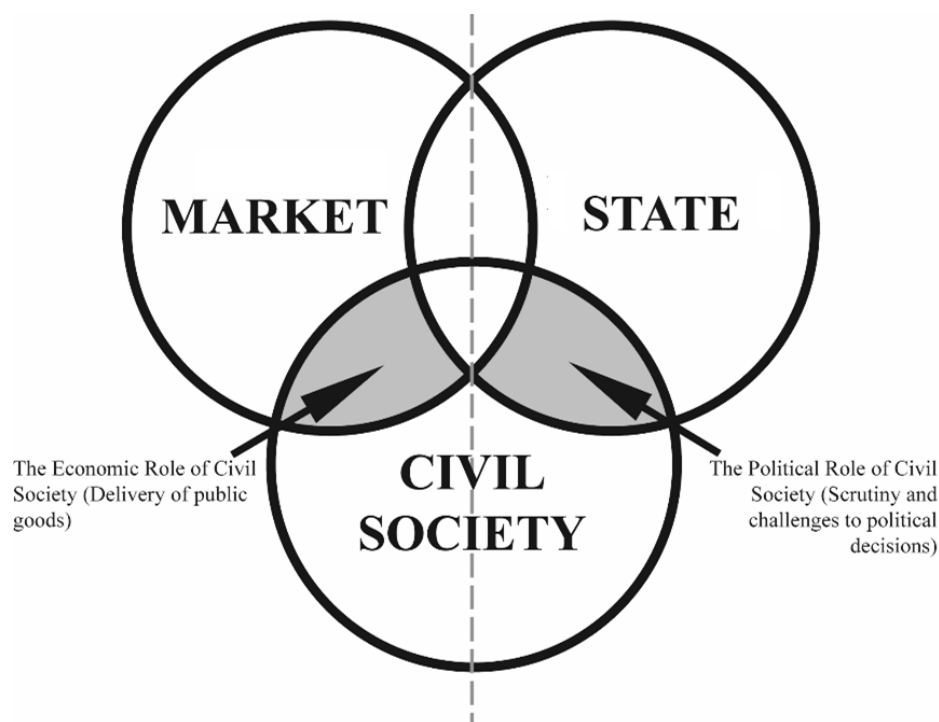
Figure 3.2: The concept of civil society.

The work of Evers and Laville expands this role to include the capacities of CSOs to produce and administer resources. It sees these organisations as engaged in activity that is *economic* yet driven by social rather than market principles. Any analysis of the way in which such organisations participate in both the market and the provision of public services should not assume such activity is without risks. Nevertheless, from the perspective of Evers and Laville

it does not present an existential threat to the mechanisms of civil society. This focus on the productive role played by different types of organisation creates the rough conceptual framework necessary to address the institutional role of civil society and the way CSOs might participate in and enhance MTP governance. The concept offers an alternative to neoliberal arrangements in which market actors dominate and the primary relationships are between state and market. Here civil society is essentially part of the private sphere of family and friendship networks. Nevertheless, as the welfare provision of the state is reduced it is these networks that are expected to take on this role. The alternative offered by the concept developed here is not simply political challenge and the withholding of legitimacy. In contrast the challenge is implied and indirect through providing real alternatives and creating the opportunity for co-productive and collaborative arrangements. As Evers (2003) puts it;

> "Reversing a trend towards public services and goods that conceive their users only as clients and consumers is then at least as much a political task of discussants, nation-wide interest groups and voters as it is a task for volunteering in the neighbourhood and local action groups." (ibid p20)

This focus on the institutional dimension and the alternative civil society provides to current forms of governance and decision-making is a common feature of both theories. Whilst Evers and Leville allow the consideration of the productive outputs of CSOs, Arato and Cohen describe the way civil society forms institutions as a means of reproducing itself (Arato and Cohen 1994 p ix). Dewey's concept of a public provides an example of the *principle of self-organisation* that is common to both accounts of civil society. This is organisation around a specific 'problematic situation' through which more formal institutional structures may develop for example local action groups or campaigning organisations. Yet if these groups are to become part of governance regimes the analysis of the formal structures and the nature of their productive outputs becomes increasingly important. This is essential in order to understand whether they do indeed enhance democratic governance and deliver public benefit.

3.5 Pragmatism

It is useful now to clarify the normative theoretical lens through which this enquiry has been examined. Philosophical Pragmatism provides a normative framework for this thesis, yet as discussed in the following section, the normativity of Pragmatism is something underpinned by epistemology. Put simply, the deliberative knowledge generation advocated by Pragmatic theorists is the only form of knowledge generation suitable for the interpretation of the full range of issues reflected in a certain class of problem and it is exactly this class of problem the thesis is concerned with. Many of the theorists and researchers cited thus far are responding

to or influenced by the work of classical Pragmatic philosophers such as Dewey, C, S. Pierce and William James. More recent theorists such as Rorty, Brandom and Misak also have valuable contributions to make. Pragmatism has been influential in post-war public administration shaping the work of Linblom and Schön, particularly planning theory, and importantly the work of Habermas. To find a single definition of a tradition that contains classical contemporary and neo-pragmatists with significant distinctions between individual Pragmatists and interpretations is a task beyond the scope of this thesis. Perhaps James' (1995/1907 p21) description of a 'method' which he likens to a corridor connecting 'rooms' in which people examine subjects as diverse as religion, natural science, aesthetics and metaphysics. The metaphor of the corridor describes a method (used by all but belonging to none) by which enquirers must leave one 'room' or enter another. This is useful in establishing Pragmatism as a method for accessing different forms of knowledge rather than a philosophy with a clearly defined set of principles.

Notwithstanding James' definition of a method some characteristics are helpful in explaining the value of Pragmatism to this enquiry. A number of the 'themes' cited by Hepple (2008 pp1531-1532 following Bernstein) are of value. First is an anti-foundationalism that sees knowledge as socially constructed with facts and values interconnected. Yet this anti-foundationalism did not see the early Pragmatists;

> "step into the abyss of scepticism and relativism that many now see in postmodernism…the founders of pragmatism did not take such a step. Their fallibilism meant that all beliefs and assumptions were potentially up for revision, in the face of evidence, but not all at the same time. At any one time, we are confident in some of our beliefs – we do not doubt everything, and it is a ridiculous self-delusion to think we do." (ibid p1531)

The community of enquiry

A second theme identified by Hepple is that of the "social character of the self and the need to nurture a critical community of inquirers" (ibid). The pragmatic 'community of enquiry' has been a direct influence on Habermas' concept of ideal speech, as discussed in chapter two. The concept draws upon Pierce's conception of belief as the, temporary, end point of enquiry. This enquiry is stimulated by doubt that one's current beliefs neither match the empirical experience of the world nor the beliefs produced by other's scientific enquiry. Dialogue with others, as part of a community, provides the most logically consistent means of 'fixing' belief. A process analogous to the way knowledge is verified within the academic community. Pierce outlines other, he believes less satisfactory, approaches to fixing belief. These include belief accepted unquestioningly from a dominant authority and what he terms 'tenacity'; simply

holding on to a belief in the face of the evidence. Of the latter he argues that "the social impulse is against it" (Pierce, 1877 p70) the very fact that others think differently to oneself is unsettling, creating doubt. He goes on to outline the way in which "we shall necessarily influence each other's opinions; so that the problem becomes how to fix belief, not in the individual merely, *but in the community*" (ibid, emphasis added). These beliefs are contingent, based on a further characteristic of Pragmatism; fallibalism. Belief is temporary and liable to change in the face of better evidence yet for Pierce and many of the Pragmatists belief "puts us in such a position that we will behave in such a way when the condition arises" (ibid p67). This links belief to action, an essential feature of Pragmatism, a philosophy concerned with the consequences and practical application of knowledge.

The concept has recently been applied to the field of policy-making and research with calls for the use of the community of inquiry as an organising principle that allows the development of different approaches and experimentation (Shields, 2003 p512). This experimental approach, another characteristic of Pragmatism is reflected in the 'incrementalism' of Linblom (1959) and also in the emphasis placed on the collaborative generation of knowledge. Shields defines the three elements of the framework as; a focus on 'problematic situations', the use of scientific method and crucially the use of participatory democracy. Importantly she identifies the problem of the first and second components being applied without participatory democracy. This is analogous to some of the problems previously discussed with MTP decision-making. Both Salet et al. (2013) and Primeus (2008) have noted the way in which a narrow focus on problems in Dutch HSR projects have led to poor outcomes. When combined with tools such as CBA this can lead to the type of technocratic decision-making that "often divorce the benefits of science from the democratic community" (Shields, 2003 p512).

The problematic situation

The location of problems in the point at which belief and doubt intersect creates this 'problematic situation' as a site of experiential learning. From the Pragmatic perspective, situations (such as the formation of policy or projects) that "blend standard operating procedures and new issues create the opportunity, arguably the need, for learning through enquiry" (Shields 2003 p516). For Dewey this is the transformation of an 'indeterminate situation' into a 'unified whole' in which the problematic situation is defined as part of the process of enquiry (Dewey, cited ibid p517). This process of transformation has been applied directly to MTP decision-making by Salet et al. (2013 pp1990-1991). Here it appears to provide an opportunity to resist tendencies towards path dependency by organising decision-making as a learning process that, whilst expressing an intention to proceed in a certain direction remains sensitive to modification (ibid p1991). The complexity is reflected in a

context where the values and 'social facts' are rarely fixed yet these are *unified* through action that shuts down some options thereby reducing complexity.

> "Action causes a certain trajectory to be followed because one particular complex and irreducible array of possible options available is being experienced. Thus, the seemingly irreducible complexity of cognition is reduced by action, which actually creates a new practical situation that cannot be known completely and unequivocally, and eventually has to be followed by new action and experimentation." (ibid)

For Bohman the problematic situation constitutes a public not simply as a response but also a mode of enquiry. Here deliberative democracy is not simply a means of deciding but a means of knowing, it is "a form of inquiry typical of problem solving in cooperative social activity" (Bohman, 2004 p24). This is essentially 'multiperspectival' as the democratic nature of the enquiry requires openness to the full range of perspectives. This is distinct from conventional approaches to problem solving that narrow the range of perspectives, for example to those of decision-makers, technical experts and 'key stakeholders'. For Bohman, from the Pragmatic perspective;

> "Deliberative democracy is a particular way of organizing and *institutionalising* multiperspectival inquiry, for which social facts are descriptions of problematic situations." (ibid, emphasis added)

The 'epistemic defence' of democracy

Bohman's conception of deliberative democracy as a mode of enquiry is of particular importance in explaining the adoption of Pragmatism as the theoretical underpinning of the research. This has been described as normative thus far taking an avowedly normative position. Yet from a Pragmatic perspective there is no distinction between an empirical fact and a normative value as Hepple points out (2008 p1531) they are 'interlaced and inseparable'. These are simply different social facts produced through a process of collaborative enquiry. The Pragmatic view of knowledge as socially constructed provides the epistemic dimension to the belief adopted in this case. In short this position is not simply concerned with what *should* be done, but how to *know*, with sufficient certainty to act, what should be done. The best illustration of this is Pragmatism's 'epistemic defence of democracy'. Here;

> "[d]eliberation is justified because it is the best way of exposing and communicating the reasons that matter and democratic deliberation is justified because we need to expose *all* of the reasons that matter, not just a subset of them." (Misak, 2004 p15 emphasis added).

As Hillary Putnam (following Dewey) points out the participation of the public in policy-making is essential in defining public interest. Any decision-making without participation, "could not reflect the common needs and interests of the society because those needs and interests were known only to the public" (Putnam, 2004 p12).

Pragmatism and planning theory

Thus far the consideration of Pragmatism has identified Pragmatic concepts that provide valuable tools. These are the tools with which to examine the specific questions of how and why there should be a role for civil society in MTP decision-making and the wider questions of how advanced democracies make decisions of this type. Key to understanding the latter is a theory of planning, a body of knowledge that this research draws extensively upon and hopes to make some contribution to. This is also a body of knowledge on which Pragmatism has had some influence. When one includes the related subjects of political science and public administration the influence becomes clearer still. Sadly, there is insufficient space within this thesis for a full consideration of the influence of, and a value Pragmatism has brought to planning theory, a task recently taken up by Healey (2008). Yet when the pragmatic contribution is considered alongside the study of megaprojects, a field of empirical study that has similarly contributed to planning theory and knowledge, it is valuable to briefly consider some of the criticisms.

In this thesis planning is taken to be a form of 'governance practice' that is more concerned with an open exploration of the process of forming spatial strategies aimed at an "open-minded perspective on place qualities and connectivities" (Healey, 2007, p260). Yet this is combined with a process of MTP decision-making in which closure, of some form or another, is necessary. Pragmatism, with its focus on the practical application of knowledge and experimentation on the one hand and the collaborative generation of knowledge through the community of enquiry on the other, appears to bring these two dynamics into dialogue with each other. Nevertheless, there are the basic, substantive, criticisms of deliberative democracy (and possibly democracy in general). This is that it is a long-winded impediment to efficient decision-making. Many of these criticisms have been considered thus far and the following case study will examine the empirical evidence for these arguments. It may not be possible to establish conclusively the difference between more or less democratic governance arrangements. Yet it will certainly be possible to examine the reality of a contemporary MTP and the extent to which current governance practices deliver on their promises.

This first criticism blends into a second deeper critique of the value of, what is described by Hoch as, 'pragmatic communicative action'. This has been criticised as a "process-oriented planning theory that mistakenly focuses attention on superficial talk rather than more

consequential structures of power" (Hoch, 2007 p272). This is the apparent conflict between Pragmatism and critical social and political theories that seek causal explanations in structural terms. This can be seen in the treatment of the theories of Habermas and Foucault that see Foucault's power analytics as providing a more suitable tool for contemporary understanding of the role of civil society: a role that places conflict and power at its centre (Flyvbjerg, 1998 p229). Yet this can also be seen in the more recent post-political critiques of consensus politics (Swyngedouw, 2009; 2011) that likewise draw on the theories of Foucault. As this is a subject considered throughout the subsequent chapters it would be premature to attempt to resolve (if indeed they are ultimately resolvable) these criticisms at this stage. Yet it is useful to respond to the critique, not only to acknowledge that it has not been ignored but to acknowledge the value of work that identifies the abuse of expert knowledge, the functioning of power through 'technologies of government' or the inequality and injustice of transport policy under neoliberalism. Like any other form of expert knowledge these insights have something to offer. However, these forms of knowledge must in turn respond to the Pragmatists 'usual question' that is what is the cash value of these beliefs? What practical difference would it make for these beliefs to be true? Hoch takes the answer to be that;

> "such theory does not in itself provide useful and practical knowledge for planning changes that will remedy the causes of injustice. A pragmatic [communicative action] CA provides a crucial and complementary resource for translating the insights of critical realist analysis into practical, relevant ideas for social change." (Hoch, 2007 p276)

The notion of Pragmatism as a *complementary resource* is significant as it takes the concept of civil society developed thus far beyond political challenge and scrutiny of decisions and acknowledges its role in developing ideas and institutions for social change. Thus the critics of Pragmatism need to answer the question of what it is they offer and how the knowledge they produce leads to institutions that can improve the planning, governance and implementation of transport infrastructure. Or is the alternative they offer to the Pragmatist's "ever-hopeful view of human potentiality in social contexts" the 'disabling cynicism' or 'the "darkness' into which many Western [modernist] dreams seem to have sunk" (Healey, 2008 p288)?

3.6 Technocracy

Hilary Putnam (2004 p12) cites Dewey's description of the way "a class of experts is inevitably so removed from common interests as to become a class with private interests and private knowledge, which in social matters is not knowledge at all" (Dewey, cited ibid). Yet

as Putnam points out this should not be read as a dismissal of expert knowledge. The value Pragmatism has placed upon the scientific method as a means of achieving human potential suggests an appreciation of the value of expertise. This relationship between expert knowledge and the experiential knowledge of the public is expressed in Dewey's statement that the one "who wears the shoe knows best that it pinches and where it pitches, even if the expert shoemaker is the best judge of how that trouble is to be remedied" (Dewey, 1927 p207). This proper relationship between expertise and experience is central to questions of how democracies make complex and controversial mega-infrastructure decisions. It is this understanding that indicates the value a Pragmatic framework brings to this enquiry. It provides a means of critiquing, not expert knowledge itself, but rather its (mis)use. Technical experts have been described as opposed to democratic forms of decision-making; as preferring objectively defined justification to deliberative legitimation; and of producing knowledge 'devoid of local attachments' (Giddens, 1994) in contrast to local knowledge that reflects the context in which it is produced. In infrastructure planning this is reflected in the 'modernist infrastructural ideal' where it has been seen as enforcing standardisation and homogeneity (Graham and Marvin, 2001).

Yet one has to be cautious, there is the risk of creating the figure of the all-powerful technocrat as a straw man. Given that, alongside civil society, the character of the process of legitimation and decision-making in HS2 will be established by the interaction between expertise, and politics it is valuable to examine the literature on the nature of technocracy. Both Robert Putnam (1977) and Frank Fischer identify the origins of the concept of technocracy with the utopian visions of the nineteenth century thinker Henri de Saint-Simon (Fischer 1990 pp68-75). From the outset the concept was hostile to mass democracy (and also religious belief and the hereditary rulers of European states), focused upon progress and the governance of the state. For Saint-Simon true progress would only be possible under a system of 'expert management' of scientists, technicians, industrial managers, philosophers and artists would govern this idealised 'administrative state'. It would be Saint-Simon's disciple Auguste Comte who developed the epistemological basis of a theory of technocracy with the claim that a 'positivist method' based on the physical sciences offered access to 'real knowledge'. This justified the establishment, by revolution and then dictatorship of a 'positive state' in which the "hegemony of science and industry" would be embodied (ibid pp70-71). Whilst both Comte and Saint-Simon were associated with the political left as utopian socialists, by the end of his life Comte had rejected the Liberal concept of individual liberties alongside democracy associating his evolutionary philosophy of social change with a conservative world view (ibid).

Attempts to identify technocratic characteristics within the governing bureaucracy of actual states suggest that whilst it may be possible to establish general associations there is also strong variation. Putnam's study of civil servants in three European countries (1977) may have found a training in the natural sciences produced decision-makers that displayed a commitment to a technocratic ethos (i.e. a dislike of the political nature of their work, antagonism towards politicians, politics and citizen participation and a lack of sensitivity to issues of social justice), yet there were also decision-makers (generally those trained in the social sciences) who were not. Indeed, the contextual evidence of a cadre of highly political social scientists brought in by the Brandt government in Germany to deliver social democratic reforms suggests that technocratic projects are as often as not subservient to political ones (ibid). This raises the question of the ultimate aims of technocratic projects. It may appear that efficiency is pursued as an ends in itself yet it can only ever be a means. The undue elevation of efficiency may well obscure the ultimately political ends that underlie technocratic projects.

The problem of complexity, reflected in the Dewey/Lippmann debate discussed above and the fragmentation of political systems organised around functional specialisation poses the question of the extent to which democracy is possible in advanced economies (Fischer, 2004). A trend towards a more managerial style of politics as a result of specialist tasks requiring specific expertise (Fischer, 1990 p16) has seen the technocratic project aligned with the institutional structures of the liberal democratic state. Yet "like industrial development in general, technocracy has taken a number of different forms" (ibid p17). Observations of the way this 'apolitical ideology' (ibid p21) operates within modern states suggests an administrative setting but crucially one that is insulated from public scrutiny. Whilst technocrats may not be decision-makers they shape the context to political deliberations through discourse coalitions (ibid pp13-37). As Fischer argues the straw man argument ignores the role of these coalitions and styles of government in supporting both the status quo and elites. Indeed, it is the growth of technocratic governance and the transfer of issues from a political to a technical realm that insulates elites from "political pressure from below" (ibid p29).

Yet conversely the technocratic project with its inability to cope with public scrutiny is inherently vulnerable (ibid p33). Its association with modernism sees it bound to the failures of modernism with the 'crisis of the professions' (Schön cited in Fischer 1990) joining the growing list of multiple interrelated crises. This can be seen reflected in the 'tragedy of the commons' discussed above where faith in expertise is lost. Theorists such as Fischer (1990, 1993, 2004) have, following others such as Dryzek and Habermas, suggested deliberative democracy as an alternative to technocratic governance. Yet this is associated, by some, with NIMBYism when citizens confront experts, particularly over the siting disputes (Fischer 1993

pp173-176) such as those over HS2. Whilst the opposition to unpopular or unwanted development may reject expert knowledge it can also be seen to create its own counter-expertise (Beck, 1992 p162). The technocratic ideal of protecting decision-making from the irrationality of democratic politics, seen as a problem rather than a solution (Fischer, 1990 p22), can also be seen in an opposition to interest groups and a perception of participation as opening up decision-making to potentially irrational citizens (Fischer, 1993).

Summary

This second part of the review of the literature develops the premise that in order to answer the research questions that concern the role of civil society in MTP decision-making it is necessary to establish a conceptual framework for civil society. This is a framework that takes in the political and economic dimensions which are key features within this particular context. Insights from the Pragmatist school of thought are advanced as a means of answering wider questions of legitimation, in a context (be that general conditions of late modern, technological societies or the specific context of MTP decision-making) in which there is an inherent tension between (closed and more output-oriented) technocratic governance and (open, input-oriented) democratic governance. Pragmatism provides a normative framework and, as discussed in the following chapter, contributes to the epistemological position adopted and the methods used to answer these questions of legitimacy and democracy.

Chapter Four: An interpretive study of mega-transport project decision-making

> "Seeking to describe a world that is richer and more complex than the empiricist theories constructed to explain it, coherence theory seeks to capture the multiplicity of theoretical perspectives and explanations that bear on a particular event." (Fischer 2003 pp217-218).

4.1 Socially constructed knowledge and 'institutional facts'

Following the importance of the Pragmatic tradition in shaping this enquiry the following chapter sets out the way in which the research has been approached from a constructivist perspective, one that views knowledge as socially constructed. The initial research question of the role of civil society in the decision-making around HS2 is an open one leading to an inductive approach of building up knowledge from a series of premises. These respond to the research questions set out in chapter one. The construction of knowledge, procedures and theories is, for the Pragmatists, 'irredeemably social' yet at the same time not all beliefs and assumptions are up for revision (Hepple, 2008 p1531). There are social and deeply entrenched 'institutional facts' (Bohman, 2004 p26) that provide more stable and enduring features within the discourse. They are more permanent but still not fixed, for example there has been a government department responsible for transport since 1919. Nevertheless, this institutional fact has altered over time as the institution itself has been through numerous iterations and reorganisations taking on and shedding different responsibilities. Within this chapter there is a move from the theoretical to the more practical issues of defining the research aims, case study and 'units of analysis' (Yin, 2009 p28) within this case. There is an account of the practical strategies adopted, the methods used and the 'who, how and what' was observed, interviewed and analysed. Yet theory and method are not easy to separate in this case as the ethnographic methodology and discourse analysis used draw on particular theories of knowledge. For this reason, there a need to discuss the theory associated with the use of these methods, the significance of the role of the researcher within this and also the theoretical basis of discourse analysis in understanding how speech and texts shape the actions of decision-makers.

Central Research Question: *how are planning and appraisal decisions legitimated in the case of HS2?*	
	Chapters where this question is addressed
What is the character of the planning and appraisal process for HS2 conducted thus far?	
• Does it exhibit more open and democratic or more closed technocratic characteristics? • How do institutions and practices shape the character of the process?	5 & 7
What is legitimation in this context?	
• What is the nature of the public formed in response to HS2? • What organisations and institutions make up this public? • What is the nature of the public debate through which HS2 is (or is not) legitimated?	6, 8 & 9
What is the role or roles of civil society?	
• What is civil society in this case? • What roles can CSOs be seen to play in this case? • How to CSOs (de)legitimate the process of planning and appraisal?	8 & 9
What role should CSOs play?	
• Are CSOs legitimate themselves? • Are there roles that could be played by CSOs that are not being played or not played sufficiently in this case?	9 & 10

Figure 4.1 Research Questions.

4.2 Research Aims

The research questions set out in figure 4.1 are examined through the case of the early stages of decision-making of HS2. Specifically, this refers to the 'planning and appraisal' stages (OMEGA Centre, 2013a p18). The precise distinction between planning and appraisal on the one hand and the wider social processes of decision-making on the other is discussed in more detail below. At this point it is important to note that this refers to the early stages of the project in which it appears that key decisions are still to be made. The aim is to examine decisions within an ongoing process. Therefore, it is not only to interpret the fluid processes of the social construction of meaning and value but also to examine the process by which more fixed social and institutional facts are established. These facts concern the character of the processes observed and the role of the existing institutions in shaping that character. Institutional facts also concern the more fluid institutional forms of civil society relating to the questions of what civil society is, and what roles do specific institutions perform. As discussed in the previous chapter this is a realm in which institutions are formed and organisational structures established yet it is by no means the only source of new institutions. State and market also form new organisations, the most prominent of these being HS2Ltd the company established (and owned) by DfT to manage the planning, appraisal and delivery of the new railway.

4.3 Case study methodology

As indicated above the selection of the case study opens up research of a very specific timeframe within the process of planning, appraising and seeking consent for a particular MTP. Two key factors shaped the selection of a single case, case study. First, the critical importance of context in understanding MTP decision-making (OMEGA Centre, 2013a p24-25) and second the wide variation in civil society internationally (Salamon et al., 1999; Casey, 2004; Evers and Laville, 2004). As a result, a comparative study would be unlikely to produce the observations necessary to understand the specific, context dependent, processes of MTP planning and appraisal in sufficient detail on two separate projects. This detailed observation is also necessary in order to interpret the connections to wider processes of decision-making and legitimation in society. Comparative studies have undoubtedly contributed greatly to the body of academic knowledge on megaprojects yet calls for a greater role for civil society require more detailed analysis. Whilst Flyvbjerg et al. set out some basic principles for participation (no affected party should be excluded, there should be equal opportunity to present and criticise validity claims and participation should be as representative as possible) it is still acknowledged that "[w]ho, exactly should participate will vary from project to

project" (Flyvbjerg et al., 2013 p111). It is precisely this variation that the case study method addresses.

The following explanation of how the case study methodology is applied establishes the scope and units of analysis. The research design is *intensive* rather than extensive (Sayer, 1992 pp241-251) in the sense that the primary question (that of legitimation) concerns the way legitimation operates in a specific case. This defines the limits of a case study that seeks to examine wider social practices through a subset of those practices centred on this particular project. The concepts of the public sphere and publics are useful in establishing the boundaries of the process the research is concerned with. In this context publics are one of the 'causal groups' (ibid) within the process of legitimation. CSOs and other institutional structures such as HS2Ltd are also important causal groups as their relationships and connections shape the process of legitimation (ibid p243). Within this the discourse itself and the public communication of the issues generated by HS2 are significant. More specifically the institutional and social facts also form valuable units of analysis. The *institutional facts* may be specific organisations and organisational practices established within civil society or within the realm of state or market. However, there are also the *social facts* which may be less formal and open to change. Public opinion measured by polling data is a good example of this as are voting patterns; they can be defined and measured at a point in time with varying degrees of accuracy but they are by no means constant.

4.3.1 Defining 'planning and appraisal'

It is important to distinguish the wider process of *decision-making* from the specific processes of *planning and appraisal* of HS2. First, the wider *decision-making process* sits within a more amorphous process of legitimation which takes in the development of norms and values and the shifts in those values (figure 4.2). What is described as decision-making within this thesis are the aspects of that process specific to HS2, this includes political decisions to grant or withhold consent for the project which may reflect public opinion to a greater or lesser degree. These political decisions set the parameters of planning and appraisal as do social values. In contrast *planning and appraisal* refers to the activities of project promoters, government departments and consultants employed by them. The perspective of the researcher is from the outside looking in on the activities of these project promoters, a position shared with many of the subjects of this research. From this perspective these processes appear to take place within a black box. Following Hajer (1995 p7) the constructivist approach seeks to open up this black box as the choice of options generated through this process and the way in which problems are framed shapes the choices of political decision-makers. Thus the term planning and appraisal has been used as a heuristic to distinguish the actions of the project promoters from

the wider macro level process of social decision-making that the research is ultimately concerned with. Some of this will be public and observable, parliamentary debates and votes, organisational aims and priorities, for example. Yet what is described as planning and appraisal here involves micro level decisions many of which are within the black box and hard to observe directly such as the internal workings of the civil service, political parties or private companies. In this respect freedom of information legislation has opened up more of what goes on within planning and appraisal to observation.

The terms planning and appraisal are drawn from the OMEGA Centre Study's definition of processes within a wider project lifecycle by which MTPs pass from inception to operation and are ultimately wound up as a project. It is important to acknowledge that this is a multi-stage process by which projects develop from an initial concept to a finished scheme, albeit one in which the labelling of the stages varies, with different disciplines conceiving of the project lifecycle in different ways (Dimitriou et al 2015). The rationale behind focusing upon these two activities which sometimes appear to be operating in tandem and at other times are clearly separate is that it separates the phenomena observed within the case study from the later *delivery* phases of the project lifecycle. These concern the process of construction or implementation followed by operation and finally the *ex post* evaluation, monitoring and closure of the finished project. In this case construction has not yet begun, and may not begin in the unlikely event of parliamentary consent being withheld, therefore the restriction of this definition to planning and appraisal reflects the reality of a study of the early

Figure 4.2 Planning & Appraisal, Decision Making and Legitimation.

stages of a project. It should, however, be noted that even within these preliminary phases there is considerable delivery. What are delivered may not be the physical artefacts, the railway, station developments and operating systems of the later phases of the project. Nevertheless, the *outputs* of planning and appraisal are critical in shaping these artefacts, the way they operate and whether they are perceived as successful. The type of outputs produced,

the plans and crucially the institutional structures can be understood as the social and institutional facts this thesis is concerned with.

It is also important to acknowledge that whist the term planning and appraisal is used here to describe an opaque process at times the mists clear and it is possible to discern activities which are clearly planning *or* are clearly appraisal. As discussed in chapter three planning is considered more of an open ended governance practice rather than a relatively closed process of assembling the necessary human and physical resources to implement a chosen solution. Whilst what is observed in this case may not meet the standards of Healey's (2007) definition of an open-minded approach to place and connectivity there are activities that are quite clearly attempts to consider the spatial impacts. These include the aspirations for regional development as well as the alignment of the route and design and location of the stations. Likewise, there are elements within the black box that are clearly appraisal, most obviously the use of CBA and also Environmental Impact Assessment.

Yet the term *appraisal* is important as it focuses on the processes of valuation and selection of options. This takes place within the black box and is reflected in the practices of project promoters however in its widest sense it also occurs outside and can be seen in the actions of CSOs. This refers to the 'social appraisal' discussed by Stirling (2008) that concerns the construction of knowledge and evaluations necessary to inform the taking of decisions. Yet social appraisal "does not just imply formalized assessment routines, but also includes wider socio-political discourse" (ibid p266). The same is true of valuation. The definition of appraisal includes the specific practices such as CBA used by project promoters however it also concerns the "social choice judgments that take us beyond market-centred valuation" (Sen, 2000 p952). These expanded definitions are important as they hold out the possibility of a wider process of planning and appraisal of the type envisaged by Healey, Stirling and Sen, one that is more open and not restricted to the actions of project promoters and implementers.

The important ontological questions concern the nature of the process of planning and appraisal studied here. It cannot be taken as simply a microcosm of the wider process of decision-making. Yet at the same time practices such as de-politicisation of decisions, openness and closure to different perspectives and technocratic governance all occur in both. In focusing on planning and appraisal situated within the wider process of decision-making the case study the aim is to capture a whole set of social practices centred on HS2. This distinguishes these practices from a wider public discourse that concerns legitimation, in the Habermassian sense, through civil society. This takes in issues such as trust in decision-makers, environmental protection and neoliberal conceptions of the role of the state in facilitating international competitiveness. These clearly intrude upon decision-making and planning and appraisal and likewise this particular set of practices contribute to wider

perceptions of trust and the value of competitiveness. Yet for the purpose of research and analysis it is important to delineate these processes and treat them as separate in order to understand how the social practices within the black box shape questions of the legitimacy of decision-making and, to an extent, the in which the wider process of legitimation shapes MTP planning and appraisal.

4.3.2 The contribution of CSOs to planning and appraisal

The case study focuses predominantly on social practices that are within the public sphere. Despite many of the key organisations being public in the sense that they are part of the state this does not mean that all their actions open to scrutiny. This is an issue that became particularly apparent during the research as gaining access to the internal processes of the project promoters proved difficult (this is taken up in more detail in chapter nine). Given the focus on civil society *organisations* this has not posed the problems it might have done had the research sought to examine planning and appraisal from a different perspective, for example that of the delivery bodies. Other methods (such as the discourse analysis discussed below) and the use of material brought into the public sphere by the use of Freedom of Information Act (FoI) requests have provided an alternative means of peering inside the black box in order to gain insight into organisational practices. Furthermore, the perspective of the researcher is similar to the position of many of the CSOs that are the subjects of the research. Whilst some may have had privileged access to information others were, likewise, outside looking in. What this outsider perspective lacks in terms of access it more than makes up for in the understanding of the way in which such organisations perceive the process of planning and appraisal which, given the research aims of examining the role played by CSOs is particularly valuable.

The concept of a public is also valuable in centring the case study on CSO activity *in response to* HS2. It distinguishes the activity from other concerns pre-existing organisations might have. Many large NGOs that have a wide range of interests yet they have chosen to direct some of their resources into their response to HS2. The concept of a public also includes the local groups that have formed as a result of the project and individuals who in some way see themselves as having an interest which they seek to advance within the public sphere. As discussed above this may exclude the activities of groups and individuals that seek to pursue their interests outside of the public sphere. Again this is where methods such as discourse analysis enable some inference of what these interests might be.

4.3.3 Units of analysis

The first, and easiest to define, of the social facts examined through the research outlined in this thesis are the *institutional facts*. Ultimately the process the research sets out to examine is that of legitimation, something that may be observable within the case study yet is also a wider and more open-ended social process. The nature of legitimation makes the process hard to define precisely at the outset of the research. Indeed, interpreting whether and how the process occurs in this case is an aim of the thesis. Yet in order to do this there are a number of other social facts such as discourses and the policy frames within them for which there are useful definitions within the literature. It is these definitions and the way they help to identify units of analysis that are discussed in the following section.

Institutional facts

These facts are the easiest to define as they often refer to visible organisations, the structures and formal practices they adopt. Yet not all of these organisational practices are formalised. In particular, it is important to understand the way in which institutions also act as 'communities of meaning' (Yanow, 2003 pp228-246) or 'discourse coalitions' (Hajer, 2000; 2003 pp102-3), forming knowledge and shaping the discourse. Institutions represent an accretion of knowledge through the establishment of arguments and positions which in turn play a role in shaping wider social and policy discourses. This focus is not only relevant to the formation of institutions within civil society. Looking at the key organisations involved it is possible to see the establishment of new entities, for example HS2Ltd. The importance of institutions and institutional practices as a unit of analysis comes from the focus on civil society *organisations* and the way in which institutions are generated in response to specific problematic situations as discussed in the previous chapter.

Discourse

The use of the term discourse refers to its meaning as an expression in speech or text. As a noun the term is used to describe a specific discourse or multiple discourses. These can be seen as "ways of representing aspects of the world – the processes, relations and structures of the material world" (Fairclough, 2003 p124) however;

> "Discourses not only represent the world as it is (or rather as it is seen to be), they are also projective imaginaries, representing possible worlds which are different from the actual world, and are tied into projects to change the world in particular directions." (ibid)

The term is also used as an adjective describing something as discursive. It is used here in two ways; first as a quality of, or relation to a specific discourse or set of discourses. Yet there is

a second complementary meaning of the term and that is as a description of the process or practice of reasoning, as in Dryzek's (2004) conception of 'discursive democracy'. This is important as the questions the research sets out to ask concern both what discourses are developed around HS2 in order to legitimate decisions and also how are those discourses created through a process of reasoning, speaking and representing the world. As a process one can ask does the discourse on HS2 meet the requirements seen in the 'ideal speech situation' of Habermas or more recent critical tests set by Fairclough using a Habermassian framework;

> "(a) People decide to enter dialogue, and can continue the dialogue on other occasions;
>
> (b) Access is open to anyone who wants to join in, and people have equal opportunities to contribute to the dialogue;
>
> (c) People are free to disagree, and differences between them are recognized;
>
> (d) There is space for consensus to be reached, alliances to be formed;
>
> (e) It is talk that makes a difference – it can lead to action (e.g. policy change)." (Fairclough 2003 p80)

This provides an example of how Habarmassian concepts have been converted into a series of research questions. This also provides the research described in this thesis with an, albeit very high, standard against which to compare the actual discourse on HS2.

The Public Sphere

As discussed above the case study examines activity within a public sphere, something described by Habermas as an "organizational substratum of the general public of citizens" (1996 p368). A framework for analysis of the public sphere using the tools of critical discourse analysis is suggested by Fairclough (1999 pp69-73). Here he uses the critiques of Arendt and Calhoun's (1995) argument that it should be seen as multiple publics rather than the single sphere conceived by Habermas. Fairclough (1999 pp69-73) proposes a series of five analytical foci against which to evaluate discursive practices within the public sphere; 1) regulative practices; 2) emergence; 3) recontextualisation; 4) as a constituent of action; 5) and viewing practices within an order of discourse.

Of these analytical foci the first of these is of particular importance. This is the view of communication in the public sphere as a *regulative practice* focusing on how inputs are controlled. Here Fairclough suggests using the concepts of classification and framing, discussed in more detail below. The other foci all have relevance for example viewing the discursive practices within the public sphere as a space of *emergence* allows research that "assesses to what degree individual and collective identities, social relations and knowledges

are collectively constituted in dialogue" (ibid). This allows an examination of how knowledge regarding the need for a particular project is defined, what counts as a cost or a benefit and the role of communicative practices within this. The fourth focus on discursive practice as a constituent of action deals with the connection between discourse and action that underlines the importance of the study of the process of legitimation. It makes the point that discourses are more than simply words, they provide resources for action. These are social practices with a 'dialectical relationship' between discursive events and the institutional and social structures within which they are embedded. "On the one hand, these situational, institutional and social contexts shape and affect discourse, on the other hand discourses influence social and political reality" (Van Leeuwne and Wodak, 1999 pp91-92). The final focus on the *order of discourse* reflects the way in which different texts and forms of speech have different status and power. It also examines the way the overall narrative is structured and by whose speech and whose texts. As discussed in chapter two this *order* can be identified within particular 'narratives of necessity' through the way certain texts or practices shape what is perceived or treated as a necessity and what is excluded.

Policy Frames

The view of communication as a regulative practice is broken down by Fairclough (1999) into two related concepts, classification and framing. *Classification* concerns the categories reflected in the discourse and which are excluded or at least insulated from others. This can be either strong or weak with a strong classification characterised by rigid categories firmly delineated from each other. An important point about Fairclough's use of the concept of classification is that it allows working in a 'transdisciplinary' way. This means that "the logic of one theory can be put to work within (the logic of) another theory without one being reduced to the other" (ibid p70). What this allows is the use of categories, developed within the different texts and organisations, to be brought into a particular discourse.

The second concept taken from Fairclough (ibid pp69-73), that is important in understanding the function of communication in the public sphere is *framing*. It relates to how interaction is managed with collaborative, joint management associated with weak framing. In contrast strong framing is characterised by asymmetry of power and ability to manage the process. The questions one can ask here obviously relate to the classification and framing, are they weak or strong? However, particularly as the classifications used in this case are generated from the context rather than applied, one must identify the key categories that are established. This focus on regulative practice also allows for detailed observation of how the processes of establishing frames and categories, and differentiating between categories, takes place

The storylines produced by the various coalitions, project promoters or interpretive communities reflects the framing of the issues involved. These frames form the 'narratives of necessity' excluding alternative solutions discussed by Cowell and Owens (2011). These "underlying structures of belief", that often shape controversial policy positions are 'generative metaphors' in the way in which they actively shape the discourse defining the context of the 'problematic situation' the policy is intended to resolve (Schön and Rein, 1994 p23). This operates through the narrative features of frames which are generally highly normative. They establish a narrative about the problem embedded within which there is an assumption of what the solution should be. For example, if a problem is defined in terms of fragmentation then the implied normative position is that the solution is one of consolidation or coordination. Schön and Rein (ibid) argue that this dualism—that could be seen as an example of a 'binary opposition' (Levi Strauss, 1969), between problem and solution—provides a means of understanding the assumptions that form the frame.

However, it is a feature of discourse that such frames are not produced only by policy-makers and project promoters. Other groups seek to introduce frames that reconfigure the discourse taking options off the table or opening up alternative solutions. Fairclough (1999 p69) also makes use of the concept of framing when dealing with the regulative practices controlling inputs into the public sphere. His conception of the process of framing links questions of policy frames directly to the research question of whether decision-making is open or closed. He argues that effective dialogue depends on weak framing remaining open to diverse subjects and inputs. In short weak control over the management of framing is a feature of *open systems.* *Closed systems*, in contrast, exhibit asymmetric management of the process of frame creation with attempts to impose a strong framing of the issues. This is seen in the creation of narratives that exclude some options whilst promoting others as discussed above.

Legitimation

Thus far legitimation has been discussed in theoretical terms. Whilst this is valuable in describing a key concept within this thesis more detail is required if the process is to be treated as a unit of analysis. That is in the sense that the functioning of a process of legitimation through rational critical discourse in the public realm can be derived from the empirical observations of the process of planning and appraising HS2. It is here that the exploratory nature of the research is most apparent. The research is not a deductive testing of Habermas' theory of legitimation rather it is a more tentative process of induction seeking to reach conclusions from the empirical evidence. Within this the theory of legitimation is not one that the research is seeking to test. The aim of the research is not to refute or prove the theory of legitimation, it is simply one of the premises that the research draws upon in seeking to reach stronger or weaker conclusions.

As with the work of Fairclough discussed above there have been other studies that have considered the process of legitimation albeit through discourse analysis of specific texts. Van Leeuwne and Wodak (1999) examined the use of bureaucratic language in the justification of immigration decisions. They identify four strategies (ibid pp104-110) authorisation, rationalisation, moral evaluation and mythopoesis (the creation of myths or stories). This provides categories in which to place the different justifications that can be identified within the discourses on HS2. Of these four it is the rationalisation and mythopoesis that may be most significant at this stage. Authorisation refers to justification by reference to authority or law and in the case of HS2 the major legislative step to authorise the project has yet to be taken as Parliament has not decided to approve the project. There may well be a moral component to decisions yet the literature thus far (particularly the discussion of CBA) suggests that legitimation of decisions "by reference to the utility of the social practice or some part of it", (ibid p105) may be a common strategy. This is particularly relevant as what are presented as straightforward rational justifications on closer inspection take the form of 'moralized activities' (ibid) being highly normative as with policy frames. Finally, the creation of stories is likewise an important strategy in legitimising decisions through constructed narratives of the type identified by Groves et al. (2013).

4.4 Methods

Before the process and practical challenges of the research are discussed it is useful to consider the research methods applied and how they sit within a constructivist ontology. Ethnographic research, discourse analysis and semi-structured interviews are used together as they fit within this constructivist paradigm. In viewing knowledge as a social construct it is important to acknowledge this thesis is likewise a social construct. In seeking to interpret decision-making, planning and appraisal and the role of civil society in this case it aims at producing an account of the different perceptions held by those involved, including myself[3]. The inductive approach seeks to reach strong conclusions based upon a consensus established across these different perceptions yet one that is "still open to new interpretations as information and sophistication improve" (Guba and Lincoln, 1994 p113). Consensus here refers to a process of 'triangulating' interpretations and features of the narrative constructed (Sayer, 1992 p251). This involves, for example, the identification of common themes across the different perceptions that are observed in texts, speech or identified through interviews. These may be points on which all

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[3] The first person is used at points in this thesis partly as a reflection of the break with the naturalist tradition in qualitative social science but particularly to acknowledge the role of the researcher as "a force which impacts upon relations with people in the research setting and the way they are perceived." (Holliday, 2007 p120)

parties agree or it may simply be issues that are identified or perceptions that are confirmed through the use of different methods or across the different phases of the research.

The first two methods used are both methods and methodologies. That is in the sense that the use of either ethnography or discourse analysis is associated with a specific epistemological position. They sit within a constructivist paradigm, as discussed above, yet as applied in this thesis they also depend upon a coherence theory of knowledge. This contrasts with correspondence theories that assume objective facts exist in the world and that the aim of research is to produce an account that *corresponds* with the facts. Coherence theories aim to produce what Geertz describes as 'thick description', inscribing and 'fixing' social discourse (1973 p19) in order to produce a *coherent* account. This could risk accounts that have high internal coherence yet lack meaning beyond the text that is produced. Yet such account must draw in perspectives beyond that of the author capturing a multiplicity of perspectives and explanations (Fischer 2003 pp217-218). This includes the explanations provided by interpretation of the social and institutional facts identified in the case study alongside the many theoretical insights drawn from the literature on MTPs and civil society.

4.4.1 Ethnography

The term ethnographic is used here to stress the immersion in the field and the use of observational data, yet as Gobo points out on their own these are simply methods. What underlies the term is "the theoretical basis of the work stemming from a particular history and tradition" (2008 p11) such as the interpretive studies of Geertz. The research makes use of the ethnographic methods that have been called for as an important approach to analysis of the type of policy conflict one sees in the case of HS2 both as an accompaniment to discourse analysis (Hajer, 2003 p102) and as a means of gaining access to the 'local knowledge' identified by Yanow (2003 pp228-247):

> "Observing what people do and how they do it, listening to how they talk about the issue, reading what they read and talking with them about their views will lead the analysts to a degree of familiarity with the issue and views on it from the perspective of those affected by it in whatever way. Out of this growing familiarity with local knowledge, the researcher – analyst will be able to identify the overlapping commonalities that define borders between communities of different interpretive positions – the architectures of meaning according to which various parties to the debate frame the issue." (ibid p239)

The research is also ethnographic as an ethnography is produced (chapters five and six). This seeks to develop a coherent interpretation of the planning and appraisal of HS2 and its

relationship to wider decision-making as a tool for analysing the research experience and applying a narrative structure to the context. It also acknowledges the position of the researcher both in collecting data through interactions with organisations and individuals through fieldwork and interviews and also in producing the final account (something discussed below and in more detail in chapter nine).

Observation

The method of data collection most closely associated with ethnographic approaches is that of observation. In this case it is used to identify social practices, the formation of interpretive communities and the creation of meaning. Unlike traditional ethnography the approach applied in this case was not that of participant observation where the researcher takes on a role within the society or group they are studying. The role taken here was more that of an 'announced observer' (Grey, 2004 p240) as it was largely non-participatory and overt rather than covert. Observations were conducted at three 'Community Forums' held in the West Euston area in the London Borough of Camden between June and December 2013. Other observations were of; three meetings between local networks of civil society groups and Local Authorities in Camden and the Chilterns within this period; an additional meeting in Camden between Local groups and HS2Ltd prior to the close of the Draft Environmental Statement consultation in July 2013; one public debate and a presentation by CPRE on HS2 was observed and finally four meetings of community groups were also attended. It was also possible to attend the national conference organised by StopHS2 one of the national opposition campaigns in July 2013. A conference organised by Greenguage 21 a group established to promote UK high speed rail in September 2013 provided a means of gaining insight into groups and organisations arguing *for* HS2.

An information sheet was sent either to all the participants or to the Chair of any, non-public meeting observed. In most cases I was introduced to the rest of the meeting as a Ph.D. student from UCL. As the initial method of data collection observation was generally conducted at what were public or semi-public events (there is a question of how public Community Forums actually were which is discussed in more detail in chapter nine). This followed the logic of the research focusing upon the parts of the process which were within the public sphere. This meant that negotiation of access was not always problematic as in a number of instances all that was required was to turn up or register and pay for an event.

During meetings extensive contemporary handwritten notes and diagrams were made (figure 4.3) with additional recollections added later. This produced five full notebooks. From these notes it was possible to begin to identify issues and how they had been, or were in the process of being framed by those who were participating in the events. What counted as data and what

was recorded in the field notes was the participants, their speech and argumentation. The notes adhered to the principle of capturing verbatim as much of the speech as was possible (Gobo,

Figure 4.3: Example of fieldwork notes.
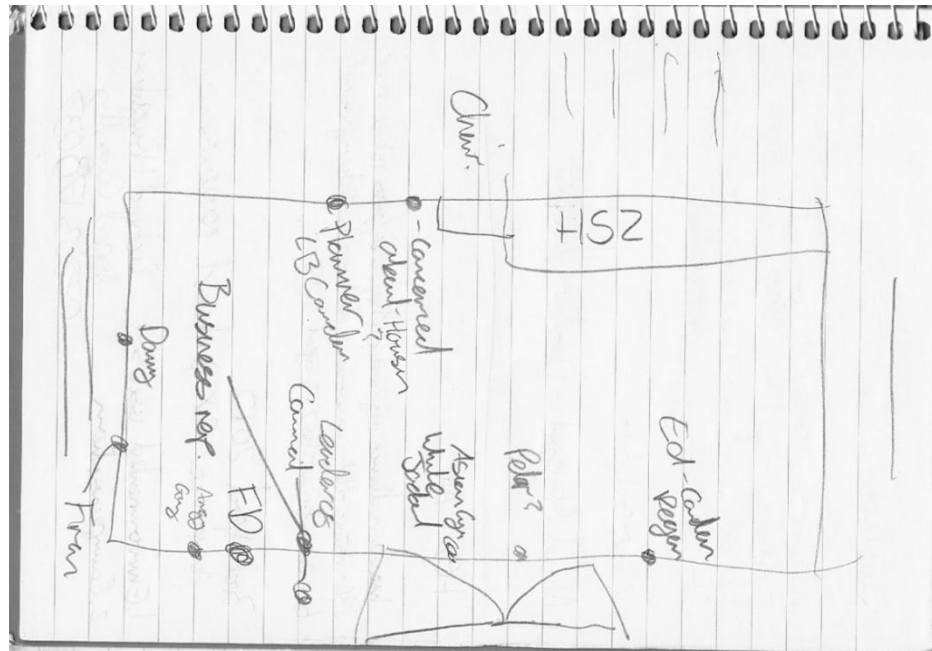
2008 pp204-205). This formed the body of the data collected with additional observations such as the layout of the room recorded. In some cases impressionistic notes were added after the observation. The type of phenomena recorded in this way would be, for example, moments of tension or comedy or observed informal interaction. Other relevant details might be the location and nature of the venue, a community hall or council office for example.

ORGANISATION	Position on HS2			Nature of interview/contact	
	Broadly supportive	Neutral	Opposed	Formal (Recorded)	Informal (Written notes)
1. AGAHST			x		x2
2. HS2 AA			x		
a.					X
b.					X
3. Stop HS2			x	X	
4. Local MP (Con)			x	X	
5. Local MP (Lab)			x	X	
6. Community Forum			x	X	

		1	2	3	4	5
7.	HS2 Ltd	x				x2
8.	National Trust		x			
	a.					X
	b.				X	X
	c.				X	
9.	Chiltern Society			x	X	
10.	Berks, Bucks and Oxon Wildlife Trust			x	X	
11.	Buckinghamshire CC			x	X	
12.	LB Camden (Councillor)			x	X	
13.	West Euston Partnership		x			X
14.	Amersham Action Group			x	X	
15.	Camden Cutting Group			x	X	
16.	Bengali Workers Association/ Drummond St Traders			x	X	
17.	Pan-Camden Alliance			x		X
18.	Civic Voice		x			X
19.	Campaign for the Preservation or Rural England	x			X	
20.	Railfuture	x			X	
21.	Greenguage 21	x			X	
22.	Campaign for Better Transport	x				X
23.	The Rail Freight Association	x			X	
24.	The New Economics Foundation		x		X	
25.	Amersham Action Group			x	X	
26.	Cubbington Action Group			x	X	
27.	Friends of the Earth Birmingham			x	X	
28.	Birmingham Council for Voluntary Services		x			X
29.	Birmingham City Council	x				X
30.	Chiltern Ridges Action Group			x	X	
INTERESTED PARTIES						
31.	Academic (HSR advocate)	x			X	

32.	**Academic (Consultant for Berks CC/51M)**		x		X	
33.	**Activist (Successful opposition to Transport Megaproject)**		x		X	
34.	**Journalist (Mayoral Candidate)**			x	X	
35.	**Member of HS2 Peer Review Panel**	x			X	
36.	**Consultant producing plans for HS2Ltd**	x				X

Figure 4.5: Interviews conducted.

Reflexivity

The problem of reflexivity has long been acknowledged in ethnographic methods. This is the risk that the researcher in some way alters the reality of what is being studied by their presence or intervention. Some steps to address this are discussed in the following section in relation to the way interviews were conducted. Yet this potential interaction between researcher and the context brings opportunities as well as risks. This exchange of information between researcher and informant is intrinsic to ethnographic research (Gobo, 2008 p126) and, by the adoption of a reflexive style, can elucidate the process of knowledge creation (ibid pp298-303). The above outline of the methodologies and research strategies achieves this to an extent by 'showing the workings' of this qualitative research (Holliday, 2007 p8). Nevertheless, there is potential for this reflexivity to go further and become a tool in itself. If the aim of enquiry is as Geertz suggests (1973 p14) the "enlargement of the universe of human discourse" then the experience of expanding personal perceptions may offer valuable insights. This brings with it the risk of going native, something well understood within anthropology. This is where the researcher takes on the views and values of those they are studying to the point they are no longer able to perform the role of a researcher. They become something akin to a spokesperson for the groups they are studying. Notwithstanding this risk there is value in acknowledging and reflecting upon what Bernstein describes as the 'prejudices' or preconceptions the researcher brings so that they may avoid distorting the phenomena that is being studied (1983 pp141-142). This process of challenging one's preconceptions is of particular importance when seeking to produce a *coherent* interpretation as it guards against the production of an account that simply reflects the prejudices of the researcher. The importance of a reflexive approach to the experience of fieldwork emerged during the third phase of the research. In order to conceptualise these emergent findings an area of theory was brought into focus that had, until this point, been latent in the theory and method discussed in this chapter. This is the 'fusion

of horizons' discussed by Bernstein using Gadamer's concept of *horizontverschmelzung,* a process in which one's own perception is enlarged through trying to understand a different 'horizon' (Bernstein, 1983 p143). He sees this as a response to the challenge of studying phenomena from which the researcher is in some way separate without "imposing blind or distortive prejudices on them" (ibid pp141-142). Bernstein uses this concept to explain the challenges of overcoming the temporal separation of historians from their subjects or the cultural separation faced by ethnographers and how this leads to a more coherent interpretation of phenomena.

In this case the distance between the researcher and researched is not temporal. Nevertheless, we are, to an extent, separated by culture. Whilst we share a common language and national culture the important difference is best described as one of *tradition.* Bernstein (ibid pp140-141) sees this as working through a set of prejudgements or prejudices with a threefold temporal character; they are handed down (from the past); constitute our present selves; and are anticipatory (containing beliefs about the future). In my own case these come from a history of employment in regional government and the study of spatial planning. This led to a predisposition towards seeing the benefits of large strategic infrastructure investments as potentially justifying their costs. As a student at a school of planning and part of a centre that has studied mega infrastructure projects (thus far largely from the perspective of decision-makers and key stakeholders as opposed to local groups); I would identify myself and can be identified by others with the assumption that there is, at least theoretically, such a thing as a 'successful'[4] mega infrastructure project. Finally, my own anticipatory beliefs are that climate change represents an existential threat to human civilisation and that significant action to shift to lower carbon forms of transport is imperative. This is a set of prejudgements that saw me, at the outset of the research heavily predisposed, at least in principle, towards HSR and HS2.

A second feature of this separation between myself and the groups and individuals involved in responding to (or promoting, for that matter) HS2 is that I am not directly affected. My own property, livelihood or places to which I have a strong attachment are not threatened by the project. This is a contrast to many of the individuals I interviewed, particularly those in the local action groups. In this respect my experiences felt closer to those of some of the national NGO representatives. This was in the sense that our concerns were professional (or academic in my case) and one step removed from the more visceral responses to HS2 that were visible

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[4] The fundamental question the OMEGA Centre has sought to address is 'what constitutes a successful mega infrastructure project, programme and/or plan' (OMEGA Centre, 2015). Whilst this allows considerable scope for critical analysis it still reflects the 'infrastructural ideal' (Graham and Marvin, 2001) discussed in chapter two which assumes that infrastructure provision of this scale can be in the public interest.

at the local level. I also found myself closer in age and professional experience to the national NGO representatives that I interviewed than I was with the majority of local action group members. The initial assumptions, that the national level was more likely to be the level at which constructive deliberation about HS2 took place were, however, based on the initial evidence of structures (such as the Right Lines Charter and NGO Forums) rather than the similarity in outlook and experience identified here.

One final feature of the experience of fieldwork that reflects the distance between myself and the local action group members I interviewed is the initial scepticism reflected in the research questions regarding the legitimacy of civil society. This is the question of whether or not the local concerns of a 'passionate minority' (Hall, 1980) or self-interested, NIMBYism were key features of the opposition. This in turn reflects wider questions of the legitimacy *of* civil society and whether or not local concerns or interests in some way de-legitimise arguments against mega-transport projects such as HS2. Combined with the preconceptions discussed above this indicates an initial position, at the outset of the fieldwork phase of the research, which was predisposed towards HS2 and sceptical of the local opposition. *Over the course of the research this initial position shifted*. Yet rather than proving problematic this shift provides valuable evidence of the way in which HS2 has been conceived and implemented thus far has led to a similar shift in the perceptions of individuals and organisations. The findings set out in chapter nine illustrate the way this personal *horizontverschmelzung* helps to frame the evidence of the way in which the actions of project promoters have effectively de-legitimised the project.

Interviews

A total of 42 interviews were conducted (figure 4.5) across the three phases of the research. The majority of the interviews were with individuals who represented or were actively involved in CSOs responding to HS2. However, from observations it soon became clear that there was considerable interchange between local politics and local government. For this reason, a small number of interviews with local government officers were also useful in clarifying this relationship. The striking lack of CSOs that were supportive of HS2 meant that interviewing anyone with a positive view of the project within civil society was difficult. There was one individual who was interviewed as a representative of a non-profit organisation supporting the process and one from a group which was largely supportive. There were also several interviews with individuals representing organisations that retained a neutral position or that refused to simply oppose HS2 outright. Others who had an involvement or overview of the process were also interviewed; this included academics, journalists and consultants who were actively involved in the debate as well as individuals who were in a position to give an overview of the process ('Interested Parties' figure 4.5). These individuals had this overview

either by virtue of professional knowledge, long-term engagement with the issues or through involvement with similar controversial transport projects in the UK such as HS1 or the expansion of Heathrow airport.

The interviews that were collected were a mixture of formal (recorded and transcribed) and less formal interviews in which handwritten notes were taken. In the initial stages of the research informal interviews were a more useful way of getting to know potential interviewees and identifying key areas of the debate. In a few instances less formal interviews were more practical as a very small number of interviewees were reticent about being recorded. This approach was particularly useful in securing two interviews with a senior member of the team delivering HS2Ltd's Community Forums. This individual was unwilling to participate in a recorded interview but the value of gaining some, limited, insight into the internal decision-making process of this key organisation clearly offset anything that was lost in not securing a recorded, transcribed interview.

The recorded interviews were semi-structured based on an evolving template (Appendix A). This was designed to enable me to manage the interview and ensure the key topics were covered but also to allow for dialogue and interaction between myself and interviewees. Due to the value of dialogue in collecting data and the status of most of the interviewees some concerns such as avoiding leading questions and paraphrasing responses (Grey, 2004 p225) were less of an issue. Most interviewees were older than myself, working in or having worked in senior positions. Other interviewees were closer to peers, being of a similar age and working in similar roles to myself. It was considered unlikely that if, for example, an interviewee disagreed with the way in which their response was paraphrased that they would be unwilling to say so. As the interviews were part of an interpretive strategy seeking to understand the situation this use of discursive techniques such as paraphrasing an interviewee's response were valuable as a means of checking whether my interpretations were correct and eliciting confirmation or alternative explanations.

One area where it was considered important to avoid leading questions was the introduction of topics that were peripheral to the debate. It was possible that an interviewee if asked about something they did not feel was relevant may feel compelled to come up with some answer. This may appear to give apparent weight to an issue. An example of this was the issue of civil disobedience. This was something that was observed to be mentioned very rarely and only on the periphery of debates. In interviews where the limits of opposition and protest were discussed it was important to avoid suggesting what those limits might be as this was an area where the interviewees own definition was important. Other less contentious areas used the technique of asking open questions for example; "what would you describe as your interest in

HS2?" This was intentional as it was, again, important that the interviewee defined what was meant by interest rather than having any definition suggested.

The formal interview texts were transcribed and then coded using NVivo software in order to identify where interviewees were expressing views that related to either open decision-making and input legitimacy or closed decision-making and output legitimacy (figure 4.6). The content of the interviews was also analysed alongside this coding of the issues and concerns. Finally, the interviews were coded for narrative points that emerged as significant as this allows for a more grounded approach due to the way some of the principles of Corbin and Strauss's (1998) 'open coding' are inherent within NVivo.

Of the units of analysis used to interpret the situation, interviews most clearly allowed an insight and checking of assumptions made about the process of legitimation. It was possible to examine issues that were much wider than the local ones that were revealed by many of the observations. It was also possible to ask direct questions such as; are decisions legitimate; or, how do you justify taking a particular position? This process of checking and interrogation of the issues allowed me to understand where deliberation might be taking place within different groups and to examine the potential for deliberation to form a greater part of the process. Ultimately, interviews were also useful in understanding how participants conceived some of the different elements that shape the conceptual framework to the research; for example, to see how terms such as civil society and also the way in which relationships between CSOs and state organisations are interpreted by those involved.

Style of Decision-Making	Interviewee Comments
1. Interview expresses a view regarding need for open decision-making/input oriented legitimacy	*You only have a good quality decision-making process if you include [everyone].* *the fundamental problem is that there is no community participation*
2. Interview expresses a view that there is closed decision-making or that the proposed outputs or institutions are not effective or legitimate	*they have been difficult because they don't want to discuss things. Well, that's my opinion.* *[I] don't see HS2 as being an effective way of using those resources* *So it was originally green no-one, ... seriously thinks its green. It was claimed that it would deal with the North/South divide. That has, by and large, been abandoned.*

Figure 4.5 Examples of Coding of Interviews.

4.4.2 Discourse analysis

The use of discourse analysis in this case served a particular purpose. As is discussed in more detail in subsequent chapters, significant parts of the process of planning and appraisal remained effectively closed. As a result, it was difficult to gain direct access to the rationalities and intentions of the majority of project promoters. Therefore, discourse analysis provided a means of inferring the ways in which these groups conceive of the project, its aims and the benefits it seeks to deliver. A method intended to "bring into control aspects of the social use of language which is outside of democratic control" (Chouliaraki and Fairclough 1999 p8-9) is of particular value in interpreting the use of language within a closed coalition of project promoters and advocates. Whilst the method informs all the findings set out in the subsequent chapters it is of particular relevance in the analysis of policy frames discussed in chapter seven. It is this framing of issues that informs the research questions on the character of planning and appraisal and whether or not it is more open or closed.

An important concept for the way discourse analysis has been used in this case is the notion of *intertextuality*, referring to the way that texts are constituted from other texts in a process that is far from neutral. Fairclough (1992 pp105-110) illustrates the process through an example of the reporting of a government sponsored study in a national newspaper. This sees the secondary text (the newspaper article) constructed from the information in the primary text (the government study): a process of interpretation and translation. Yet, despite the appearance that the article is reporting the content of the study, the secondary text contains the views of the newspaper. The concept of intertextuality is important as it allows evidence to be brought from other texts (figure 4.6a) and other research methods, such as observations and interview data, into the discourse analysis.

Orders, coalitions and frames

Other important concepts taken from the literature on discourse analysis and applied to the analysis of texts as part of this research are the 'order of discourse', 'discourse coalitions' and framing. These have all been discussed above as features of discourse as a unit of analysis and are used here as key concepts in the analysis of the specific texts. First, the 'order of discourse' is a linguistic reflection of social practices that are concerned with attempts to shape and control the discourse. They "select certain possibilities defined by language and exclude others – they control linguistic variability for different areas of social life" (Fairclough, 2003 p24). This interest in controlling what can and cannot be said is relevant in understanding the power relations involved in the process of planning and appraisal. The ability to close or attempt to close off a process is in itself a reflection of power. What is relevant here is the ability and desire to resist and select what is drawn into the public realm. An initial analysis of a series of

ministerial speeches[5] on HS2 delivered over a twenty month period was useful in establishing a number of themes that were developed in more detail in the subsequent analysis. Themes such as capacity and competition were prevalent in the sense that they were frequently mentioned in all speeches. Other themes that proved to be significant such as the comparison with Victorian infrastructure and engineers were noticed but it was their strategic use, identified in the subsequent discourse analysis that identified these as key frames.

The second concept used in the discourse analysis is drawn from those that have used the methodology as a way of understanding similar policy issues to those created by HS2. Fairclough (1992 pp8-9) identifies the way in which institutions and groups have their own discursive practices. This is particularly relevant in a study interested in the role of organisations. This can be seen in the formation of discourse coalitions identified by Hajer (2000) that pull together different storylines replicated by different actors and institutional settings that produce and shape the discourse (ibid pp139-140) developing a consensus that is internal to the coalition. There is a clear parallel with Yanow's (2003) 'communities of meaning' of which she identifies three levels in policymaking; first policy makers, then implementers and finally affected citizens. Yanow introduces the distinction between those who make policy and those who bear the consequences, something that underlines the value of the interpretive approach in understanding the different meaning constructed by different groups. This concept is applied in this thesis to identify groups that form these interpretive communities to promote HS2. Yet it is also clearly valuable when exploring the ways other groups (who are currently outside of the processes of planning and appraisal that are conducted by project promoters) form their own interpretive communities based on different forms of shared meaning.

	Texts Analysed
1.Primary Text	*High Speed Rail: Investing in Britain's Future−February 2011 Consultation. (DfT/HS2Ltd 2011)*
2.Secondary Texts	• *High Speed Line Study: Summary Report. (Atkins, 2003)* • *Meeting the capacity challenge: The case for new lines. (Network Rail, 2009b)* • *High Speed Rail(Command Paper). Department for Transport. (DfT, 2010).* • *Economic Case for HS2. The Y Network and London – West Midlands February 2011. (HS2Ltd/DfT,2011b)*

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[5] Norman Baker MP, Minister for Local and Regional Transport (2011); Justine Greening MP, Secretary of State for Transport (2012); Simon Burns MP, Minister of State, DfT (2012).

	• *Britain's Transport Infrastructure High Speed Two. (DfT, 2009)*

3.Intertextual Evidence	• *What is the 'global race'? The Guardian. September 22nd (Beckett, A., 2013)*
	• *Don't let Delay – and the Nimbys – derail HS2. Personal Blog post. (Adonis, A., 2012)*
	• *Race Plan: An Authentic Liberal plan to get Britain fit for the 'Global Race' (Browne, J., 2014)*
	• *Britannia Unchained: Global Lessons for Growth and Prosperity. (Kwarteng et al., 2012)*
	• *HS2 project 'essential', says David Cameron. London Evening Standard. July 24th (2013)*
	• *Great Britain: connected or not? (High Speed Rail Industry Leaders Group, 2014)*
	• *Puffing hard in the global race. The Economist 1st June (2013)*
	• *Why don't more people aspire to living a good life?' (Skidelsky, R 2013)*
	• *Evidence, policy, and the politics of regional development : the case of high-speed rail in the United Kingdom. (Tomaney, J., & Marques, P. 2013).*

Figure 4.5a Texts used in Discourse Analysis.

The primary text selected for discourse analysis was the February 2011 consultation document 'High Speed Rail: Investing in Britain's Future' (DfT/HS2Ltd 2011). This analysis also took in texts that predated and supported this document (figure 4.6a). These were analysed using NVivo first to identify emerging policy frames and strategies for legitimation and then against a coding schedule based upon questions of the nature of the discourse, legitimation and the public sphere (figure 4.6b). This primary document predates my involvement with the project and was selected as it gave the clearest overview of the Government's position. Other documents such as consultations on compensation and the environmental impact offered more specific detail but not the overview.

NVIVO CODES/NODES	SUB OR 'CHILD' NODES
• **CAPACITY CHALLENGE**	
	❖ Infrastructure Challenge
	❖ Rail Capacity
	❖ Transforming Regional Geographies
	❖ Narratives of Necessity
• **VICTORIAN INFRASTRUCTURE**	
	❖ Left behind
• **GLOBAL RACE**	
	❖ Twenty First Century
	❖ Economic Growth
	❖ Competitiveness

Figure 4.6b Discourse Analysis Coding Schedule.

Texts

Not all texts were subject to the detailed discourse analysis of the 2011 consultation document. It is difficult to separate the discourse analysis from the observations, interviews and content analysis. Indeed it would be wrong to do so completely as the validity of the conclusions relies on the cross checking or triangulation between different sources and methods. Texts in this context include evidence from interviews and observations. Other documentary sources have been of more value in establishing a narrative structure for the genealogy of HS2 and the concepts that shape the current proposals constructed in the following chapter. In this case content analysis was sufficient rather than the detailed cross checking of documents for the themes and frames identified in figure 4.6b. However once these themes had been established from analysis of the primary and secondary texts features of the frames became easier to identify within the mass media discourse in the later phases of the research. Also, in a case such as this one where there has been considerable public debate the texts produced have been used in a way that is closer to the observations conducted of meetings and events. This is in the sense that they inform the questions of legitimation, the nature of the public and the role of CSOs. In some cases they might provide insights into the aims and intentions of project promoters, or the wider political discourses that influence them, as is the case with the documents referred to in section three of figure 4.6a above. Other documents provide evidence of the aims and intentions of opposition groups and other CSOs many of which are adept at using the mass media for their own ends.

Survey

One other methodology that was briefly applied during the third phase of the research as a means of checking that the response of groups in Birmingham had not been missed was a short survey. This was employed purely as a heuristic and as a means of establishing whether there were grounds for further research. It was not designed as a means of primary data collection and made use of basic free online software to design and circulate an electronic survey. A high response rate was not expected but the targeting of the survey was quite precise being sent out to the circulation list of Birmingham Council for Voluntary Services (BCVS), an umbrella group for the voluntary sector in the city, a list that numbered around 3000 organisations. In the end the very low response rate confirmed the suspicion, picked up in conversations with staff at BCVS that most CSOs in Birmingham had not responded to or engaged with HS2 either in a negative or a positive way.

4.5 Research Strategy

So far chapter four has identified the interpretive aims and research questions the thesis seeks to answer. The following section now sets out how I approached the interpretation of the context or problematic situation and how this situation was defined in practice. This informed the selection and application of research methods. The research strategy was an iterative one that evolved in response to the context and the availability of opportunities for data gathering. It was always appreciated that this would be the case due to the changing context of a developing MTP in the early stages and the exploratory nature of the research. The strategy developed into three distinct phases in which the choice of methods was refined as I became more familiar with the context, issues and key individuals.

Phase 1

At the early stages of the research it was unclear how much access it would be possible to achieve. It appeared likely that, despite several attempts to secure interviews with staff at HS2Ltd, the formal decision-making process that occurred within both the DfT and HS2Ltd would remain relatively closed. However, it was unclear at first how much access it would be possible to gain to many of the civil society organisations, particularly those opposed to HS2. Initial enquiries with both parties appeared to indicate that access may prove a problem as either approaches were rebuffed or emails were not returned and direct contacts were often hard to find. Some contact was achieved, particularly with the national NGOs involved in the 'Right Lines Charter' which appeared to indicate that it may be easier to access this area of civil society. For this reason, a strategy of 'snowballing' was adopted in the exploratory phase of the research in which interviewees were asked for suggestions of who else to approach. This strategy proved effective in identifying early interviewees leading to a revaluation of earlier concerns with the difficulty in gathering interview data.

Due to the initial difficulties with access, observation of the Community Forums established by HS2Ltd observations at public events and use of publicly available documents were important initial strategies for data gathering. Local media was also valuable in identifying local issues as well as beginning to highlight areas where the issues were particularly complex and groups within civil society were particularly active. At this stage an initial discourse analysis of ministerial speeches was conducted in order to test the methodology. Content analysis of other policy documents was sufficient to begin to identify the different organisations and individuals within them that make up the public formed in response to HS2. From this material it was possible to identify the nature of the discourse, how and where it was conducted and temporal elements such as the implementation timescale and the various consultation periods. An early interview with an influential supporter of HS2 along with the

publicly available documentary evidence helped to establish the history of the development of the current proposals. It was also possible to identify the main arguments for or against (as well as a range of more nuanced positions) and the basis for these arguments in knowledge that was produced and contested by both project promoters and CSOs.

Phase 2

The second phase of the research involved a greater immersion in key areas of the public concerned with HS2. This manifested itself both spatially but also in terms of the role of CSOs within this public. Spatially key geographical areas were identified where the concerns around HS2 were particularly acute. Camden and the Chilterns were not the only areas where there has been a response to HS2 but they are both areas where that response has been particularly vocal and visible. While the research sample does not seek to be representative these two areas do provide a spread due to the contrasts they represent. One is rural and largely affluent; the other is urban with a mix of low income and more affluent areas. Politically there is a contrast with the Chilterns being a traditional heartland of the Conservative Party and Camden having returned the same Labour MP (Frank Dobson) from 1979 to 2015[6]. This is useful in understanding the way that the response to HS2 has not been something that has divided along party, economic or rural and urban lines. Visiting these areas was also useful as it allowed me to get a sense of place, what the level of response to HS2 was, how people conceived the scale of the problem and in a sense what was at stake.

Due to the developing of knowledge, contacts and access phase two allowed for a greater understanding of the role of institutions and the relationships between key organisations and individuals. It also allowed me to see how they worked together in practice through observations of meetings and events. As access developed it was also possible to observe meetings that were not public in the sense that there were open invites. These included meetings of various local protest groups in both Camden and the Chilterns at which local government representatives were often in attendance. This was useful in identifying the relationship between local government and the various CSOs. In this phase of the enquiry it was also possible to observe Community Forums organised by HS2Ltd which provided a graphic illustration of the relationship between the organisation and local groups. Through this process it became possible to gain limited but important access to HS2Ltd or at least the part of the organisation charged with delivering the Community Forums.

Phase two also saw a shift from content analysis to analysis of the discourse itself. This was of particular importance when it became clear that direct access to the project promoters, in

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[6] Frank Dobson stood down at the 2015 General Election to be replaced by Keir Starmer MP (Lab).

particular bodies such as HS2Ltd was likely to be problematic. In this case discourse analysis provided a means of filling this gap. From material produced by the Government promoting HS2, in particular the ministerial speeches analysed in phase one, themes began to emerge. These were helpful in beginning to establish the 'order of discourse' through understanding the position taken by those with the power to promote approve and allocate finance for the project. It was also possible to identify the strategies for legitimation employed within these documents and in particular mythopoesis or the creation of narratives to justify the project. It was possible to observe first-hand the extent to which the real discourse conducted, particularly through the Community Forums, deviated from the ideal standards suggested by Habermas and Fairclough. It was also possible to identify the different interventions or inputs into the discourse which were generally in the form of texts such as written reports, consultation documents and the responses to them.

Phase 3

The research conducted in phase three sought to cross check and triangulate frames established in the previous phases. Consistent with this was a check of the geographical spread of opposition to HS2. As discussed the sample was not intended to be a wholly representative one and to achieve the level of immersion achieved in Camden along the route of Phase One would have been unrealistic given there were 26 separate Community Forums. However, it was important to check that the research was not missing areas where the response to HS2 was actually positive. It was safe to accept that much of the response from civil society would be negative in places where the impact of the project was particularly acute or that there was very little benefit. However, this might not have been the case in areas such as Birmingham where there was a perception gained from local media and from the local business community that the project was largely seen in a positive light. Information that was available suggested that there was a limited response from civil society in these areas. Yet given the difficulty in identifying key organisations and individuals, something that had not ultimately proved the case elsewhere, a different approach was required. Following a conversation with a local voluntary sector support organisation the idea of a survey was suggested as a way of identifying any groups that may be involved or may perceive some benefit to them from HS2. This confirmed the assumption that; while there may be interest in the project from the business community in Birmingham this was not something that was reflected in a wide range of civil society organisations participating in the process of decision-making.

Also in the third phase of the research the interview questions were refined to reflect the shifting position (discussed above). This was justified as many of the questions about the instrumental use of CSOs to mask hidden interests were answered through the process of observation and interview. This phase involved a number of repeat interviews with individuals

with whom there had been informal meetings or discussions in the past, consistent with the principles of cross checking. Finally, in this phase the mass media provided valuable evidence. This was through highlighting polling data that appeared to confirm that public opinion towards HS2 was turning negative suggesting that the failure to legitimate the project observed at the local level may also be occurring at a national level. Other material such as the intertextual evidence identified above appeared to confirm the significance of the themes identified in the discourse analysis, in particular that of the 'global race' rhetoric discussed in chapter seven.

Summary

The methods discussed in this chapter aim at producing a *coherent* account of the planning and appraisal of HS2 and the way in which this sits within a wider context of decision-making and ultimately legitimation. It is the study of this wider context that supports the research aims that go beyond a single case and seek to shed some light on questions of how advanced democracies make complex, technological decisions with uncertain outcomes. The analysis of the policy discourse (and the expert knowledge from which it is sometimes constituted) and the forms of (local) knowledge generated outside the formal processes requires a different set of tools (Hajer, 2003 pp102-3). Discourse analysis and ethnography offer tools for the identification of policy frames and the creation of those frames within different 'discourse coalitions' (ibid). In this case the focus has been both on the frames created by policy makers and project promoters and then the response to this from civil society. The following two chapters use the narrative data collected in interviews and from the analysis of documentary sources to identify the origins of the current proposals for HS2 and also the way in which the response to them evolved. In doing so they also identify the key themes used in the framing of the project and the nature of the public formed in response.

Chapter Five: The Case Study Part One: The development of HS2

> "we formed the view that really the thing to do was to build a new railway and if you are going to do that then you make it a high speed line." (Early advocate for HSR and senior representative of the rail industry)

5.1 HS1

The story of HS2 begins with HS1 (the Chanel Tunnel Rail Link−CTRL−as it was originally known) as the name itself seems to imply that others will follow. This £9.6 billion project to construct 113km of high speed rail line began construction in 1998 after a protracted planning process (OMEGA Centre, 2008). This was the UK's first foray into high speed rail (HSR), indeed it was its first major new rail line in nearly 100 years. Europe, in contrast, had been developing HSR in Germany and Spain with France leading the way with the Paris-Lyon line constructed in the early 1980s (Vickerman, 1997 pp22-30). Much has been made of the role played by national pride in ensuring the UK rail link was finally able to match the speeds of the French *TGV* in particular the fury of the then Prime Minister Margaret Thatcher at the comments of the French President François Mitterrand that;

> "passengers will race at a great pace across the plains of northern France, rush through the tunnel on a fast track - and then be able to daydream at very low speed, admiring the English countryside" (cited Faith 2007 p51).

Despite cost overruns and lower than expected ridership (OMEGA Centre, 2008) events intervened, the project was reconfigured, and ultimately, alongside the subsequent regeneration around Stratford International Station, would be credited with playing a significant role in securing the 2012 Olympics for London (Faith, 2007). This in turn contributed to the perception, by some (ibid), of the project as a success story for British engineering. According to the journalist Nicholas Faith, who has (at Arup's suggestion) chronicled HS1, the heroes of the piece were the Arup consultants who;

> "in a country that distrusts grand projects...had become successful by breaking all the known rules, fighting virtually the whole of the nation's political and bureaucratic and professional establishment with apparently negligible chance of success – and, against impossible odds winning." (Sir Peter Hall, foreword to Faith 2007)

The story of the project saw the consultants as outsiders not simply bidding for government contracts but actively producing alternatives to the destructive and hugely controversial

British Rail (BR) proposals that would have led to wholesale demolition of areas of South London. The BR route faced protests from local groups of urban professionals in a recently gentrified Peckham, effective lobbying from Kent County Council and the opposition of national NGOs such as the Campaign for the Preservation of Rural England (CPRE). In contrast the route proposed by Arup offered very little demolition of residential property and saw the emergence of considerable regeneration benefits, at least for Stratford in East London. The approach was in marked contrast to the proposals from the (pre-privatisation) British Rail whose attempts at route planning and consultation resulted in widespread property blight along the 'preferred corridors', 6 miles wide at points (ibid pp59-60), snaking through Southeast London and Kent.
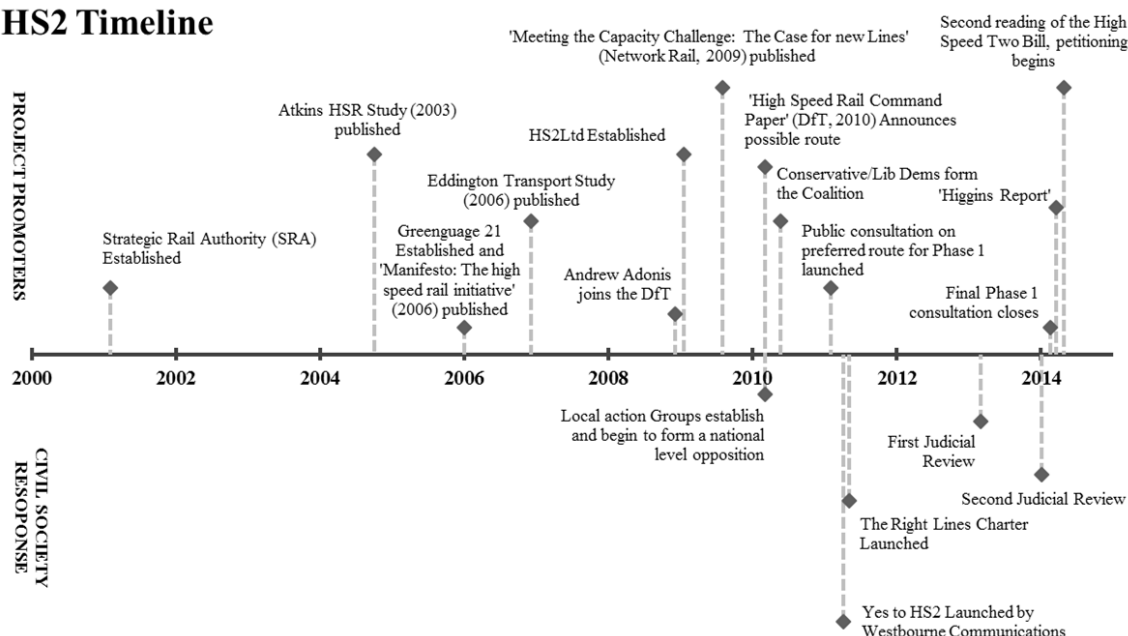
Figure 5.1: HS2 Key Events Timeline.

Consent was granted for the project through a hybrid Bill, the same parliamentary process used to consider proposals for lines during the UKs first rail boom in the 1840s. Throughout the process the committee made a number of alterations to the route and to proposals for St Pancras station. This took twenty four months for a select committee of MPs to hear a total of 1034 petitions from individuals or groups unhappy with the proposals. Consent was granted in April 1996 and at the time this was the longest running select committee since the one that had considered the Great Western Railway Bill in 1854 (Gambrill, 2003). Since then the Crossrail Bill has taken longer lasting twenty nine months. While, "[b]oth the passage of the hybrid Bill and the vexed issue of blight underline the difficulties in progressing a bold piece of new infrastructure in a densely populated country with existing procedures" (Gourvish,

2006 p380), it is possible to see other themes emerging from this first chapter in the story of high speed rail in the UK. In particular, the role of consultants as active promoters of the scheme, widespread and effective opposition in both rural and urban areas, the importance of political support (however this is achieved) and bureaucratic inefficiency alienating a sceptical public.

5.2 The genesis of HS2, the Atkins High Speed Rail Study

The concept of HS2 emerged in what was a torrid phase in the recent history of the railways in the UK, a point at which the relationship between state and market bodies was in flux. The late 1990s had seen both privatisation and a series of fatal train crashes blamed on a fragmentation of the maintenance and safety regimes of the former British Rail (Wolmar, 2005). In 2001 the Strategic Rail Authority (SRA) was established by the Labour government to regain some public control after what was criticised as a chaotic and ideologically driven privatisation of the railways by the previous Conservative administration (ibid). Train Operating Companies (TOCs) had been established under privatisation to run rail services, but not to own the infrastructure or rolling stock. The SRA began experimenting with offering TOCs longer franchises as they came up for renewal in an effort to stimulate long-term investment in services.

The consultants working on the bid, by TOC Virgin Rail, for the East Coast Mainline reached the conclusion that the incremental increase in rail usage indicated that within fifteen years rail infrastructure would be 'struggling to keep up' (interviewee comment). At this point attempts to modernise the existing infrastructure of the West Coast Mainline (WCML) were going badly. This was the second attempt to address the limitations of the UK's busiest rail line linking London to the former great industrial cities of Birmingham, Manchester Liverpool and Glasgow. The first being based on cutting edge tilting train technology in the form of the Advanced Passenger Train, abandoned by British Rail in the 1980s but then developed by the Italian manufacturers FIAT as the successful Pendelino. The project, delivered at a time when the rail industry was in chaos following privatisation and in the aftermath of the Hatfield rail crash of 2000, saw a huge escalation of costs. From an £800m upgrade conceived by British Rail before privatisation (Wolmar, 2005 p318) the price of the project leapt to a final cost of £14.5 billion at implementation (NAO, 2006) whilst failing to deliver the projected increase in running speeds on time.

The Virgin bid for the East Coast Mainline (ECML) included, despite opposition from the Government, proposals for new rail lines. While the bid was unsuccessful the then chair of the

SRA, Alistair Morton commissioned the engineering consultancy Atkins to conduct a study of the possibility for further high speed rail connections. The aim of the report was;

> "to establish whether there is a transport and business case for constructing a new high speed line (HSL) in the UK from London to the north." (Atkins 2003 p1.1)

The report agreed with the Virgin bid, that new rail lines would be required concluding that rail capacity would be reached on the WCML by 2016 (capacity was defined as 60 per cent of average daily load which would lead to overcrowding at peak times). Of the different future scenarios explored only very low growth or a doubling of rail fares was considered as being likely to eliminate overcrowding. It concluded that an expansion of rail capacity on the WCML would be required by 2016 and that neither road nor air transport were viable solutions to meet the demand for north-south travel.
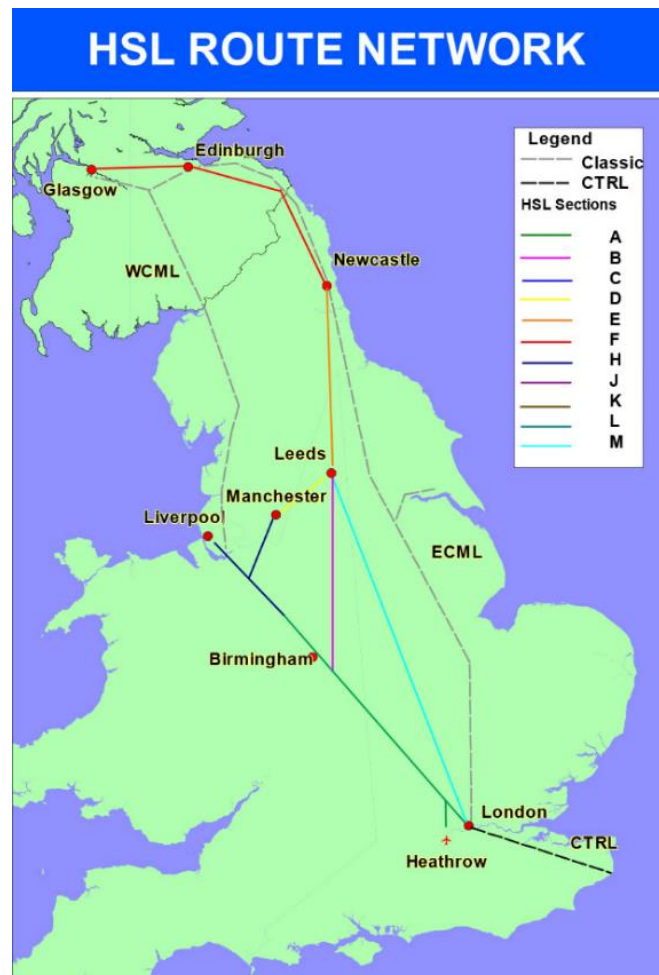
Figure 5.2: Atkins HSL Network (ibid p 4-3).

The study considered a range of options outlined in figure 5.2 from which it is possible to see the genesis of the current proposals for the Y network of HS2. Two options (figure 5.3) emerge from the sixteen considered. Option one is described as a 'core network' beginning from the Northwest of London with a new high speed line to Staffordshire with spurs onto the classic network (a term that distinguishes the rest of the network from high speed lines) to

Birmingham, Liverpool and Manchester. Option eight is described as a 'potential end game' (ibid p4-4) for a high speed line taking in Leeds, Newcastle and continuing on to Edinburgh and Glasgow. While option eight performs well in terms of generating demand this is more costly with a lower BCR than the 1.4 achieved by option one.
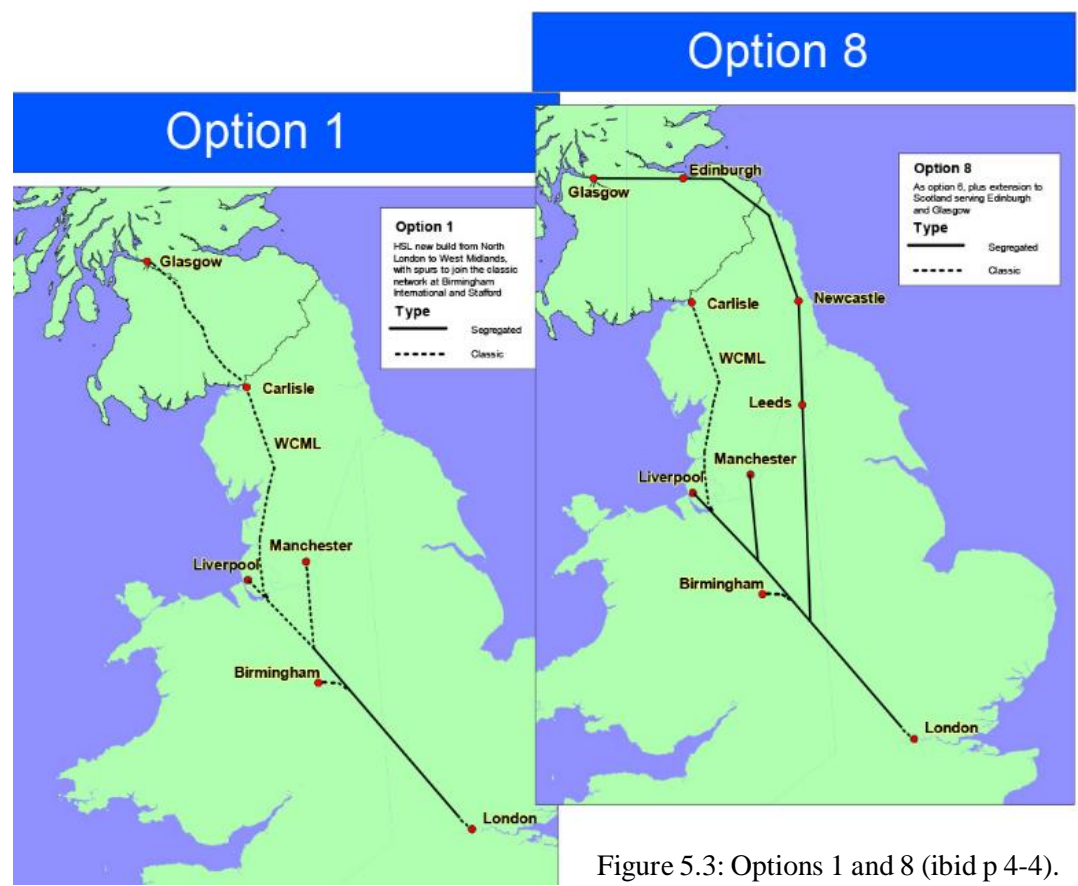
Figure 5.3: Options 1 and 8 (ibid p 4-4).
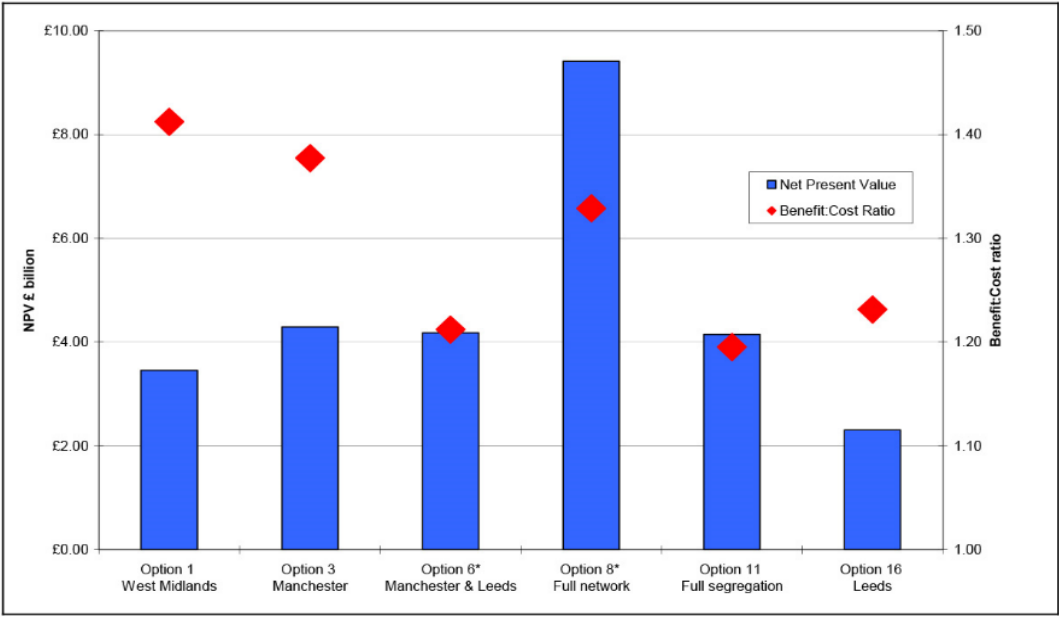
Figure 5.4: BCR for alternate routes (ibid p6-6).

It is possible to see a narrow framing of the issues in this report which is intended to explore (or possibly make) the case for HSR as a solution to the limited capacity of the classic network. There is a brief consideration of alternatives such as increasing road or air traffic as well as upgrading or building new classic lines. These are considered, unfavourably, (ibid pp7.1-7.2) with the bulk of the document given over to making a case for the need for HSR and developing a set of options. For example, the business case is set out in considerably greater detail than the case for the alternatives. It is also possible to see a relatively strong classification of who the stakeholders are in terms of developing the report and the decision-making process required to deliver further high speed rail lines in the UK.

The report identifies environmental protection groups as among the stakeholders consulted at key points in the study. Yet these are neither named or numbered in contrast to other interested parties such as the Confederation of British Industry and various political and governmental bodies concerned with regional and economic development (ibid 4.2). The general public is categorised as one of the groups that ought to be consulted on the delivery of the proposed high speed rail lines. This consultation is suggested as part of the next stage of the process, a study into the regions and markets served, the destinations and route corridors for HSR. The general public in this context is not differentiated into different groups such as CSOs and individuals who could be affected. Further work suggested in the report considers further consultation under the heading of the 'Communications Strategy'. There is no separate or comparable *consultation* strategy with the way consultation is conceived highlighted by the following quote;

> "It will be important for the SRA to be clear about what message it is presenting and how much involvement stakeholders can realistically have in the decision making process as consultation raises expectations among groups or individuals who have engaged" (ibid p8.2).

The genesis of the idea, within the SRA, during what was a difficult period in the history of the railway, is significant. This should be considered in the light of some of the criticisms of the way the organisation managed the relationship with the TOCs and the way in which this encouraged them to outdo each other submitting ambitious proposals. The lack of management of the relationship between the TOCs led to them proposing costly schemes that would depend on public funding as they would never attract private finance (Woolmar, 2005 p129-134). However, the most damning criticism was that the SRA "made no attempt to address the big questions such as 'what are the railways for?'" (ibid p 130) something that left a strategic void that ambitious private sector actors were encouraged to fill.

5.3 Eddington

It would be incorrect to assume that there were no countervailing voices to the view that the UKs rail infrastructure was approaching crisis point and that the solution to this was to implement an ambitious project with an acknowledged high environmental cost (Atkins, 2003). One particularly strong challenge to the idea came in the form of the 2006 Eddington report into the links between the UK's transport infrastructure and economic productivity. This was considered to have rejected the idea of new high speed lines but on closer analysis the position is more equivocal. The report clearly frames the 'big questions' about what transport is for in economic terms concluding that investment should be focused upon improving the performance of existing transport networks. It contains a number of recommendations on conceiving and implementing transport projects. Most notably, in its criticism of transformative projects whose benefits it argues are speculative, the report warns that;

> "The risk is that transport policy can become the pursuit of icons. Almost invariably such projects – 'grands projets' – develop real momentum, driven by strong lobbying. The momentum can make such projects difficult – and unpopular – to stop, even when the benefit:cost equation does not stack up, or the environmental and landscape impacts are unacceptable." (Eddington, 2006 p48)

The report deals specifically with the momentum that it was felt had "built behind the case for a new network of very high-speed rail lines in the UK" (ibid p48). It acknowledges that the issue of capacity is real and the benefits that could be gained from resolving it are substantial. Nevertheless, it points out that these goals could be achieved by other policy measures. The report does not completely rule out 'very high speed rail lines' although it is sceptical of any environmental benefits. It concludes that HSR ought to be considered alongside a range of policy measures all of which should be considered on their merits. The options selected should be those that give the greatest return on investment. The report considers cost benefit analysis as the way to achieve this seeing it as a means of appraising the different policy options such as pricing and demand management. A clue to the tone of the report, which is sceptical of the value of large scale transport projects and much more positive towards incremental and small scale schemes, comes in its use of the Benefit Cost Ratio (BCR) as a means of reaching this conclusion.

5.4 Greengauge 21

In contrast to the more conservative tone of the Eddington report, a loose grouping of high level rail industry insiders and supporters of rail development was keeping up the 'momentum'

for the further development of HSR in the UK. This group was coordinated by Jim Steer, a founder of the transport planning consultants Steer, Davis Gleave. Steer had led the bid for Virgin Trains for the ECML and between 2002 and 2005 he had been seconded to the SRA where he oversaw the completion of the Atkins study in 2003. The organisation he established, Greenguage 21, was formally constituted as a not-for-profit company limited by guarantee in 2006. However, prior to this, Steer had been developing proposals for a national high speed network, using a group of senior members of the rail industry and supportive academics to test proposals. One interviewee recalled this occurring around 2004;

> "what he did do, he got, what I call, really heavy hitters every big hitter from the rail industry… there was one particular meeting where all of them showed up, they were all very enthusiastic. They were actually already developing High Speed Two" (Academic and participant in the informal group established by Jim Steer).

The publication in 2006 of a manifesto 'The High Speed Rail Initiative' (Greengauge 21, 2006) saw the proposal reframed much more in terms of regional economic development and the sustainability of HSR due to its potential to achieve modal shift. The manifesto sees the development of a number of new themes in the discourse surrounding the promotion of high speed rail. It is possible to see a reclassification of the problems that HSR is intended to solve as those of regional economic performance with the first in a list of advantages identified as;

> "An accessibility transformation for the regions across Britain served by new high speed trains, providing the missing stimulus to local and regional economic regeneration." (ibid p2)

The then Labour government was an enthusiastic advocate of regional development having established eight Regional Development Agencies (RDAs) in 1998 soon after their election in 1997. Of these eight only one, the Southwest Development Agency was not represented on the HSR Public Interest Group established as part of Greegauge 21 in 2008 to fund the development of strategy and research into high speed rail (Greenguage 21, 2014). There are other concerns of the RDAs reflected such as relieving the pressure for housing development in the countryside of the Southeast of England (Greenguage 21, 2006). This relates to a particularly controversial role played by the RDAs which saw them imposing national targets for housing development upon reluctant (and usually Conservative run) local authorities. As the regional economic development theme develops it is framed in terms of the national and Europe wide concern with balancing regional economic performance. The national picture is framed in terms of the gap between the economic performance of London as a global city and the Southeast when compared against the economies of the Midlands and the North. HSR is defined as;

"the missing ingredient. With it, we can extend the range of the London effect, so that a much larger part of the country can exploit the opportunities of the world city economy. This means that businesses in the midlands and the north can participate in the economic advantages enjoyed by the south." (Greenguage 21, 2006 p2)

Another theme that appears in the discourse that is reflected in the manifesto is the definition of HSR as "a crucial component of an effective national strategic framework for sustainable transport" (ibid p6). It is defined as the opposite to the least sustainable forms of long distance transport such as air and road with speed as the essential factor in ensuring that HSR can compete with air travel.
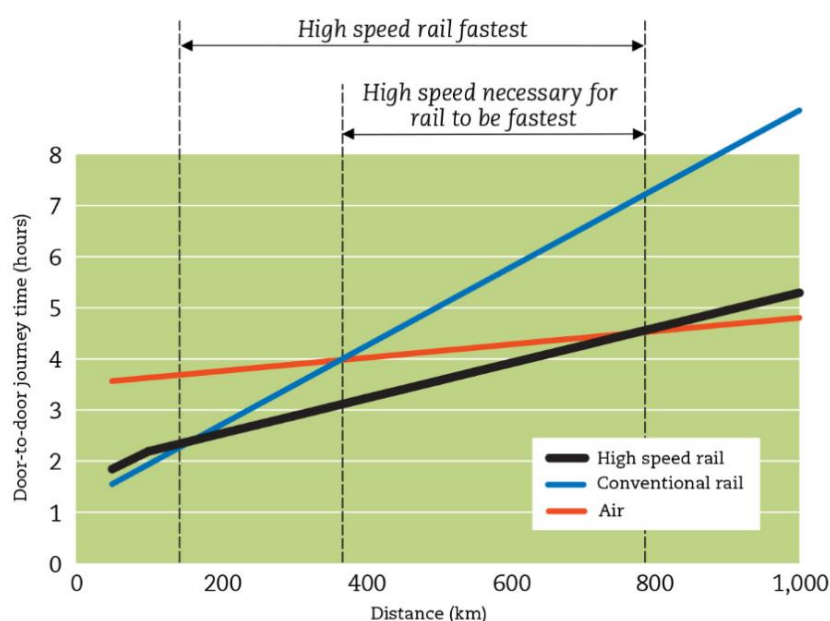
Figure 5.5: HS2 comparison to air travel (Greenguage 21, 2006 p6).

The report also sees the association of a commitment to "sustained programmes of investment in trunk and high speed rail" (ibid) with the cycle and pedestrian friendly transport policies of the Nordic and northern European social democracies. This is significant when one considers the attempts made by the Labour government to grapple with the issues of sustainable economic development such as the establishment of the Sustainable Development Commission to advise the Government in 2000 (SDC, 2014), The Stern Review on the Economics of Climate Change (National Archives, 2014) and at a regional level attempts by individual RDAs to assess the role of transport in the low carbon economy (EEDA, 2009).

One other theme that begins to enter the discourse via the Greengauge Manifesto is that of defining the high speed networks of Europe and Asia in relation to the relatively small high

speed capacity of the UK. Here high speed is defined as faster than 250kph in contrast to others who suggest the term ought to be applied to relatively slower speeds achievable using existing infrastructure setting the level at 200kph (Givoni, 2006). This is significant as the existing WCML is capable of taking speeds of 201kpm with aspirations from TOCs to increase this to 217kph using the existing infrastructure (Network Rail, 2009a p23). The capacity of the existing network as a basis for action is still present within the document but here capacity is seen as a facilitator of continuing growth.

5.5 Selling the idea to Andrew Adonis

The Greenguage Manifesto pre-empted a 2007 White Paper from the Department of Transport setting out expenditure until 2014 "alongside considerations of the 30-year challenges that the railway may face" (DfT, 2007). 'Delivering a Sustainable Railway' looks backwards to the failures and underinvestment under privatisation, and forwards, acknowledging a 40 per cent growth in rail usage over the previous ten years and pledging £10 billion investment to address capacity. The White Paper sets out improving reliability and safety as aims for the forthcoming investment period although the priority is capacity improvement with the Government seeking a railway that can accommodate a 22.5 per cent increase in demand by 2014 (ibid p10). Public investment is committed to become "closer to the historic norm" after privatisation switching investment in the railways from "managed decline to enabling growth" with the "first major growth plan since the 1950's" (ibid p7). It is claimed that this level of investment, if it is maintained through future 'control periods' (the five year periods over which funding is allocated to Network Rail the government owned body that owns and operates the majority of rail infrastructure in Great Britain) this "would be sufficient to meet growth on all routes until about 2030" (ibid p12).

While the White Paper acknowledges the London-Birmingham-Manchester corridor as an area where future intervention might be required it endorses the findings of the 2006 Eddington report stating;

> "it would not be prudent to commit now to 'all-or-nothing' projects, such as network-wide electrification or a high-speed line, for which the longer-term benefits are currently uncertain and which could delay tackling the current strategic priorities such as capacity" (ibid p9)

Decisions about new lines are left for the next White Paper appearing to rule them out at this stage as "the balance of advantage would appear to favour new services running at conventional speeds and operating on an existing disused alignment". It states that "[a]ny

schemes will need to be considered alongside other modes and judged against the key criteria of capacity, value for money and environmental benefit" (ibid p12).

Within two years there would be a significant shift in policy which would see HSR firmly back on the agenda. The man many commentators consider to be behind this shift in policy was the then new Secretary of State for Transport Andrew Adonis, as one pointed out;

> "it wasn't until Lord Adonis kind of got the bull by the horns that it[HS2] really started to become a possibility." (Journalist and Rail Industry Commentator)

Adonis began as Minister of State for Transport in October 2008 rising to Secretary of State in June 2009 a post he held until the Labour government's defeat in June 2010. Baron Adonis of Camden Town entered Parliament via the House of Lords as a Labour Life Peer in 2005. He joined the Department for Transport (DfT) after three years in the Ministry of Education in which he was deeply involved in the Labour Government's programme of replacing poorly performing schools with independently run academies. This was a policy for which he would, as he did later with HS2, generate considerable cross-party support.

5.6 HS2Ltd is set up

While at the DfT Andrew Adonis sought to promote HSR establishing HS2Ltd in 2009 as a company wholly owned by the Department to "advise the Secretary of State for Transport on the development of proposals for a new railway from London to the West Midlands and potentially beyond" (Companies House, 2009). The direction of travel appears fixed, even at this early stage, as *from* London, appearing to rule out options for starting the route elsewhere. This fairly loose remit was specified in greater detail in a letter from Sir David Rowlands the first Chairman of HS2Ltd to Lord Adonis. In this the objectives for the new line are outlined in order of priority (see Appendix B for full text);

Passenger Capacity; 'is the driving consideration'

> [Speed]; "the new line should be sufficiently high speed to optimise journey time benefits balanced with operational energy costs and achievement of maximum capacity. It is likely to be designed to at least the maximum speed for HS1. It should also have the ability to maintain high average speed, which will mean avoiding any permanent speed restrictions (e.g. sharp bends) which also impact on energy consumption and effective capacity, managing the approaches to cities (especially if shared with classic lines) and avoiding intermediate stops" (HS2Ltd, 2009)

The value of the Greenguage 21 and Atkins studies are acknowledged to the extent that it appears to form the basis of the proposed route and concept of HSR adopted. It is considered

unnecessary to conduct further work on longer term options despite the implications this may have for the choice of a London terminus. There is also very little aspiration or expectation of achieving significant modal shift from either road or air travel as a result of HS2 (ibid). A shift from air travel is acknowledged as not being a key objective and achieving a shift from road also excluded as a specific objective. Instead this is seen as dependent upon the costs and benefits of achieving modal shift (ibid).

The extent to which there was a shift in policy from the previous White Paper 'Delivering a Sustainable Railway' (DfT, 2007) is evident in both the Network Rail study of new lines (Network Rail, 2009b) conducted in 2008-9 and furthermore in the 2010 Command Paper 'High Speed Rail' (DfT 2010). The former document illustrates that the development of plans for HSR in the UK was not the exclusive responsibility of HS2Ltd, there were alternatives produced by the publicly owned rail infrastructure provider. Yet the document still sees the emergence of many of the features of the current discourse on HS2. The growing demand for increased capacity is presented as a justification for new HSR specifically in the Network Rail study which talks of the 'capacity challenge' (Network Rail, 2009b), this calls for a more comprehensive network than the project outlined in the 2010 Command Paper. The conclusion from Network Rail is that a route from London to Scotland would be the most viable option estimating the cost of construction at £34.012 billion (£41.3 billion including rolling stock and 60 years of maintenance costs) generating benefits of approximately £55 billion (ibid). The difference between proposals here and HS2 were the connections to Heathrow, Leeds and HS1 all of which were considered as reducing the business case. Yet this long distance connection enabled the Network Rail proposals to make very strong claims regarding the modal shift that could be achieved including 3.8 million fewer vehicle journeys and 3.6 million fewer air journeys per year. One final feature of the Network Rail proposals was the explicit comparison with the provision of HSR in other countries, a comparison in which the UK performs unfavourably (figure 5.6).
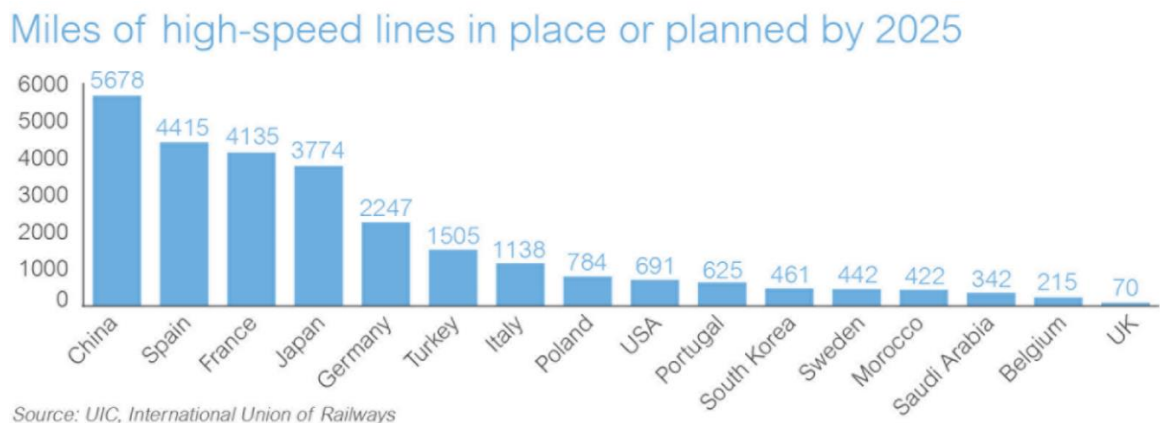
Figure 5.6: Comparison to HSR in other countries (Network Rail, 2009b).

5.7 The route is announced and the Coalition takes over
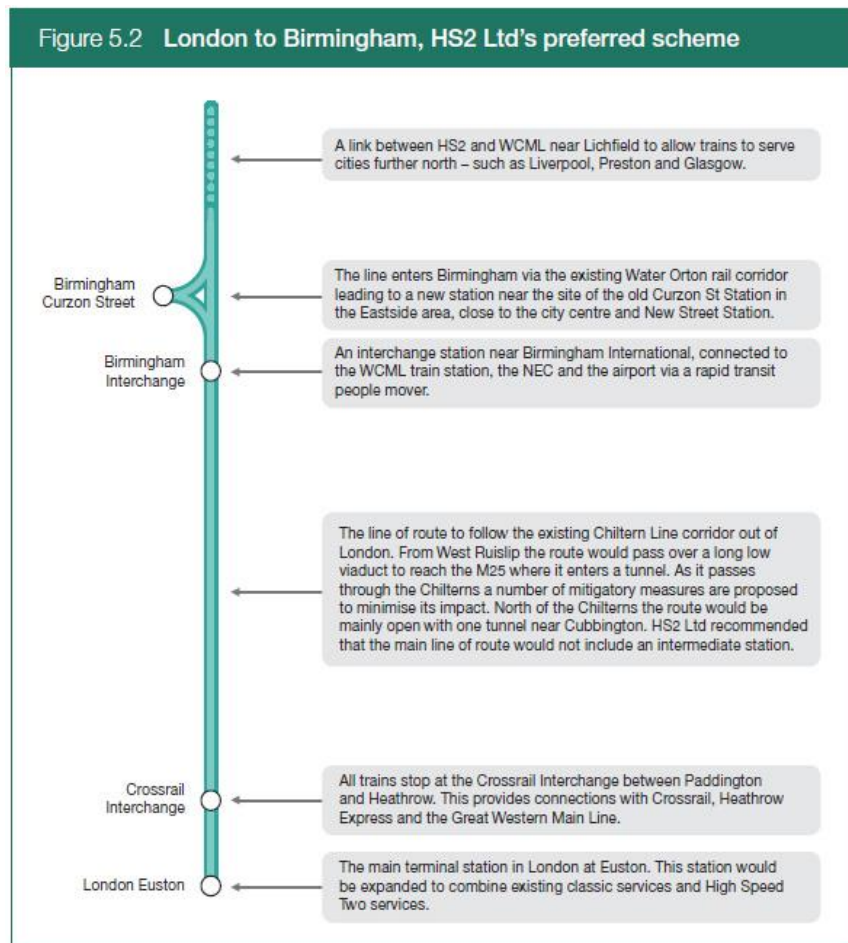
Figure 5.7: The Route (2010, Command Paper: DfT, 2010).

It was the March 2010 'High Speed Rail Command Paper' that made the Government's preferred option (presented to the Government by HS2Ltd) public for the first time. The document contains detailed maps setting out the proposed route (figure 5.7 and principles−see Appendix C) of high running speeds serving long distance city-to-city journeys under which the proposed route was designed. There is an acknowledgement of the consideration of options that was conducted by HS2Ltd (this exercise was not conducted in public due to the fear of property blight). There is references to some of the alternative routes considered yet it is not until the consultation document released in February of 2011 'High Speed Rail: Investing in Britain's Future' that the process by which Options 1-7 were considered was publicised (HS2Ltd/DfT, 2011 pp122-149).
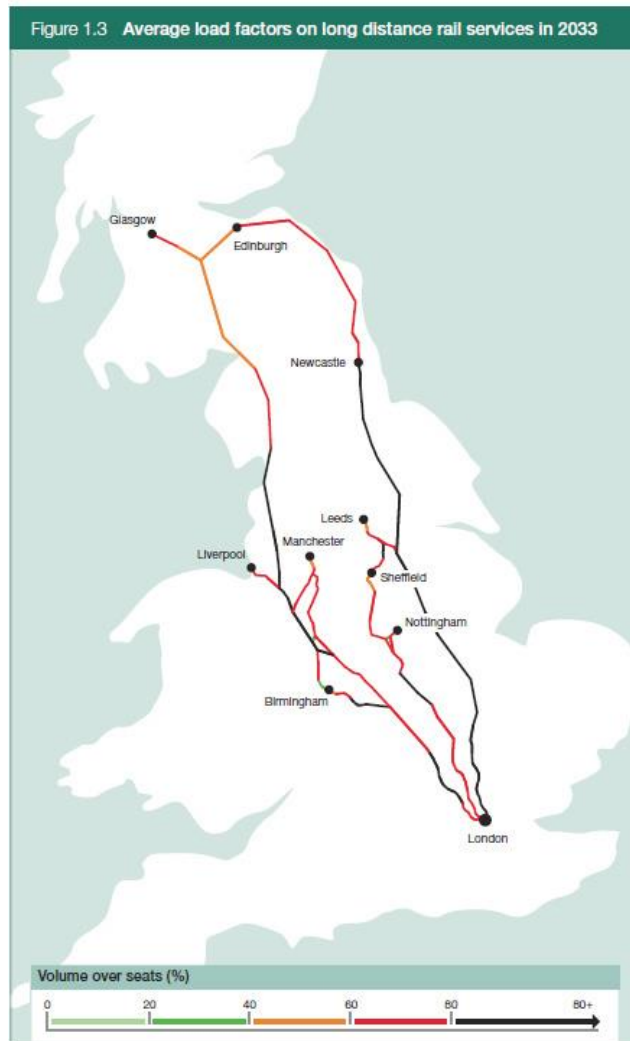
Figure 5.8: Route Loading by 2033 (DfT, 2010).

Despite a change of government a matter of months after the document's release much of the use of language in subsequent documents is consistent. For example, it is possible to see the framing of the project as meeting the 'twenty-first century transport challenge' (DfT, 2010 p11) essential to future economic growth and prosperity. This consistency indicates the success of Lord Adonis in achieving cross party support for the project. The rhetoric is not as urgent as one sees in more recent documents but the project is set within the context of the history of the UK's transport infrastructure of canals, rail and more recently roads. In particular, these are described in terms of the transformational impact on labour markets and inter-urban business travel (ibid p11). There is the development of the idea that the project provides a "once in a generation opportunity to overcome the acute connectivity limitations of the Victorian rail network" (ibid p70). It is likewise possible to see the 'capacity challenge' set out as a problem that will result in peak time crowding on major routes leading to "many more economically valuable journeys being forced off rail at these times" (ibid p32). This is also visualised as an increase that will affect much of the existing network by 2033 (figure 5.8).
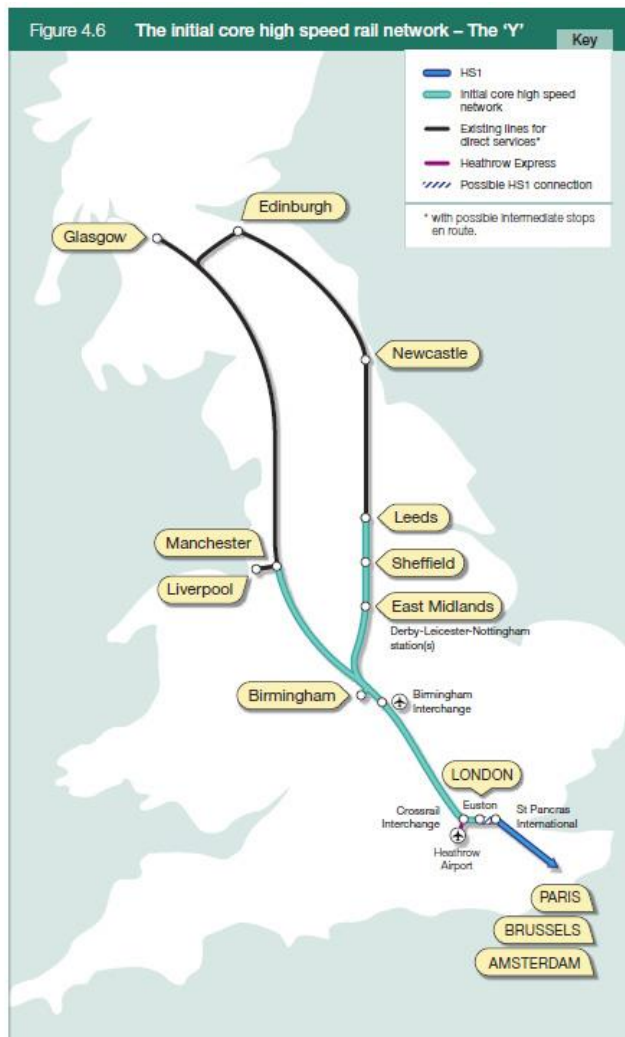
Figure 5.9: The Y Network (DfT, 2010)

It is also possible to see the emergence of the Y network as government policy. The route which would subsequently see only slight alterations is set out in this document with stations at Euston in London, and an interchange with Crossrail, the east-west cross London connecting route currently under construction. This interchange is at Old Oak Common a large area of railway land in Northwest London. There are no planned stops between Old Oak and Birmingham with a second interchange planned for the National Exhibition Centre (NEC) to the south of Birmingham to allow passengers to connect to Birmingham International Airport. The Birmingham terminus is the reopened Curzon St Station accessed via a spar from the main route that splits to the north of Birmingham to form the two arms of the 'Y' heading north to Leeds and Manchester. There was also a commitment to a link to HS1 "subject to cost and value for money" (ibid p9). The connection to Heathrow is envisaged as via Crossrail with the decision to create an additional station at Heathrow connected to the network via a loop left open, dependent on further work into the business case.

The significance of the 2010 announcement may have been felt by those directly affected but nationally any media interest was soon eclipsed by the parliamentary elections of May 2010.

This produced Britain's first coalition government for 33 years. The Coalition (between the Conservatives and Liberal Democrats) accepted the project despite embarking on a programme of fiscal austerity. This acceptance is again credited to the cross party support built for the project by Andrew Adonis;

> "he's [Adonis] also well trusted by the other side especially by the Lib' Dems'. And he played a very big role…in selling it [HS2] on to the incoming government." (Academic and Rail Industry Observer)

Often seen as most committed to environmental issues of the three main political parties the Liberal Democrats had supported HSR as a means of achieving modal shift as early as 2007 (BBC, 2007). The Conservatives had adopted the idea in 2008. The commitment had been part of the Coalition Agreement (The Coalition, 2010) and it had also formed part of the unsuccessful negotiations between Labour and the Liberal Democrats on forming a coalition (Adonis, 2013 p185). In the latter it is possible to see the presentation of the project as an alternative to government investing in and deciding upon a third runway at Heathrow. The timing of the announcement suggests an incoming Government felt able to cancel one controversial MTP against which Conservative MPs with constituencies that were affected by the project had been campaigning. This suggestion that the project offered an alternative to air travel may have played a role in avoiding widespread opposition from the national environmental NGOs and may have avoided the development of the sort of coalition of local and national groups that had effectively campaigned against the expansion of Heathrow (Stewart, 2010).

5.8 The Communication Strategy

Following the 2010 general election the Coalition would appoint Philip Hammond as Secretary of State for Transport, one of the departments controlled by Conservative ministers under the Coalition Agreement. His tenure would be a short one as he was succeeded in October 2011 by Justine Greening, who as MP for Putney in West London, had been a vigorous campaigner against a third runway at Heathrow. Greening in turn would be succeeded by Patrick McLoughlin in September 2012, the high turnover of ministers being a long standing feature of the DfT. Hammond's time at the department would see the launch of the formal consultation on HS2 in February 2011 but also the controversial and ill-judged response to the growing effectiveness of opposition groups such as HS2 Action Alliance (HS2AA) in shaping the political discourse.

The acknowledgment of the importance of managing the discourse around HSR can be found as early as the Atkins Report. Yet the approach adopted by Hammond was an adversarial one,

reminiscent of earlier, equally ineffective, attempts to smear the opponents of HS1 (Faith, 2007 p65). Attempts to counter the campaign against the project, and material such as the '6 Myths about HS2' (HS2AA, 2011 pp73-7) produced by HS2AA and widely circulated saw the recruitment of the advertising company Westbourne Communications. Founded by Lord Bethell, a Conservative Peer, the company was instrumental in setting up the Campaign for High Speed Rail at whose launch in April 2011 rail companies and supporters were encouraged to donate £10,000 to the campaign (Doward, 2013). The actions of Westbourne and the Campaign have led to allegations of 'Astroturfing' (the creation of an artificial grassroots campaign) and attempts to intimidate the opponents of the project (Minton/Spinwatch, 2013 pp4-5). It is not clear how serious any intentions to intimidate were as they may have been simply attempts to use strong language to promote the work of Westbourne as more effective than it actually was (Doward, 2013). The campaign seems to have produced little more than indignation in those opposing the project;

> "they used a conference centre…as the illustration of the vast lawns…It was extraordinary trying to build it up into some sort of north-south class divide" (HS2 opponent in the Chilterns)

As the interviewee points out a distinctive feature of the campaign was the attempts by Westbourne to portray opponents as "posh people standing in the way of working-class people getting jobs" (Lord Bethell quoted in Doward, 2013).
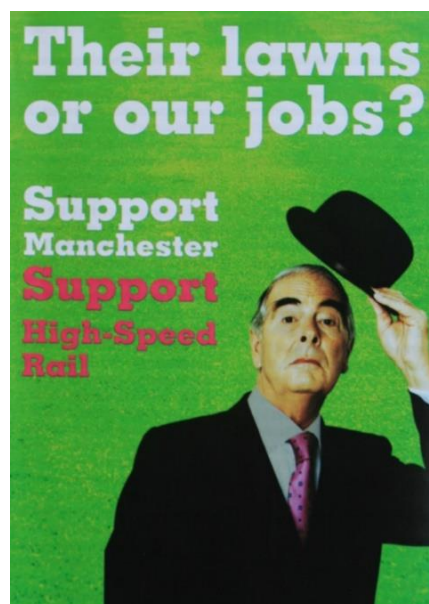
Figure 5.10: Their lawns our jobs?

5.9 The 2011 Consultation

In February 2011 Philip Hammond launched the consultation on the Government's proposed route for HS2 'High Speed Rail: Investing in Britain's Future' (DfT/HS2Ltd, 2011). The document lists a series of alterations to the route and additional mitigation such as further green tunnels and shifts in alignment such as the one that was intended to allow the screening around Hartwell House a property run by the National Trust. Some of these alignment changes would benefit some at the cost to others, for example in Warwickshire a shift away from the village of Stonleigh would take the line closer to properties in Kenilworth and Cubbington (ibid p93).

The language of the 2011 consultation becomes much more strident and insistent. Most of the elements of the discourse that were established in the 2010 Command Paper are also reflected in the 2011 consultation but they are expressed in a much stronger way. For example, the conception of the project as addressing the limitations of Victorian infrastructure is brought to the fore with the second paragraph of the executive summary stating;

> "Our current railway system dates back to the Victorian era and will not be sufficient to keep Britain competitive in the twenty-first century." (ibid p7)

The urgent need for action is underlined in the 2011 document by the inclusion of the 'global race' rhetoric adopted by the Conservative party (The Economist, 2013). The project is framed in a context in which other countries, our 'competitors' (DfT/HS2, 2011a p5), are pushing ahead with 'ambitious plans' and "Britain cannot afford to be left behind" (ibid p7) in this context it is our Victorian infrastructure that is insufficient to the task of keeping Britain competitive. This slight change in tone is also reflected in the conception of meeting business demand. Both the 2010 Command Paper and the 2011 consultation document see HS2 as necessary for the 'twenty-first century economy'. Yet the Command Paper is intent upon setting out the strategic case for HS2 and framing the project as consistent with previous Government policy such as the Eddington review (DfT, 2010 p11); in contrast the 2011 document sees HSR as having a 'strategic role' in providing infrastructure to support the 'business sector' (DfT/HS2 2011 p9). This idea is reflected in a reference to a survey (not cited) whose findings were that "95 per cent of companies agree that the UK's road network is important to their business and its productivity" (ibid). This, again Conservative, view of the role of government as being to provide the infrastructure called for by the 'business sector' is something that appears elsewhere in the debate on HS2 (Tomaney and Marques, 2013).

1 Do you agree that there is a strong case for enhancing the capacity and performance of Britain's inter-city rail network to support economic growth over the coming decades?
2. Do you agree that a national high speed rail network from London to Birmingham, Leeds and Manchester (the Y network) would provide the best value for money solution (best balance of costs and benefits) for enhancing rail capacity and performance?
3. Do you agree with the Government's proposals for the phased roll-out of a national high speed rail network, and for links to Heathrow Airport and to the High Speed 1 line to the Channel Tunnel?
4. Do you agree with the principles and specification used by HS2 Ltd to underpin its proposals for new high speed rail lines and the route selection process HS2 Ltd undertook?
5. Do you agree that the Government's proposed route, including the approach proposed for mitigating its impacts, is the best option for a new high speed rail line between London and the West Midlands?
6. Do you wish to comment on the Appraisal of Sustainability of the Government's proposed route between London and the West Midlands that has been published to inform this consultation?

Figure 5.11: 2011 Consultation Questions (HS2Ltd/DfT, 2011a).

Some of the change in tone may well be the result of a change of government with the Coalition or the Conservative ministers in charge of the DfT seeking to apply their own emphasis to a project adopted with minimal changes from the previous government. The increase in rhetoric and the sense of urgency implied by the concept of the 'global race' can be seen as both a desire to promote the project as beneficial and essential and also as a hardening of the Government's support. The extent of the latter can be seen in the way in which the consultation questions are set out. These six questions (figure 5.11) present the Government's position on the project as a relatively closed one. It is the Government's proposal, something that has already been decided upon. Both the 2010 Command Paper and the consultation documents go through the process by which alternatives have been rejected although this had been conducted within the DfT rather than in public. Those responding to the consultation are not asked to weigh up alternatives or to suggest what the rail network, north-south transport links or even HSR in the UK might look like. In contrast they are invited to agree with the Government's proposals.

The responses to the consultation were collated by Dialogue for Design a private sector consultancy recruited for the purpose. Analysis of the results is complicated by the way the questions often contain subordinate clauses creating the possibility of a response that agrees with part but not the entire question. For example, in response to question five one could easily agree with the proposed route but still object to the proposed mitigation. The closest to an expression of support or objection to the whole project comes in question 2, even so here this is categorised as a question of value for money. In this instance the picture is quite clear, of the responses analysed by Dialogue by Design, 15,257 agree that the Y network represents the best value for money solution to enhancing rail capacity and 31,789 disagree (Dialogue by Design, 2011 p10)

The difficulty in developing a meaningful analysis of a consultation constructed in this way is illustrated by the responses to question 1. 21,630 respondents agree that there is a strong case for enhancing the capacity and performance of Britain's inter-city rail network to support economic growth over the coming decades whereas 23,462 disagree. This appears to offer a more even split in the responses especially when one considers the 2,857 respondents who agree with caveats. However, on the issue of capacity this numeric analysis begins to break down. There is a figure of 13,840 respondents who agree with the proposition that capacity needs to be addressed but then this is contrasted with a 'significant proportion' (ibid p9) of comments from 'the public' that focus on increasing capacity of the existing network. 'The public', in this case, is contrasted with "a number of responses from organisations – including - Network Rail" (ibid) that state that existing capacity will be insufficient to meet future demand (Network Rail being the only named organisation). This opposition established between organisations on the one hand and the public on the other continues into the analysis of responses to future capacity requirements. It is organisations that support the rationale that increased demand forecasts necessitate increasing capacity and 'the public' or at least 'substantial numbers of its members' that question whether technological changes such as improved communications technology has been adequately considered.

The frustration, felt by many of those who responded to the consultation, with the way in which the questions were framed was exacerbated by the practical problems generated by the management of such a large process. On its own one single mistake or failure might not be significant. However, the problems in the management of the consultation were one of the more prominent in a series of mistakes, revisions and episodes of inattention that led many of those affected by the project to question the competence and good will of those charged with implementing it. A small (413) but very significant number of responses were not transferred from HS2Ltd to Dialogue by Design and as a result were not included in the analysis of the overall consultation responses (Dialogue by Design, 2012). Despite attempts by one of the national opposition groups Stop HS2 to allege that this was intended to exclude responses that were unfavourable (Stop HS2, 2012) it was clear that a number of organisations who were likely to be favourable to the proposals were also included in the lost responses (Dialogue by Design, 2012). These included organisations such as the consultancy URS Scott Wilson who would eventually be awarded the contract to deliver part of the Environmental Statement in 2013. It was concluded that the loss of these responses would not have made a substantive difference to the overall consultation (ibid p8) given that this was a small proportion of the total (0.75 per cent). However, this group included a number of significant opposition groups such as HS2 Action Alliance and the Wildlife Trust it also included relatively high profile groups such as the New Economics Foundation and Heathrow Hub who were suggesting

alternative approaches to the project. The effect of these omissions may not have had a great impact on the overall conclusions of the consultation, yet it fed into the ongoing criticism of the competence of HS2Ltd. As one interviewee put it;

> "The lost …consultation response, [I'm] not thinking for a moment that that was going to affect things in any way, but I think it was a sort of, black eye, for the consultation process at least in terms of being done one hundred per cent without error. And so I mean, from [our organisation's] perspective,… it just didn't feel like it was something that was in keeping with the concept of public engagement." (CSO Representative)

5.10 Further Consultations

The 2011 consultation was the first in a series culminating in the 2013/14 consultation on the Environmental Statement in support of the hybrid Bill. In the three years since the consultations first began in February 2011 until the close of the Environmental Statement consultation in February 2014 there have been eight concerning Phase One of HS2 plus another two on the route and Exceptional Hardship Scheme for Phase Two.

Figure 5.12 gives some indication of the amount of work required to respond to consultations on HS2. The largest of these, on the final Environmental Statement, ran to 50,000 pages considered the largest of its type in the UK (Dominiczack, 2013). It was claimed that it required respondents to be able to read an estimated 1000 pages per day and to work over the Christmas holiday period (CPRE, 2013). It has been suggested that such narrow timescales may be in breach of the Aarhus Convention that sets out international law on access to information and participation in environmental decision-making (ibid). This is a relatively recent development having come into force in 2001 yet HS2Ltd have been keen to demonstrate compliance with the Convention.

CONSULTATION	DATES	RATIONALE
ENVIRONMENTAL STATEMENT	25th Nov 2013 – Jan 24th (Extended to Feb 10th 2014)	Formal consultation on the Environmental Statement as required by the hybrid Bill.
2013 PROPERTY COMPENSATION	12th Sept – 4th Dec 2013	Re-run of the 2013 Property Compensation Consultation following a High Court ruling that the 2013 consultation was unlawful.
DRAFT ENVIRONMENTAL STATEMENT	16th May -11th July 2013	To gather views on the assessment of the environmental impact of the project and steps taken to manage or reduce them.

DESIGN REFINEMENT	16th May -11th July 2013	To gather views on station redesign and other refinements to the planed scheme.
PROPERTY COMPENSATION	25th Oct 2012 – 31st Jan 2013	To gather views on the Government's compensation proposals.
SAFEGUARDING[7]	25th Oct 2012 – 31st Jan 2013	To consult on the proposed safeguarded directions and the planning aspects of the safeguarded area
ENVIRONMENTAL IMPACT ASSESSMENT (EIA)	4th April – 30th May 2011	To establish the scope and methodology adopted in the EIA

Figure 5.12: Phase One Consultations.

5.11 Euston Station

Until the hybrid Bill passes into law, something that would not happen until after the 2015 general election, many issues around the design of the project and associated infrastructure will remain unresolved. This is despite the fact that the Government will have spent an estimated £900 million on the projects development and preparation by 2015 when Parliament is due to decide whether or not to grant consent. This is a figure that has already seen an increase of £100 million (Butcher, 2014). This absence of a final decision about the outline of the route has meant a design process that has been carried out, to an extent, in public. This does not mean that it has been participative with public input into the process. Rather it indicates the way in which the process of working from a set of principles and a proposed route to detailed designs for the route alignment, mitigation and infrastructure has been conducted under intense public scrutiny. As a result, design changes have been very public and in some cases subject to criticism. The clearest example of this has been the revisions to the design of Euston Station and the connection to HS1.

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[7] Safeguarding is an established part of the planning system, designed to protect land which has been earmarked for major infrastructure from conflicting developments which might otherwise occur. (HS2Ltd 2014)
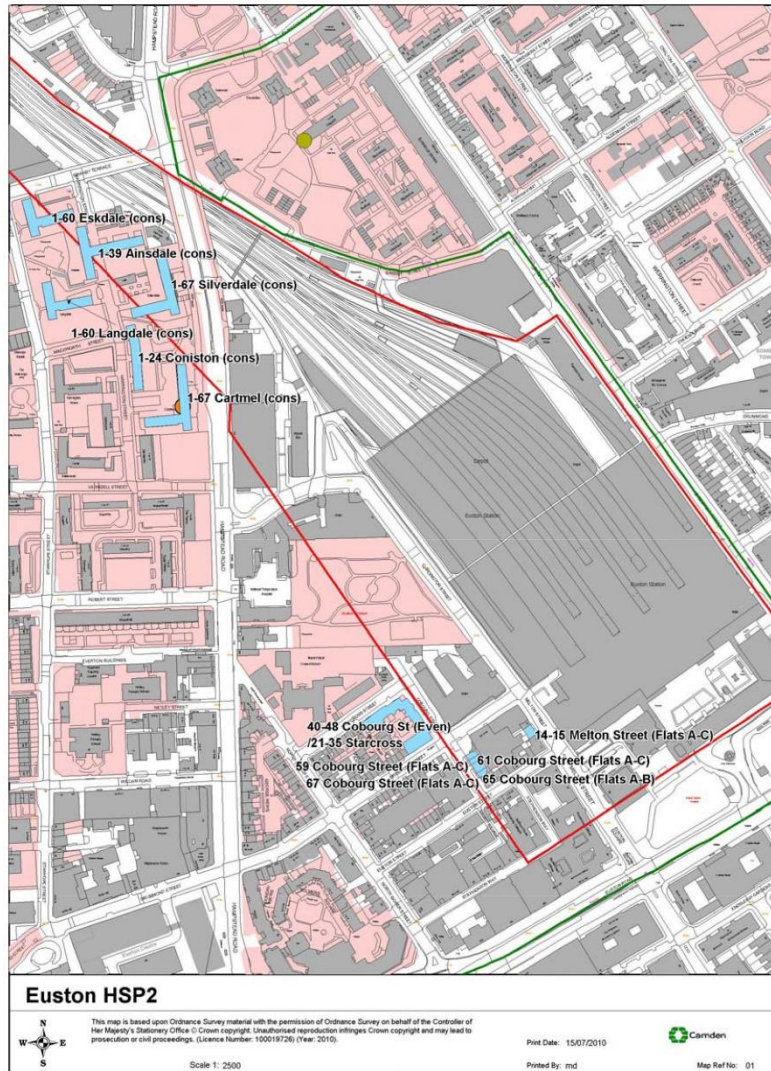
Figure 5.13: The Impact of HS2 on West Euston, residential properties threatened with demolition or made uninhabitable in blue (LB Camden, 2010).

There was no change in the footprint of Euston Station between that set out in the 2010 Command Paper and that of the 2011 Consultation document. This footprint would result in the demolition of housing on the Regents Park Estate and the loss of a number of homes and commercial buildings to the west of the station. It would have an impact on Drummond Street a vibrant area of independent restaurants and shops serving both the local community and travellers using the station. It would also cause disruption to and loss of part of St James' Gardens, a local park. The requirement for side by side adjacent classic and high speed platforms has remained a constant requirement (figure 5.14) since the 2010 Command Paper. However, there have been significant changes to how this requirement is met with implications for the potential regeneration of the Euston Area.

The 2011 consultation envisaged an option for the redevelopment of Euston Station that would allow "new development over the platforms" (HS2Ltd/DfT, 2011 p81). However, in spring 2013 during a series of closed meetings between HS2Ltd and Camden Council it became apparent that existing cost and time estimates made by Arup consultants had proved to be unfeasible (Foot, 2013a). An updated estimate of the costs revealed that instead of the £1.2 billion for demolition and rebuilding of the 1960s station costs had risen to £1.6 billion (Public Accounts Committee, 2014). Crucially this cost estimate was for a revised proposal which would require partial demolition and extension to the existing station. HS2Ltd attributed this change to the limited design work carried out at the point the initial estimates were made rather than any mistakes made by Arup (ibid). However, the new proposals make the over station development that Camden Councillors and officers had hoped would deliver regeneration benefits to the area much harder to deliver under the revised plans (HS2Ltd, 2013b) drawing criticisms of the revised proposals as a 'cheapskate' solution (Foot, 2013b).

Figure 5.14: Platform requirement at Euston, HS2 Platforms in blue (HS2Ltd/DfT, 2011a).

Figure 5.1 – Layout of rebuilt Euston Station

It appeared as if the first chapter in the saga of Euston Station, illustrating the difficulties of designing (and redesigning) a project in the public eye and feeding the allegations of bureaucratic incompetence on the part of HS2Ltd and the consultants they employ, was coming to a close. The full Environmental Statement was launched in late 2013 in order to

provide the necessary level of public consultation to ensure the hybrid Bill was compliant with both the EIA Directive and Aarhus Convention. This contained both the revised plans for Euston Station and the Link to HS1 which would link the two HSR lines mostly via an upgraded section of the North London Line. The use of this line was opposed by businesses in Camden due to the disruptive effect of the upgrading on the economy of the area including the area around Camden Lock famous for independent retailers and now also home to many creative industries (Camden Town Unlimited, 2013). The use of this busy commuter line was also opposed by Transport for London (TfL), the organisation responsible for the planning and management of London's public transport. This was due to its impact on existing services and possible impact on future use of the line with current use projected to rise by 70 per cent by 2021 (TfL/GLA, 2014a).

5.12 The Higgins Review

Yet events would suggest that the ongoing process of reconfiguration and redesign conducted internally within HS2Ltd was operating to a different timescale to that of the public parliamentary decision-making process (see appendix D). In March 2014 Sir David Higgins, the incoming chairman of HS2Ltd and former chief executive of Network Rail and the Olympics Delivery Authority, announced 'HS2 Plus' his review of HS2 (Higgins, 2014) in which he called for a more ambitious redesign of Euston Station in order to capitalise on the regeneration potential and the scrapping of the link to HS1. The effect of this was to completely reopen the design of Euston Station and the southern terminus to the route. This takes this whole section of Phase One that is before Parliament for consideration as a hybrid Bill, out of that process. The full implications of this decision are unclear with the announcement coming after the end of the fieldwork phase of the research. Recently one highly critical commentator has suggested that this could have negative consequences for the project as a whole due to the complexities and costs of the Euston terminus (Gilligan, 2014). While it is not possible to fully evaluate such partisan commentary this move does appear significant. From the perspective of the public consultation phase and the parliamentary process of consent large parts of the proposals that have been the subject of multiple consultations over three years have been scrapped with little clarity over what will replace them. This has been presented as an executive decision as part of an internal review. The decision to rework plans is justified in terms of the commercial opportunities for station development with no reference to the negative impact for local people of the previous proposals. This points towards a justification in terms of financial interests rather than decisions legitimated either through public consultation or parliamentary democracy.

Summary

What emerges from this first part of the case study helps to build a picture of the character of the process of planning and appraisal conducted by the promoters of HS2. Themes common to the UKs first HSR project emerge. These are themes of disruptive proposals, an approach to consultation that appears more concerned with limiting or regulating inputs from those affected into the process and a tendency to try to dismiss opposition as NIMBYism. In the case of HS2 it is also possible to see themes such as the more rhetorical claims of environmental benefit and regional rebalancing emerge alongside an emphasis on achieving high running speeds with the project conceived as a response to global competition. Key institutional facts are established in the form of HS2Ltd with key principles such as the high running speeds embedded within its founding documents. Ultimately the organisation's commitment to a long and involved consultation process (albeit one in which mistakes were made) is called into question by the way in which the plans for Euston station appear to have been reopened.

Chapter Six: The Case Study Part Two: The reaction to HS2

"Luddites, NIMBYs and white elephants fought out a battle of 'jobs versus lawns'" (Transport Select Committee, 2011, Paragraph 89).

6.1 Introduction

The previous chapter told the story of the development of the current proposals for HS2 from their origins to the point at which Parliament began the process of granting consent through the hybrid Bill (figure 5.1). Yet there has also been a response to the proposals, one that has gathered momentum from the point at which HS2 in its current form (the route proposed by the Labour government) was made public. In contrast to the more cohesive coalition of different interest groups promoting the project, within and outside of government the response to HS2 has been more reactive and multi-layered. Whilst it is here that CSOs have played a significant role with the majority of activity within the public sphere, other groups and individuals, representatives of the state (in the form of local government) and private interests have also had roles to play.

The following chapter sketches out some of the key features of this response to HS2. Here the work of CSOs, local government, national politicians and private individuals form a diverse public around the decision to proceed with the current proposals. It is within this public that much of the research has been conducted. Whilst the following chapter is not an exhaustive study of all the groups involved it does contain what have been identified as the key CSOs and other significant organisations which are defined as *regional*, *local* or *national*. The public response here includes the relevant elements of the media discourse. It includes legal challenges and the scrutiny conducted within Parliament. Finally, this chapter identifies a number of the different alternatives to the current proposals. Some of these are from civil society and will be considered in more detail in the following chapters whereas others are from private organisations, individuals and also coalitions of CSOs and local government.

6.2 The Announcement

The release of the Command Paper in March 2010 (the point at which the proposed route of HS2 became public) was significant from the perspective of civil society. It was from this point that much of the response particularly from the groups established to oppose the project

began. Yet it should not be assumed that there had been no involvement of civil society prior to this point. As early as the Atkins Report it is possible to see some civil society groups, usually the national NGOs concerned with transport and the environment considered as stakeholders. The 2010 Command Paper sets out a timescale for consultation on the proposals planned for the autumn of that year, this allows for the pre-consultation of stakeholders including local authorities. The Command Paper (DfT, 2010) also acknowledges that this period of pre-consultation is important in allowing the engagement required for minority groups to be empowered to respond to the consultation (ibid p136). In addition to this some of the larger civil society groups had been consulted prior to the public announcement. As discussed in the previous chapter, these consultations had been bound by confidentiality agreements due to the concerns with blight caused by the public announcement of a proposed route

Figure 6.1: HS2 Route through Buckinghamshire.
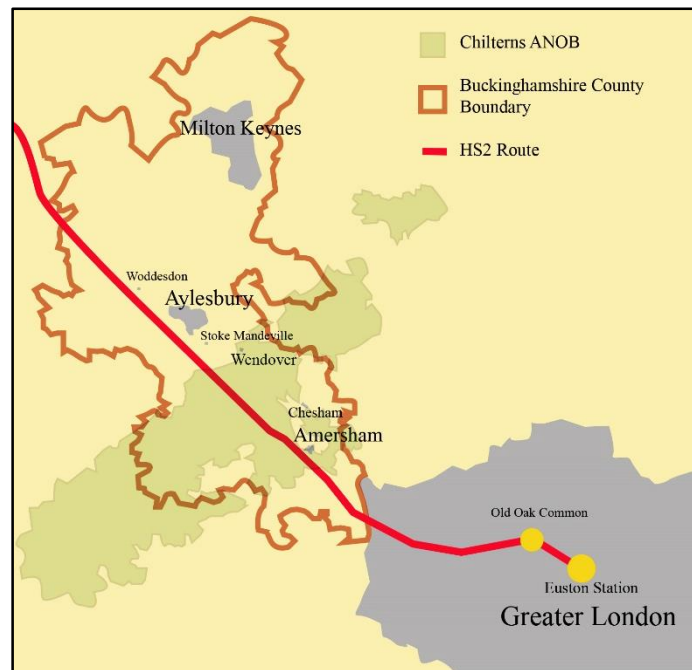
One immediate consequence of the announcement was the rapid formation of local action groups in the affected communities. These groups brought together people who had experience of campaigning and of politics as well as those who had not previously been politically active. Existing political structures were often significant in creating the initial space for these groups to form. For example it was often parish councillors in the rural areas who set up the initial meetings that brought together individuals who would later go on to form national campaigns. Local politicians at all levels were involved in attending the meetings and responding to their constituents concerns. Some were opposed from the outset

and in the case of Euston the, then, long standing local Labour MP Frank Dobson began to personally inform constituents living in the housing threatened with demolition.

West Euston, part of Frank Dobson's Holborn and St Pancras constituency is the area in which the highest proportion of demolitions to make way for HS2 occurs: a total of 216 households (HS2Ltd, 2013a). This is an area characterised by a high concentration of pre and post-war social housing much of which is concentrated on the Regents Park Estate. It is here that three blocks of local authority owned housing and one privately owned block will have to be demolished in order to make way for an expanded Euston Station. At this stage the assumption was that five blocks would have to be demolished which would contain around 220 flats (DfT, 2010 p93). The Command Paper also states that there "would also be a number of properties elsewhere on the route which would need to be demolished" (ibid) something that appears to down play the eventual total of 339 dwellings and 21 'community facilities' (businesses, hotels, pubs and community centres) that would make up the total number of demolitions by 2013 (HS2Ltd, 2013a p44).
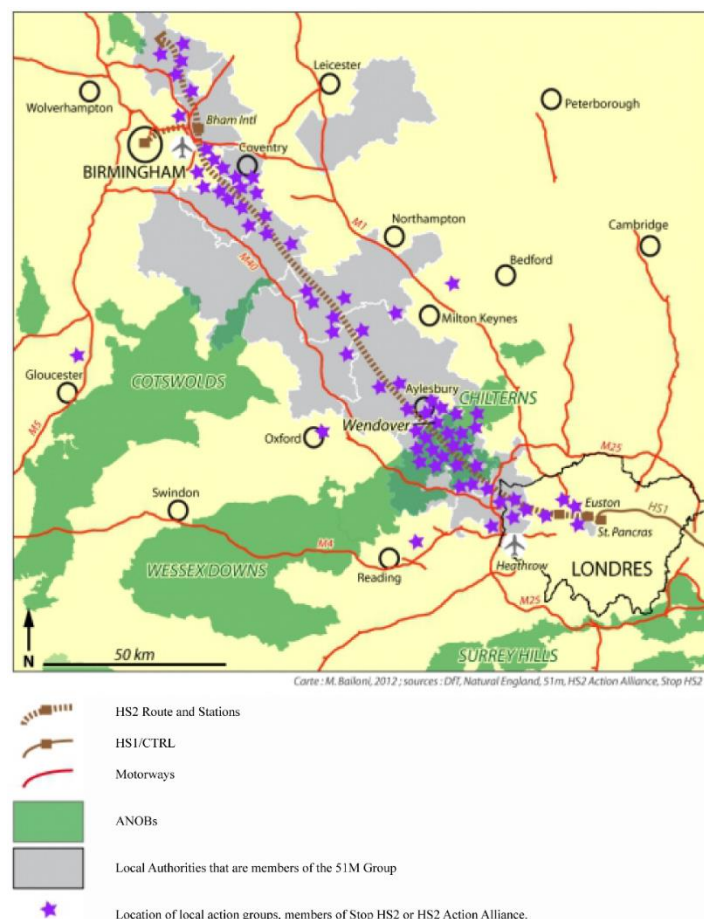
Figure 6.2: Action Groups along the line (Bailoni, 2012).

A strong response was also beginning to form in the rural areas affected by the proposed route, in particular Buckinghamshire, a county through which the route runs from south to

north as it leaves London. To the south of the county the Chiltern Hills, designated as an Area of Outstanding Natural Beauty (AONB) run from Oxfordshire northeast towards Luton (Figure 6.1). Cheryl Gillan the Conservative MP for Chesham and Amersham, a constituency in Buckinghamshire that takes in part of the Chiltern Hills, began to lobby Lord Adonis. At this stage the Conservatives were in opposition but this lobbying would ultimately prove effective in securing additional tunnelling extending and linking the planned tunnels to form a single 'Chilterns Tunnel'.

The Chilterns ANOB and Buckinghamshire County Council would become significant areas and organisations within the opposition to HS2. There is a large number of local action groups (Figure 6.2) with existing NGOs such as the Chiltern Society and also the Chilterns AONB (the body that administers the AONB designation) vocal in their opposition. Politically Cheryl Gillan has been opposed from the outset and the 51M group of local authorities is led by Martin Tett, leader of Buckinghamshire County Council which also hosts 51M. It is by no means the only place where there has been opposition as local action groups have formed along the route. A number of factors may explain the prominence of the Chilterns, it is an affluent area popular with retirees and in the rural parts of the county property prices are high. It is more densely populated than those further to the north and in Buckinghamshire the route passes through or close by two small or medium sized towns, Amersham with a population of approximately 15,000 (Amersham Town Council, 2014) and Aylesbury with a population of approximately 59,000 (ONS, 2014) as well as large villages such as Wendover with a population of around 7700 (ibid).

Another factor that may have a bearing on the role played by the Chilterns and Buckinghamshire in producing both action groups and a strong local authority response has been a history of past conflicts over the environment and what are perceived as threatening incursions. The area's location to the northwest of London on historic routes in and out of the capital has led to a number of conflicts over transport infrastructure. In the late 1960s the Roskill Commission into London's third airport was split over its recommendation of Cubbington in Buckinghamshire as a suitable site on the basis of a favourable cost benefit analysis. Colin Buchannan, the dissenting voice on the commission appeared to capture the zeitgeist and middle class opinion in favouring 'environmental emotion' over 'economic reason' (Hall 1980 pp136-137). The Chiltern Society, a charity that owns and manages a number of nature reserves was itself a product of the unsuccessful opposition to the construction of the M40 motorway in the late 1970s. It aims to "promote high standards of planning and architecture, and argue against developments that will spoil the area" (Chilterns Society, 2014) seeking to maintain the uniqueness of the area in the face of development. The Society was one of the pre-existing CSOs that quickly became involved in opposing

HS2. Finally, as seen in the previous chapter, there has been an attempt by supporters of the project to frame the conflict as one between affluent rural areas and economic opportunities for urban areas.

Following initial meetings in the areas that were affected, a larger meeting was held in Quainton a village north of Aylesbury not far from the proposed route. This was significant in the development of the coalition of local groups and from this the formation of the different elements of what would become a national campaign. At this meeting were a group of individuals who would go on to form a loose grouping of different bodies each taking on slightly different roles:

- Hillary Wharf a rail economist who would become a director and key figure within HS2 Action Alliance. It is less of a populist campaigning organisation rather it aims to communicate a "robust, evidence based, case that HS2 is not in the national interest" and "to correct the injustice of property blight, by seeking to minimise the adverse impacts of HS2 on individuals, communities and the environment" (HS2AA, 2014a).
- The more populist national campaign would be run by StopHS2 a group with two aims, to stop the project and to facilitate local and national campaigning against it. Two significant figures within Stop HS2 would be Penny Gains the Chair and Social Media Director, a first time campaigner who became involved after realising that the route passed close by her former home and Joe Rukin, a former student politician who would become the Campaign Manager.
- The last of the three main organisations that make up the national campaign against HS2 is AGAHST (Action Groups against High Speed Two) which is formed as a federation of 72 Local Action Groups (Better Than HS2 2014).

6.3 The Legal Challenges

One feature of the response to HS2 has been legal challenges with issues surrounding the Environmental Impact Assessment forming part of two judicial reviews launched by a combination of CSOs, Local Authorities and groups proposing alternatives. The first, launched on the 3rd of December 2012 was made by 51M a group of 19 local authorities led by Buckinghamshire County Council, HS2Action Alliance (HS2AA), Aylesbury Golf Club and Heathrow Hub (a group representing aviation interests seeking to promote an alternative route alignment via Heathrow). This first legal challenge was the broadest seeking to overturn the Government's decision on a number of issues. On environmental grounds the allegation was that the Government had failed to comply with the EU Habitats Directive and

the Strategic Environmental Assessment (SEA) Directive, it was also alleged that the hybrid Bill process would not meet the requirements of the Environmental Impact Assessment (EIA) Directive (DfT, 2013). Supporting this challenge was evidence from Berkshire Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT) who, with a group of other environmental NGOs and HS2AA, had made a complaint on these grounds to the European Commission (BBOWT, 2012), a requirement of launching a legal challenge on this basis. This particular challenge rested upon whether or not HS2Ltd should have conducted a SEA of the proposed route and whether or not the assessments that would be conducted later on in the process would be sufficient to comply with European environmental law.

Other arguments revolved around the fairness and rationality of the decision, and crucially whether or not alternative options, such as, upgrades to the existing network (the 51M proposals–see figure 6.4), proposals to move the route to avoid the impact on the Golf Club and the alternative proposed by Heathrow Hub (and lost during the consultation process) had been properly considered. In this case the claimants were largely unsuccessful. Only one of the ten points of law was upheld. The challenge to the compensation consultation (discussed in more detail in chapter eight) was ruled unlawful on the basis that insufficient information was provided and that compensation options were inadequately explained (DfT, 2013). This resulted in HS2Ltd being forced to re-run the compensation consultation.

The claimants were also given leave to appeal on the challenges relating to the SEA and EIA Directives leading to an appeal in October 2013. This appeal was taken forward by 51M, HS2AA and Heathrow Hub. This was unsuccessful with the Supreme Court accepting that an SEA was not required by the Directive and that the hybrid Bill process will allow for consideration of the environmental impacts of the project (DfT, 2014). The judge's ruling that none of the factors affecting the ultimate decision made in the hybrid Bill had been pre-empted makes clear that from a legal perspective the decision has yet to be made and that it is ultimately Parliament that will make the decision. This has led to alterations to the hybrid Bill process with the inclusion of a formal consultation on the Environmental Statement (the final consultation concluding in February 2014). This is seen as a necessary requirement to ensure the process is compliant with the EIA Directive. One feature of the legal challenges is that in this case there has been less of the shift to the courts from Parliament, albeit with questions of the extent to which decisions are taken prior to a parliamentary decision. This appears to be more the 'ordinary' administrative judicial review than existential issues some theorists on judicialisation see as most significant (Hirschl, 2006, 2008).

The outcome of the appeal was seen as a vindication by those supportive of HS2. The Supreme Court ruling was welcomed as it ensured the primacy of Parliament as the decision-

maker (Greenguage 21, 2014). Yet despite the ruling refusing the claimant's leave to appeal to Europe it could be the case that the legal avenue is not yet exhausted for opponents of the project. In April 2014 HS2AA wrote to the parliamentary authorities raising a series of issues with the hybrid Bill and the related Environmental Statement consultation. The letter outlines a series of problems that may act as a pre-cursor for further legal challenge. Some revolve around the (over 100) errors and inaccuracies identified in the 50,000 pages of consultation material. They argue this, combined with the practicalities of analysing over 22,000 responses within a short timeframe, makes it hard for the MPs considering the project to take account of the outcomes of the public consultation (HS2AA, 2014b). Other points raised relate to the way that the nature of the public and public interest as conceived under British law and the parliamentary process differs from the concepts enshrined in both the EIA Directive and the Aarhus Convention. In particular, those who have the right to petition under the hybrid Bill procedures must demonstrate that they are 'directly and specially affected' whereas the EIA Directive refers to the 'public concerned' which appears to be a much wider definition of interest. The letter lists a number of other concerns about the practicalities of those individuals affected 'petitioning' the Select Committee hearing the hybrid Bill and the impartiality of that committee given that cross party support for the project means that votes will be whipped.

6.4 Political Scrutiny

The two main channels for scrutiny of the project so far have been Parliament and the media, the press in particular. Certainly the campaigning organisations and those seeking to influence or promote alternatives are all engaged in some form of critical scrutiny internally and amongst their groups of supporters however this is ultimately directed towards political decision-makers or towards the media in the hope of influencing the former. Within this the parliamentary scrutiny is punctuated by clearly defined events such as Select Committees and reports made to them.

Transport Select Committee

The first of these events was the review by the, largely supportive, Transport Select Committee conducted over the summer of 2011 with the final report issued in November. Alongside a number of representatives of different transport interests and organisations such as the rail and aviation industry and local authorities that support or oppose the project all of the groups already mentioned attended and contributed a mixture of written and oral evidence. The overall conclusions of the report favour the project based on the need for large scale long-term solutions to meeting rail demand. On the issues of capacity, it acknowledges

that there are two different positions, on the one hand there is the view that demand ought to be managed. On the other is the view that large scale intervention is required. The report supports the development of the Y network taking the position set out by Lord Adonis that the Government should commit to the full network despite the need to deliver this in two separate phases (Adonis, 2012). However, the report remains critical of a lack of a wider transport strategy in which to fit the project and its relation to wider objectives such as addressing the North-South divide acknowledging that "this seems to have deterred some groups, which might otherwise have supported HS2, from doing so" (Transport Select Committee, 2011). The Committee also criticised the focus on very high speeds of 250mph which it sees as having been given "undue emphasis as a result of the particular appraisal method used as part of the economic case" (ibid). The report acknowledges that, while the benefits of high speed lines are established, lower speeds allow for higher environmental benefits and mitigation as well as alternative route alignments such as the use of existing motorway corridors, something that would avoid the Chilterns AONB. On the issue of the London terminus, the report is critical of the lack of technical consensus on the correct solution for what is the most costly and complex part of the scheme.

On the issue of consultation, the report acknowledges that it would be unlikely for any process to establish complete consensus and that the dissatisfaction of some opponents may simply be the result of the process not achieving their desired solution. However here again the report criticises the failure to provide certain factual information stating; "we do not pretend that any consultation process could have led to opposition melting away but some factual issues might have been resolved and areas of disagreement narrowed" (ibid). It is particularly scathing of the nature of the debate as the Committee states:

"We urge the Government to desist from disparaging opponents of HS2 as NIMBYs and for both sides in the debate to show respect for each other and to focus on the facts." (ibid Paragraph 89).

The Committee published a follow up report in December 2013 which is less critical, supporting work conducted by the incoming Chairman David Higgins to speed up construction. They encourage DfT to emphasise a lower figure of £28 billion as the overall cost estimate, arguing that the contingency budget and estimates of rolling stock costs should not be included in the figure. This was as the £50 billion figure widely used gave the impression of spiralling costs (Transport Select Committee, 2013). Reported as a seal of approval for the project (Thomas, 2013) there was, however, one particularly notable episode; the controversy over a report issued by consultants KPMG into the wider economic impacts of the project. The report attempts to assess the agglomeration and transport cost

advantages reaching a conclusion that "investment in HS2 could generate £15 billion of additional output a year for the British economy in 2037" (HS2Ltd, 2013f p15). The methodology behind the report was rapidly dismissed by both academics (Overman, 2013) and prominent journalists (Peston, 2013) and heavily criticised in a special hearing of the Committee conducted after the public controversy had developed. The final report calls upon the Government to "recognise the current limitations of the work undertaken by KPMG in making public use of the KPMG estimate of wider economic benefits arising from HS2" (Transport Select Committee, 2013 p14), bringing to a close an episode that illustrates the relationship between parliamentary scrutiny and public scrutiny conducted by experts and journalists.

Public Accounts Committee

The second more critical select committee scrutiny of HS2 came from the Public Accounts Committee (PAC), well known for its robust criticism of both public and private sector organisations called before it. The process began, not when the Committee reviewed the work on HS2 but in the review into the completion and sale of HS1 in July 2012. The Committee's chair Margret Hodge MP was critical of the costs to the taxpayer (£4.8 billion and £10.2 billion over the next 60 years), there is again criticism of the way in which travel time is valued and the "wildly optimistic forecasts for passenger numbers" (PAC, 2012). A number of the organisations criticising HS2 had met with Margret Hodge independently prior to the inquiry and were encouraged by the way a review of HS1 was used to draw attention to their concerns about HS2. Indeed, it was cited in two interviews as a point at which the opposition arguments began to gain political traction.

The Committee would comment again on the project in September of 2013, by which time there had been an increase from the original £32 billion estimated cost for the project. The review and the prior report by the National Audit Office (NAO) whose work supports the Public Accounts Committee, via the statutory position of the Comptroller and Auditor General (C&AG) was more critical than parliamentary reports to date. The Committee's summary in particular was damning of the project and also how the response to the report was managed in the media;

> "The Department for Transport (the Department) has not yet presented a convincing case for the now £42.6 billion investment it is proposing to invest in High Speed 2. The estimates of costs and benefits are still far from finalised and the pattern so far has been for costs to increase and benefits to decrease. The Department's timetable for preparing and passing the legislation needed to build and operate the line appears unrealistic and overly ambitious, which raises concerns about the quality of the

Department and HS2 Limited's preparation work, including the route design. The Department's shortages in major projects skills and commercial expertise to oversee the programme add to the growing risks facing the efficient and effective delivery of this major project.

When the C&AG's report on High Speed 2 was published, the media reported unnamed departmental sources as claiming that it was based on out-of-date analysis and contained errors. These claims were unfounded as the Department had agreed the facts in the report as accurate before publication. Manufactured public disagreements are not in the interest of transparency as they undermine effective accountability and hinder constructive public debate on High Speed 2." (PAC, 2013)

The NAO report itself was more measured stating that it was too early to make an assessment of the projects value for money (NA0, 2013 p12) however it was critical in a number of other areas. In particular, it raised concerns about the timetable for the project, describing it as '*overambitious*' (ibid p8 emphasis added), and about the capacity of the DfT to manage a project of this scale given its restructuring in 2010. As with many Government departments the DfT faced staff cuts following the election of the Coalition government. In the case of the DfT the Department quickly agreed to a 22 per cent cut something that has been blamed for very public problems with the renewal of the franchise to operate the West Coast Mainline (Neville, 2012) cited in the report as an example of the Department's limited capacity (NAO, 2013 p11). The report also states that "The Department's strategic reasons for developing High Speed 2 are not presented well in the business case" (ibid p2) and that the programme is not sufficiently well structured around delivery of the strategic benefits of the project such as journey time savings and rebalancing the economy (ibid p9).

While the PAC and Transport Select Committees have provided some of the most public and well reported scrutiny of the project they are not the only sources of parliamentary scrutiny. Parliament itself has debated the issues in various ways, MPs have held Adjournment Debates outside of the main chamber and in 2013 11 MPs supported an early day motion on the compensation scheme (UK Parliament, 2013). There has also been a Paving Bill or, HS2 (preparation) Bill 2013 that approves the finances for HS2Ltd prior to the hybrid Bill. This allowed discussion of the principles of the project in the Chamber, however a whipped vote meant that MPs would have had to rebel to express their opposition (in the event 34 including 17 Conservative MPs voted against the Bill at the third reading). Other select committees and bodies have issued critical reports such as that of the Environmental Audit Committee which calls for a ring fenced budget for environmental protection. The Committee also points out that the lack of a Strategic Environmental Impact Assessment means that the principles

of the hybrid Bill process will need to be broad enough to cover the environmental impacts (UK Parliament, 2014a). One final notable instance of internal governmental scrutiny is that of the Major Projects Authority that sits between the Cabinet Office and the Treasury. It also released a rating of the project in the summer of 2013 as 'amber-red' (point 4 on a 5 point scale). Significantly a review conducted by the Authority in 2011 was vetoed for release under the Freedom of Information Act in 2014 by the Secretary of State for Transport on the basis that those interviewed needed to be able to express their views in a frank and open way in order to identify issues with the project. This was seized upon by opponents as further evidence of the DfT's duplicity (Topham, 2014).

6.5 The press, party politics and political 'fightbacks'

The series of critical reports such as those of the NAO and PAC in the summer of 2013 saw increased interest in the media and an increasingly critical view of the project. This was further heightened by two high profile figures in the previous Labour Administration first, the former Chancellor of the Exchequer Alistair Darling (Hennessey, 2013) and then the former Business Secretary Peter Mandelson expressing doubts about the project which he claimed had been approved with limited scrutiny in the period prior to the general election (Batty, 2013). This was especially significant given the doubts that would be cast on the Labour Party's support for the project by the Shadow Chancellor Ed Balls (Morris and Wright, 2013) in late September. Right-wing tabloids such as the Daily Mail have maintained opposition based, in part, on the impact on rural areas and in particular the Conservative dominated Chilterns. Other right-wing broadsheets have correspondents such as Andrew Gilligan of the Telegraph who has been a long running critic of the project (Gilligan, 2011). The Economist again takes a sceptical view of high speed rail projects in general (The Economist, 2011) alongside this a number of libertarian think tanks sceptical of government spending in general have campaigned and produced reports critical of the project (Stokes, 2011b, Wellings, 2013).

The Government's response over the summer of 2013 was to launch a 'fight back' at the end of the summer in which Secretary of State for Transport Patrick McLoughlin alongside the Prime Minister David Cameron and senior Cabinet Members sought to confirm their support for the project over a ten day period (Odell, 2013). Unfortunately for the Government, given the level of political capital invested in this response to the projects critics, the 'fight back' relied heavily on the £15 billion benefits the KPMG report claimed HS2 would generate. As a result, the Government's response was engulfed in the previously mentioned controversy over the report.

6.6 Key civil society organisations

It may appear that the media and political debates, the parliamentary scrutiny and even the legal challenges largely exclude the CSOs this study focuses upon. Yet in almost every stage or event outlined above one can see their involvement. For example, nearly every newspaper report on the project will contain a comment or response, from either Stop HS2 or HS2AA who have a particularly effective communications team. CSOs of all types have been active in lobbying MPs and participating in the work of parliamentary scrutiny committees. It is possible to observe a wide range of different CSOs involved at different stages and at different levels. This is a civil society public made up of a wide range of organisations some relatively new and some that have been in existence for over 100 years, some have access to significant resources whilst others are run purely by voluntary contributions. The *role* played by civil society in this case is in fact a collection of different roles and to understand this it is useful to consider some of the key civil society players and how this range of different CSOs can be categorised.

The distinction between local, regional and national CSOs

Alongside the distinction between the political and economic roles (discussed in chapter three) played by CSOs there is also a distinction between organisations based on the different scales at which they operate. As with the previous distinction the one made between local, regional and national CSOs is a loose framework as in reality these categories overlap and merge into each other (figure 6.3). This is drawn, in part, from similarities between the way the different strategies that are adopted by local and national groups have been observed in the opposition to high speed lines in Italy (Della Porta and Andretta, 2002). However, this thesis is not purely focused on opposition to HSR. In this case a level between local and national is also significant as it appears to provide a space for mediation and deliberation between national and local concerns. Whilst it is true that civil society operates at all levels from the global to the local in this case there is little evidence of international NGOs having an interest in HS2.
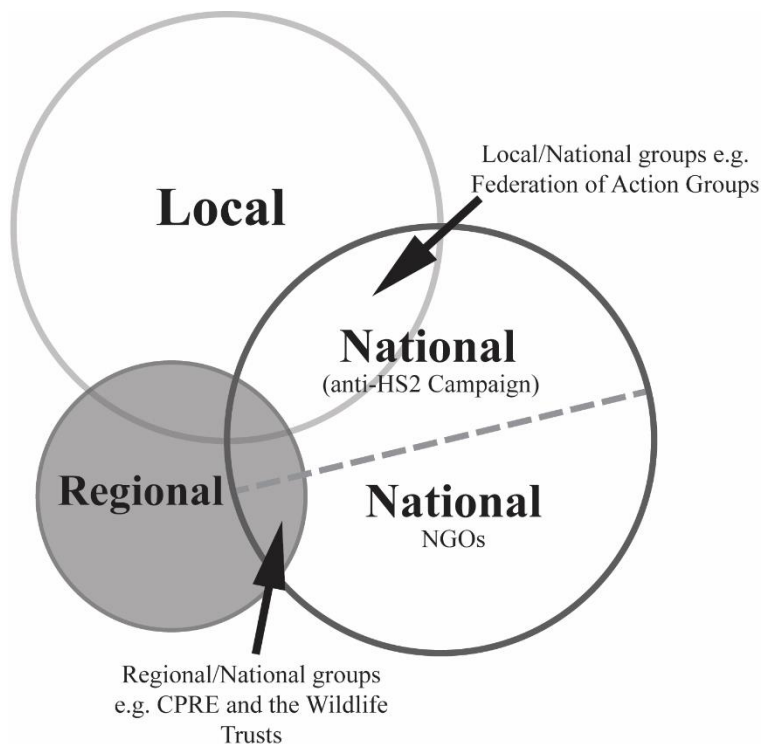
Figure 6.3: Local, regional and national CSOs.

This hierarchical framework allows the distinction to be made between organisations whose constituency and membership are national and the local action groups whose membership is drawn from specific areas such as a village, town or collection of streets. It also acknowledges that there is a level between these two. The term regional/area based here is used to describe something smaller than national but larger than local; a local authority area, Camden, for example; a specific landscape such as the Chilterns; or a region or sub-region defined by county boundaries such as Bedfordshire, Buckinghamshire and Oxfordshire (in the case of Beds, Bucks and Oxon Wildlife Trust). This level may not be as prominent. On the one hand there is a very large number of small local action groups. On the other hand, there are the well-resourced national NGOs who are often skilled in lobbying and getting their message across via the media.

The loose framework is required as organisations may well operate at different levels at the same time. Those with federal structures can be local and national or regional and national. This distinction made between local, regional/area based and national organisations is valuable as it acknowledges that some activities and interests will change as the scale at which the organisation operates changes. The distinction here focuses less on the pro/anti divide that can be seen in the debate as a whole. To focus on this would distort the picture as the majority of CSOs (such as the 72 local action groups and the national campaigning organisations) are found on the 'anti' side of the debate with those that are in favour of the project (such as CPRE and other signatories to the Right Lines Charter) offering only

qualified support. Those organisations that could be classed as pro-HS2 are much smaller in number and harder to classify as located within civil society due to their close relationships with private sector organisations in the case of Greenguage 21; or actively being run by marketing organisations in the case of the Yes to HS2 campaign.

Of the CSOs that oppose HS2 (at either a local, regional or national level) many came into being specifically in response to the project and have a single focus. In contrast the national NGOs who are signatories to the Right Lines Charter all predate HS2 and have a range of interests of which this project is only a part. The reason more is not made of the distinction between pro and anti-HS2 CSOs in this thesis is that it is in the nature of civil society organisations to form in response to a particular issue. In some cases, they will develop beyond this issue to take on a wider role. The best example here is OXFAM which formed as the Oxford Committee for Famine Relief in the 1940s in response to wartime famine in Greece and has since evolved into a global NGO. A more recent example is the regional charity the Chiltern Society that was founded in 1965 to fight plans for the M40 motorway and now manages wildlife sites as well as promoting access to and conservation of the Chilterns. Although it is outside of the scope of this study it would be of great interest to see whether any of the campaigning organisations do evolve or follow a similar trajectory over the life of the project.

The National NGOs

A number of national organisations, all of whom predate HS2 have been drawn into the debates on the project either because, in the case of the National Trust their properties are directly affected or because the organisation's core interest is affected or its membership has an interest.

The National Trust

- The Trust are by far the largest and oldest (established in 1907) of the civil society organisations involved in responding to HS2.

- They are also the CSO with the greatest resources with what is effectively an operating profit of £23.9 million and over 5000 staff (National Trust, 2013). The organisation has the capacity to take on full time staff and devote resources to mitigating the effects of HS2 on its property.

- Adopting a strictly agnostic position on HS2 it is not clear that the Trust would have become involved had the project not affected its property however as the Trust manages over 247,000 hectares (ibid) of land across the country it is unlikely that a project of this scale could avoid affecting some Trust properties.

- The National Trust has made specific proposals for alternative mitigation (discussed in more detail in chapter eight) around Hartwell House, a property they manage as a spa and hotel (generating approximately £300,000 pa for the Trust). They also support more tunnelling to protect the Chilterns ANOB, better environmental mitigation around the Calvert maintenance depot and a better approach to protecting species, specifically Bechstein's bats (National Trust 2014c) an endangered species whose habitat is threatened by the route.

- The Trust's agnosticism on the principles of HS2 ought not to be taken as a general reluctance to campaign on political issues. When the National Trust does campaign as they did against the new National Planning Policy Framework proposed by the incoming Coalition government, its 3.93 million members (National Trust, 2013) and its position as protector of the nation's heritage and open spaces, established by successive Acts of Parliament gives it a unique position.

- The Trust's position and history, combined with an eminent Board of Trustees, Chair and Director General means that the organisation has particularly good access to government and the capacity to lobby informally.

- The Trust's Chair Simon Jenkins' personal position, one he voices as a columnist and commentator, is one of opposition to HS2. This is distinct from the position of the National Trust.

Campaign for the Preservation of Rural England (CPRE)

- Another organisation with a long history of campaigning for protection of the rural environment in the UK CPRE has also sought to maintain a more neutral position on HS2. While supporting the project in principle CPRE has raised concerns in a number of areas such as the quality of information and deliberation over HS2.

- This has been a difficult position for the organisation to maintain. With a federal structure CPRE has had to balance the interests of the local branches that are vehemently opposed, particularly those in the Chilterns, with those local groups that have a more nuanced view or are even supportive.

- Recently this position appears to have changed with the organisation's Chief Executive Shaun Spires indicating a shift in position citing concerns about the way in which the project fails to fit into wider objectives for low-carbon transport (CPRE, 2014).

- CPRE has had significant involvement in two important civil society initiatives discussed in chapter eight. It hosted the original work on the Right Lines Charter, an attempt to establish some normative standards for HS2 (Right Lines Charter, 2011). CPRE has also produced the alternative mapping tool HS2 Maps in an attempt to

provide better access to geographical information on the project and potentially future infrastructure projects.

Railfuture

- The organisation has historically campaigned to prevent the closure or to improve and upgrade existing lines and to open (or often reopen) rail lines. Its aim is to promote better railway services for passengers and it is made up of volunteers organised into local branches. It has no affiliation to industry, trade unions or political parties. (Railfuture, 2014).

- The organisation's current stance is one of support for HS2 taking a realpolitik position that it is 'the only game in town' and that if it is cancelled then there is a risk of losing this scale of investment 'for decades' (Railfuture, 2013).

- This position is by no means unequivocal, in the same statement they call for a reconsideration of the Euston terminus and connection along the lines of the 'Railway Lords' Euston Cross (discussed below). Support for the current proposals is by a small majority of the organisation and it is an issue that divides members.

- Prior to their acceptance of the current proposals Railfuture acknowledged the need for rapid implementation in order to contribute to a modal shift towards lower carbon transport. Nevertheless, the solution called for was for lower speeds and the use of existing motorway corridors in order to produce a less controversial route.

- As with the National Trust the figurehead of the organisation (the journalist and commentator Christian Wolmar who is Railfuture's president) takes a different position to that of the organisation, one of public opposition to HS2.

Civic Voice

- A national charity promoting civic pride (Civic Voice, 2014) they operate with a federal structure similar to that of CPRE. They have, likewise, found the issue to be divisive with some local groups adamantly opposed to HS2 with others seeing potential benefit.

- Despite being a small organisation that evolved out of the former Civic Trust that closed in 2009 due to financial difficulties Civic Voice has sought to promote better engagement around HS2.

- Quite early in the process the charity worked with HS2Ltd, their own local volunteers in Kent and groups in areas affected by HS2 to organise visits to HS1 in order to enable people to see the impact of HSR on the landscape and people living around the route.

Campaign for Better Transport

- This is a campaigning organisation focused on improving the cost of public transport, better local transport and reducing unnecessary road building.

- The organisation is particularly significant given its focus on transport yet it has been less directly involved with HS2 than the other organisations discussed above. Nevertheless, the organisation has been a regular participant in the NGO Forums discussed in chapter seven.
- The position on HS2 is similar to the support of groups such as CPRE and Railfuture prior to accepting the current proposals. This is support in principle but the group voices concerns about the lack of a national transport strategy, connectivity to the wider network, lack of clarity on fair fare pricing and the choice of parkway stations with a lack of clarity about connections to local transport networks.

The National Opposition

Following the announcement of the route in 2010 the opposition, discussed above, formed out of the network of local action groups that has developed along the route of HS2. The establishment of these different groups was quite informal with individuals taking on responsibilities and establishing organisations based on their own interests and skill sets. Although a loose structure and division of responsibilities evolved this was largely unplanned and a product of individuals contributing their own skills and pursuing their own projects. Whilst the grouping appeared to work all interviewees acknowledged that the structure that evolved was not necessarily one that they would have chosen and they also acknowledged the fact that different personalities and styles of operating have created friction. In interviews this was never denied yet at the same time interviewees were often reluctant to go into detail which appeared to indicate a desire to maintain a unified response to HS2.

HS2 Action Alliance

- One of the main national opposition groups, the organisation's aim is to produce a 'robust, evidence based, case that HS2 is not in the national interest' (HS2AA 2014a).
- HS2AA is well-resourced (Rozema et al., 2015 p105) with quite specific skills less in populist campaigning but with the technical expertise to challenge, particularly the business case for HS2, its founders Hillary Wharf and Bruce Weston were both rail industry economists.
- Unlike other opposition groups HS2AA have been directly involved in the legal challenges to HS2. They have been claimants in both the judicial review and the appeal.

- Crucially HS2AA have the capacity to raise the resources to participate in legal challenges and produce alternatives such as the property bond discussed in chapter eight. For example, between March and May 2013 they were able to raise the £100,000 necessary to fund the appeal against the decision made in the first judicial review.
- Members of HS2AA work closely with political leaders such as Martin Tett the Chair of 51M and Leader of Buckinghamshire County Council and with local and national politicians opposed to the project. They have maintained working relationships with those implementing the project and have also been meeting with civil servants over their proposals for the property bond.

Stop HS2

- Of the loose coalition of groups that form the national movement against the project StopHS2 is the most obviously a campaigning organisation.
- The campaign has been established by Penny Gains the Chair and Social Media Director.
- The approach to campaigning is noticeably populist with cartoons, stunts and comic adaptations of interviews with key individuals of the project forming a large part of its output.
- The actual management of the group is by a very active and vocal core of a few people but its connections to the many local organisations mean it is able to access a large pool of voluntary support.
- Stop HS2 provides a wide range of campaigning material, posters, images and flyers for the local groups to make use of and one can see this material displayed along the route in both the rural and urban areas.

AGAHST (Action Groups Against High Speed Two)

- This is the least prominent of the national bodies yet it represents the 72 action groups that formed along the route of Phase One and further groups formed in response to Phase Two.
- The network is important and has been relatively successful in maintaining a consistent position among the different action groups.
- The federation of action groups predates Stop HS2 and in an informal sense they gave their backing to the development of this campaigning organisation.

Regional or area based groups

There are a number of groups who draw their support from an area that is larger than the local action groups and yet they are not national bodies. In the case of BBOWT they are part of a wider federal structure but their work and interest in HS2 has been conducted in response to the impact of the project on the area they cover.

The Chiltern Society

- The Society were the originators of the Right Lines Charter developing the idea and securing the initial funding for a role that CPRE hosted.
- There were differences of opinion regarding the operation of the Charter and whether or not it would operate as a single campaign against HS2. The Chiltern Society has opposed HS2 from the outset in contrast to other Charter signatories who are not all opposed in principle.
- The Society originally formed in 1965 to (unsuccessfully) oppose plans for the M40 motorway that now passes through the Chilterns.
- Since 1965 the Society has evolved into a conservation organisation. It manages a number of sites, runs conservation groups and promotes access to the Chilterns.

The Berks, Bucks & Oxon Wildlife Trust (BBOWT)

- The Trust is part of a wider federation of Wildlife Trusts albeit one in which the national body is an umbrella organisation for the 47 Wildlife Trusts.
- It is a conservation organisation owning and managing conservation sites and commenting on development where it has a strategic impact on local wildlife.
- The Trust's involvement in HS2 has contributed to a legal challenge on the basis of failure to conduct an SEA.
- BBOWT has submitted a petition on the basis of the impact HS2 will have on local wildlife and two of the Trust's nature reserves where land will be taken for HS2 (BBOWT, 2014)

The Pan-Camden Alliance

- The Pan-Camden Alliance is one of the smaller groups that operate above the level of the very local action groups.
- The desire to respond on behalf of the whole of Camden comes out of a realisation that there are a range of different interests in the borough and there is a need to

represent them all rather than the relatively narrow interests of homeowners, businesses or those living and working in West Euston.

- Their aims are similar to those of HS2AA in the way they aim to scrutinise and challenge the underlying arguments put forward by HS2Ltd.

- The group has nothing like the resources of the two main opposition groups HS2AA and Stop HS2. Yet what they do have is considerable access to professional skills. Active within the group are a number of people who have worked as civil engineers, architects, urban designers and rail planners.

- The Pan-Camden Alliance has mounted a campaign on a number of fronts. They have argued for Old Oak Common as a better alternative London Terminus to Euston. They have also developed what are, given the resources they have available, very detailed alternative proposals for the design of Euston Station (discussed in chapter eight).

- Another crucial resource they have, something by no means unique to the Pan-Camden Alliance, is time. Like many of the people involved in campaigning against HS2 some of the most active Pan-Camden Alliance members are retired something that gives them the opportunity to devote large amounts of their time to responding to HS2.

Local Action Groups

During the research there were 72 local groups identified along Phase One of the route (figure 6.2). These groups were both rural and urban and generally they would represent quite small areas such as a village or collection of streets yet there were also larger groups that covered towns such as Amersham. These groups were organised along conventional lines with a Chair and usually some form of board or secretariat depending on the scale of the organisation. Most were unincorporated as they did not hold assets although many played a role in fundraising both for the campaign in general and also for specific activities such as the legal challenges. The main point of contact between the action groups and HS2Ltd were the Community Forums although many groups made use of the option of holding a bilateral meeting with HS2Ltd staff to address specific issues. These groups were generally, as a network, cohesive, holding to a consistent position of outright opposition to HS2 (in contrast to calling for route diversions that would benefit one area at the expense of another). The one issue that was divisive was tunnelling as the groups looking to extend or secure tunnels created conflicts as they shifted the disruption caused by construction down or up the line towards those areas who were at the mouth of the tunnel.

Other significant organisations

The final set of organisations are harder to clearly and neatly define as CSOs yet they have been significant and they do not fit neatly either into the public or private sectors. Of the organisations listed below NEF is clearly a charitable organisation although it plays a lobbying role which includes the production of studies and reports.

Greenguage 21

- Discussed in detail in the previous chapter Greenguage 21 are a not-for-profit organisation.
- The organisation's aims are to lobby for high speed rail in the UK. Financial and practical support for events and publications has come directly from both infrastructure providers and consultancies.
- This connection to rail industry resources and expertise has also seen the group work together with environmental NGOs (for example in conducting a study of the carbon impacts of HS2 (Greenguage 21, 2012).

51M

- 51M (named after the £51 million estimated cost of HS2 to every parliamentary constituency, based on the original £33 billion price) is a political grouping of 18 Local Authorities and 52 affiliated town and parish councils.
- They have been involved in legal challenges and in producing alternative options (discussed below).

The Campaign for High Speed Rail

- This is one of a number of pro HS2 groups (such as GoHS2, a consortium of business and transport groups in and around Birmingham). This is again made up of northern local authorities. The organisation is known for its negative portrayal of the opponents of HS2 discussed in the previous chapter.

The New Economics Foundation (NEF)

- NEF is a think tank aiming to promote social environmental and economic justice, they have been consistently critical of the economic case for the project and the way in which proposals have been developed.

- They have published two reports on HS2 that question the basis of decisions and offer alternative spending packages, discussed below, have been produced (Theiss and Kersely 2013a & b).

Other Think Tanks

- Two right-of-centre think tanks have also contributed to the debate around HS2 with the TaxPayer's Alliance commenting on the project and providing some logistical support to HS2AA. The Institute of Economic Affairs has also produced a critique of the project (Wellings 2013).

6.7 Alternatives to HS2

Thus far (as with HS1) groups outside of the project promoters have sought to develop alternative proposals for all or part of HS2. It is some of these proposals, those produced by civil society that are considered in more detail in chapter eight as this thesis begins to consider the way these alternatives illustrate the different roles played by CSOs. Nevertheless in order to demonstrate the *milieu* in which the Government's preferred option and alternative solutions compete within the public realm figure 6.4 sets out the range of alternatives suggested from the public sector, private interests and civil society.

Figure 6.4: Alternative Proposals to HS2.

	Description	Origin	Key Individuals and Organisations	Scale
Heathrow Hub	Predicated on an additional runway at Heathrow Airport. The concept is promoted as an 'integrated air and rail facility' (Heathrow Hub, 2014) capitalising on good existing road and rail connections and favourable location for businesses to the West of London and along the M4 corridor. Requires a westwards route realignment.	Private Sector	Former ARUP Director Mark Bostock plays a key role, he likewise played a leading role in developing the successful Arup alternative for HS1 and the choice of Stratford for the 2012 Olympics (Faith, 2007).	Comprehensive route realignment

Euston Cross	The proposals support the principle of HS2 as a solution to the demand for increased capacity on the WCML however they see the current proposals for a terminus at Euston as offering a poor solution to travellers. This proposal is for an east west deep level tunnel with through connections onto HS2 for high speed and domestic trains. Some underground platforms would be provided beneath Euston Station and Kings Cross for connections between through running trains. As a result far fewer trains would be terminating at Euston. The proposals would require much less land around Euston Station and as a result avoid many of the economic, social and environmental costs of the current proposals.	Private Sector (Government/ rail industry insiders)	'Railway Lords' Lords Berkeley and Bradshaw (Modern Railways, 2014). Lord (Tony) Berkeley is chairman of the Rail Freight Group, a representative body for the rail freight industry (his work on Euston Cross is in a personal capacity), and was a former Public Affairs Manager for Euro Tunnel. Lord Bradshaw is a former British Rail general manager and Chairman of Ulsterbus.	Station re-design and partial route realignment
51M Optimised Alternative	An alternative proposal from 51M the group of local authorities opposed to the project led by Buckinghamshire County Council.	Public Sector	Martin Tett, leader of Buckinghamshire County Council also heads the 51M group.	Comprehensive alternative route design

	It is based on use of increased capacity through the planned upgrade to the Chiltern Line (the Evergreen 3 project that will provide 90 minute journey times from Marylebone Station to Birmingham), reconfiguration of rolling stock with longer trains and less space allocated to First Class travel, demand management and targeted investment in bottlenecks (Stokes, 2011 pp 1-1, 1-2).			
Euston Double Deck Down	The proposals have been developed and promoted under the auspices of the Pan-Camden Alliance. The group questions the ability of HS2 to meet national objectives while still seeking to mitigate local impacts (Pan-Camden Alliance, 2011).	Civil Society/ Area based group	The members of Pan-Camden Alliance have all been heavily involved in contributing their skills yet the work on the station design has been led by Architect, Jeff Travers.	Station re-design
The National Trust's mitigation proposals.	Following consultation with local landowners, parish councils and residents the Trust has commissioned its own landscape consultants to produce an alternative mitigation proposal. The current HS2Ltd proposals are for a cutting running through the grounds of Hartwell House.	Civil Society/ National NGO	The National Trust have a small team (1-2 f/t staff with support from others on specific issues such as planning) dedicated to consulting with local people on the alternative proposals and liaising with HS2Ltd.	Redesign of a small section of the route.

| | The Trust propose that HS2Ltd acquire land either side of the railway in order to create a 600m long 'land bridge' that would enhance.

This would also reduce the impact of the railway on the residents of the Fairfield Leys housing estate on the edge of Aylesbury to the east of the rail line. | | | |
|---|---|---|---|---|
| **New Economics Foundation (NEF)** | The NEF proposals are distinct as rather than an alternative design for part or all of the route they call for a whole raft of policy measures designed to meet the objectives of HS2.

The aim is to demonstrate that alternative packages of policies offer a lower level of risk than the uncertain returns of investing £33 billion in a single project.

They argue that this programme of 88 separate investments, all of which offering a higher BCR than HS2, provides a means of meeting the policy objectives of HS2 that is;

More inclusive; spreading the benefits among transport users whereas "HS2, in contrast, will be a premium service catering to a small segment of the population, | Civil Society/Think Tank | The organisation would not have been able to fund the work from its own reserves yet was enabled to develop their proposals, and wider work challenging the case for HS2, through a grant from the Hadley Trust. | Alternative policy package |

and a small geographic area"
(Theiss, 2013 p24).

Faster to achieve; as many
of the projects identified are
easily implementable in the
short-term rather than
having to wait 20 years for
the benefits of HS2.

More balanced; with
spending concentrated on
transport outside of the
capital.

They also argue that
spreading the investment
beyond the capital offers
greater benefit to the UK as
a whole and that investment
in multiple schemes is
inherently less risky (ibid
p24).

Summary

Chapter six begins to address questions of the wider political processes that surround the planning and appraisal of HS2. It is possible to see that there is considerable political scrutiny by Parliament and elements of the media, that a number of alternatives to the current proposals have been developed and that the work of many different CSOs feeds into this. Further key institutional facts have been established, in particular the existing CSOs and the new organisations formed within civil society that together constitute a significant part of the public response to the current proposals. These begin to address the research questions that concern the role of civil society *organisations* as different CSOs are identified as operating at different (regional, local and national) scales and performing different roles. In chapter eight these roles are considered in more detail and, specifically, whether or not it is possible to identify different types of political and economic activity by CSOs.

Chapter Seven: Is the planning and appraisal of HS2 an 'open' or 'closed' process?

"our primary commitment is to deliver a railway" (comment made to a Community Forum by a senior member of the HS2Ltd External and Parliamentary Relations Team)

7.1 Introduction

This chapter considers the question of whether or not the process of planning and appraisal of HS2 conducted to date (and outlined in the previous chapters) has been one that is open to participation from civil society. The following chapter examines the evidence from observations and analysis of primary data from interviews and policy documents. The framework for analysis used is taken both from Scharpf's (1999) distinction between *input* and *output-oriented legitimacy* and the distinction between the *openness* and *closure* of decision-making (Fairclough, 1999; Stirling 2008; OMEGA Centre 2013a). These were identified as key components of the procedural critique of MTP decision-making in chapter two. What follows is an examination of how this framework can be applied to the process of planning and appraisal conducted by government agencies in the case of HS2. This allows for a more nuanced analysis of decision-making and the interplay between local and expert knowledge than one provided by a dichotomy between technocratic and democratic governance. Important evidence comes from the way in which the organisations charged with managing the process of planning and appraisal (HS2Ltd and DfT) have addressed significant, issues such as the treatment of property blight and the management of the formal process of consultation, the way in which planning and appraisal is shaped by different institutional inputs and also by the wider framing of policy on HS2. This evidence points towards a process that may appear to be open to inputs from civil society through opportunities to participate. However, these inputs have little discernible effect in shaping key outputs for example; the institutional structures of delivery bodies such as HS2Ltd; the plans for the route; and the governing principles of speed, both of operation and delivery of the final railway.

Inputs and outputs

As discussed in chapter four the terms 'planning and appraisal' are used here to describe the practices of the project promoters in government (DfT, HS2Ltd and the agencies employed by them). The aim is to distinguish the process of planning and appraisal from the wider societal decision-making process of decision-making, centred on HS2, in which advocates for

HS2 outside of government and in the rail industry as well as opponents and CSOs play a part. Ultimately this informs the overarching process of legitimation whereby these decisions come to be seen as legitimate (figure 4.2). In interpreting and drawing conclusions about the nature of planning and appraisal the terms *input or output-oriented* legitimacy describe dynamics outside of the process − in short the legitimacy of what goes in and what comes out of planning and appraisal and wider (political) decision-making (figure 7.1). In contrast *open or closed systems* refers to the internal dynamics (whether or not it is indeed the black box indicated in figures 4.2 and 7.1). There is a clear overlap as figure 2.1 indicates, yet they are not simply interchangeable terms. Input-oriented legitimacy and open decision-making are clearly inherently linked; for example, it is hard to conceive of a process that claims legitimacy based upon inputs which is not in some way open (to inputs).

It is not, however, *necessarily* the case that a closed process is output-oriented in the sense that Scharpf defines it. This is where the outputs (e.g. institutional structures, government policies or programmes or physical artefacts, such as railways) are considered legitimate based upon the extent to which they are acceptable to a wider public or to the extent to which they solve common problems. Closure to inputs may indicate an attempt to insulate the process of planning and appraisal from distortion by groups outside of those managing the process; for example, NIMBY interests and the 'passionate minority' discussed in chapter two. One example of this is multi-level governance which will often need to weigh higher level (national) benefits against local costs. Therefore, it is possible that a decision-making process that has been closed to civil society and input from other interests, that has at its core a closed technocratic process by which plans are made and options appraised, may still have high levels of output legitimacy. In a case such as this the 'bundle of public goods' produced, to paraphrase Hall (1980), would have to meet with widespread public approval and to address issues such as distributional injustices.

On the other hand, a closed process of planning and appraisal *may* indicate a desire to distort the decision-making process by groups who have sought to gain access to the black box (rent seeking interests for example, or for that matter any minority group that seeks to advance their own interests) in order to ensure closed technocratic processes serve their own ends. In a retrospective study of MTP decision-making, one in which key outputs have been delivered, it may be easier to conclude whether or not closure served a narrow or wider interest based on the evidence of how the 'bundle of public goods' was ultimately allocated (an analysis of the 'outputs of the delivery phase' in figure 7.1). This does assume benefits are not hidden, in the sense that behaviour is corrupt or fraudulent. However, in this case it is only possible to analyse the 'outputs of planning and appraisal' as the second phase of outputs has not yet been delivered. In the case of HS2 both opponents and supporters claim, and appear to genuinely

believe, that their plans and proposals, or the alternatives they are suggesting (figure 6.4) reflect wider public interest. Therefore, what is required in this case is a means of interpreting what the different parties mean when they claim that their proposals serve the public interest.
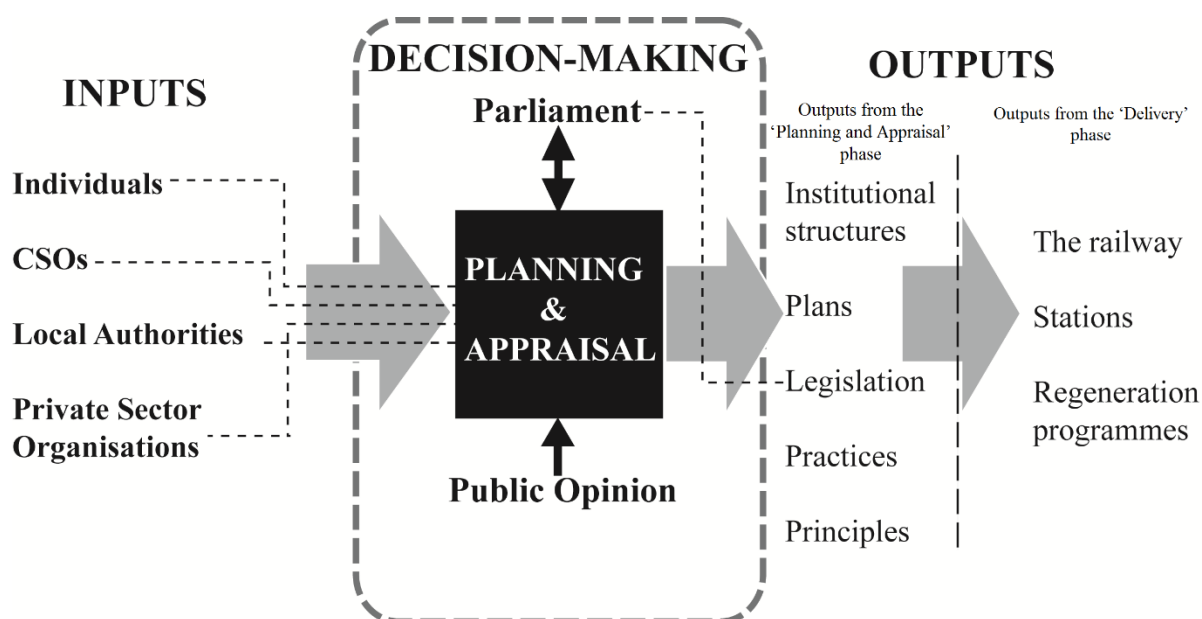
Figure 7.1: Inputs and outputs.

In this case advocates of HS2 can be seen to be arguing that swift implementation is required and that the "national interest needs to come first" (Adonis, 2012), part of the argument put forward by Adonis is that speed of implementation is essential to ensure benefits of the project are realised. What is called for here is for the power of the state to be used to deliver the project quickly. This is as a long consultation period is seen as undesirable as it entrenches opposition (ibid). This can be read as an argument that the outputs are more important than inputs. That the national interest is best served by rapidly producing outputs (the railway etc.) and also by restricting democratic inputs (by reducing the time allowed for inputs) and through speeding up the process by which the outputs are delivered. At the very least Adonis argues that there is a need to rapidly move through the more open phases of planning and appraisal to ensure swift delivery. Here a solution to (what he considers) the common problem of an outdated rail network with limited capacity, is more important than a participative process that invites multiple inputs. Inputs in this case come from public consultation, part of the process of planning and appraisal managed by DfT and HS2Ltd, in tandem with the political decision-making process by which Parliament grants consent and commits public resources for HS2. On the one hand this sentiment, expressed by a prominent supporter of the project, could reflect the technocratic governance and resulting threat to democracy discussed in chapter three. It *could* reflect the allegations of 'democracy deficit' or 'de-democratisation' cited in the literature on megaprojects and MTPs (Flyvbjerg et al., 2003; Novy and Peters, 2013). Yet

on the other hand it may reflect the calculation that input-oriented mechanisms such as public consultation are insufficient to decide matters of national importance. This distinction is important as it reflects the difference between the power of the state being used to serve private, narrow or rent-seeking interests or the state ensuring local, narrow (NIMBY, to use Adonis' term) arguments do not stand in the way of the wider national interest.

Open and closed systems

Whilst the views of Andrew Adonis are useful in illustrating a possible tendency to favour output-oriented legitimacy of decisions over input-oriented mechanisms such as public participation or deliberation, interpreting this problematic situation is more complex. Clearly some decisions are more open than others. It may also be the case that the perception of whether the process is sufficiently open will be dependent upon the preference for input or output-oriented legitimacy. As Stirling (2008) points out closure is a necessary and inevitable part of appraisal that occurs when decisions are made. This points to a slightly different, although not unconnected, meaning of the word closure. On the one hand there is the closure involved in taking a decision or 'closing down' a decision-making process. On the other hand, there is the closure of excluding voices from contributing to that process. The connection is that those with the power to do so may seek to close down a decision-making process in order to exclude some voices (they may also seek to hold open a process until they feel they have the answer they want). Therefore, there is less value in simply labelling a process open or closed. It is more useful to understand how this dynamic operates and who and what drives the decision to close down a process of planning and appraisal. The following evidence is drawn from interviews, observation and content analysis. Finally, a discourse analysis of key policy documents provides a means of interpreting the rationalities that underpin the institutional structures of the organisations that govern the process planning and appraisal and that shape the wider political discourse and process of decision making. This method was used to peer inside the black box (Hajer, 1995) as parts of the process of planning and appraisal remained closed to the researcher as discussed in more detail in chapter nine.

7.2 Property Blight

Property blight is not unique to HS2 yet since HS1 was completed in 2003 there has not been a project that has caused blight on a similar scale. In a country such as the UK, with a dense network of urban areas and relatively developed transport infrastructure, completely new routes are less common than upgrades and enhancement of the existing networks. Whilst these projects can create considerable disruption it is rarer to see the long narrow swathe of property blight caused by HS2. In the academic literature there is evidence of the perception that

'participation causes blight' (Heap quoted in Hagman, 1970 p473). This is the belief that openness can have negative consequences as, if plans are made public and participation is invited then this will have an effect upon property prices. There are counter arguments that early participation may not completely avoid blight but it certainly makes it more diffuse (ibid). Yet in the case of HS2 there is evidence to suggest that the former belief is still prevalent. The salient point here is that this belief favours a situation in which it is deemed acceptable, by some, to restrict inputs (or participation) into the process of planning and appraisal in order to avoid an undesirable output (property blight).

In a country such as the United Kingdom there is a high social and political value placed on property ownership. Since the at least late 1970s governments have sought to achieve a 'property owning democracy' (Thatcher, 1975) and rising house prices have been seen as an indicator of successful government policy. As a result, it is not hard to see how any policy that appears to threaten property values over a large area (and the possible electoral consequences) would be particularly unappealing to political decision-makers. While this aversion may not be so great as to rule out projects like HS2 it does make a public consideration of a range of route options unappealing due to the belief that it will cause blight. What is interesting in the case of HS2 is just how widespread the acceptance is that property blight provides a sufficient justification for restricting inputs as the following example suggests. Interviewees who had criticised other procedural aspects of decision-making were happy to accept a restriction of participation in this case. The following quote indicates a degree of acceptance of the decision not to consult more widely on different route options;

> "I've huge sympathy for [the] government, in terms of the process they've taken. I mean, essentially, the decision not to pursue SEA [Strategic Environmental Assessment] was made on the basis of learnt experience generally in all sorts of projects and particularly the issue of blight, and compounding…blight. If you're consulting on five routes you have five times the problem for people on the ground, a significant issue." (Representative of a regional environmental charity).

One civil society organisation did identify the conflict between avoiding blight and participation. Civic Voice called for solutions to be found in order that the fear of blight should not "stymie effective public engagement" arguing that a "much less risk averse and transparent approach [ought to] be adopted" (Civic Voice, 2011). However other CSOs, particularly those operating at the national level, were largely supportive of HS2Ltd's actions in this area and there is no evidence to suggest that this particular constraint on inputs was seen as illegitimate. Other attempts to restrict input into the process of planning and appraisal are much more contentious therefore it appears that blight is an issue where the restriction of inputs is less likely to be seen as problematic, or critically, illegitimate.

The above reference to 'learnt experience' draws attention to the way in which the concern with blight has been a motivating factor for those delivering the project. The evidence from a number of sources, interviewees in or close to the rail industry and also from the academic literature (Faith, 2007; Roots et al., 2001), indicates that the problem of blight is well known and understood in major projects of this type. In itself it would be surprising if some appreciation of the issue were not the case. However important contextual information suggests that this knowledge or 'learnt experience' relates to a specific incident in the recent history of MTPs in the UK. This is the release (by what was then British Rail) of the four route options for HS1 and the ensuing problem of blight that this was perceived to have caused. This has been cited as a significant issue and a feature of the project (ibid). Of the interviews conducted with individuals who were, either involved with or, supportive of HS2 the issue of blight was mentioned, unprompted, by two of the three. In both instances the specific consequences of British Rail's actions over HS1 (mentioned below) came up;

> "I was involved right from the start [of HS1/CTRL] when the first proposals came out…British Rail… took an extraordinary path…showing a whole skein of alternatives right across Kent which caused absolute chaos and outrage." (External Advisor to HS2Ltd with experience of working on HS1).

It would be unlikely that such a well-known failure of attempts at openness and transparency backfiring in such a well-publicised way, would not be widely known within the rail industry. Particularly an industry described by one interviewee as 'tribalistic', as having an 'esprit de corps' a description also used by Wolmar (2007). This is supported by the following description of senior rail industry staff;

> "…you know, they meet all the time, read Modern Railways and [meet up at] the Friday Club, they are very intensively networked" (Academic interviewee).

This group of individuals with, key staff in HS2Ltd having also worked on HS1 and Crossrail, could not have avoided accumulating experience of past projects and past mistakes. This suggests that in this particular case the aversion to the risk of blight is a kind of folk memory. Here recollection of real events and issues conditions the approach taken by organisations in the future. Further evidence of the belief that the risk of property blight makes the open consideration of options impossible is found in the notes from a high level seminar on participation over HS2 discussed in the following chapter. Comments here indicate that this was a belief that was held by, and influenced, the behaviour of at least one Secretary of State for Transport (Right Lines, 2011 p6). This belief produces a tendency towards a closed process of planning and appraisal and an inbuilt justification for restricting inputs in these early stages when different route options are being considered. However, this lack of openness has

presented problems for the legitimacy of the appraisal of alternatives conducted by HS2Ltd. This has led to criticisms that alternatives to the route through the Chilterns or lower speed upgrades to existing infrastructure have not been considered. A point that formed the basis of two of the challenges in the first judicial review of the decision discussed in chapter six.

7.3 The consultation process

The second area in which there is evidence of way in which inputs are reflected in the initial planning and appraisal process, and the way openness and closure operate in this case, comes from the management of the pre-consultation phase and consultation process for Phase One (figure 7.2). This concluded in February 2014 and whilst no physical outputs have been delivered there have been significant institutional outputs in the form of the organisations established to manage the process of developing, planning and appraising the proposals for HS2. Significant social facts can already be identified in the form of the proposed route and legislation (the hybrid Bill and previous preparation Bills) required to implement the current proposals (the legislation has been produced but Parliament has not as yet granted consent). As figure 7.2 indicates there has not been formal consultation on the project in the very early stages, the pre-consultation phase. Yet neither has the project been completely closed. There had been public discussion of HS2, at least in the media, since 2008 (BBC, 2008) and one interviewee – a journalist and rail industry commentator – indicated that DfT interest in HS2 predated Andrew Adonis. By 2010 the need for formal pre-consultation discussions had been identified by those involved in the early phases of planning (DfT, 2010 p136). The relative openness about plans for the route here is in contrast to the confidentiality that governed the selection of alternative route options discussed above.

Even in the early phases of the project, prior to the formal consultation that began with the announcement of the preferred route in February 2011, important institutional arrangements

Consultation Timeline
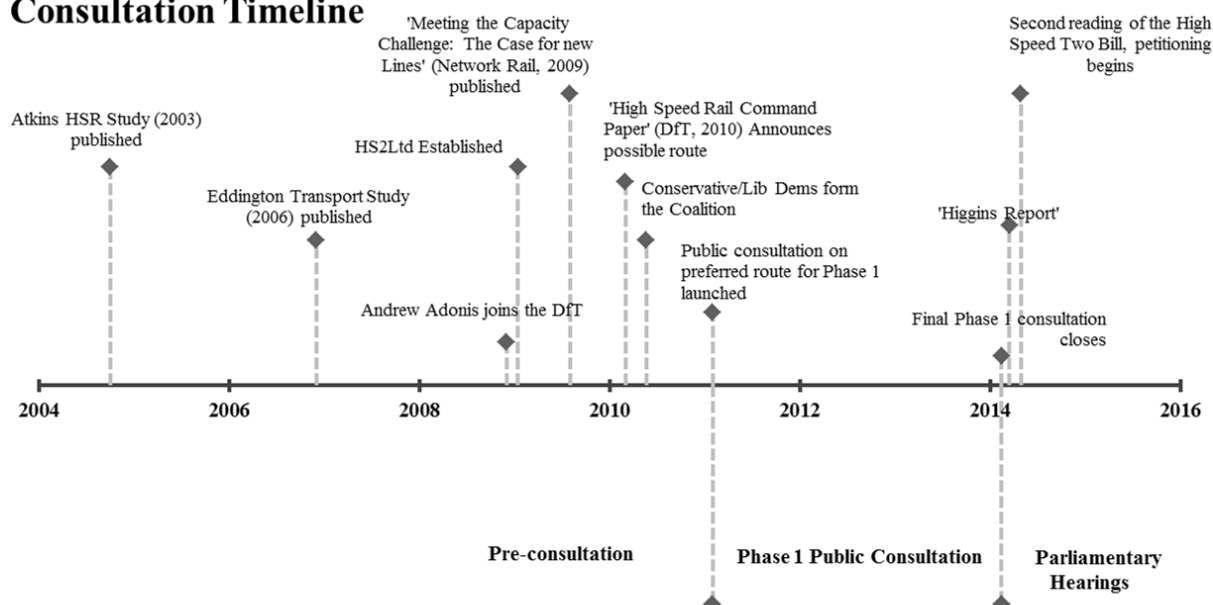
Figure 7.2: Consultation timeline.

were being established. These suggest certain parameters were fixed from an early stage; such as the key principles of speed (as a means of addressing the limited capacity of the West Coast Mainline) and the decision that that the route should go from London *to* the North rather than *vice versa*. These were written into the governing documents of HS2Ltd as discussed in chapter five (see appendices B and C). This is of particular relevance given the role of HS2Ltd in managing the consultation process. If this consultation is seen as the point at which inputs were sought from those that would be affected by HS2 and the wider public, then in order to understand how the dynamics of openness and closure operate it is useful to consider the nature of the dialogue that the consultation established. If one measures this against the critical tests of a discourse (discussed in chapter four) that could lead to legitimate decisions, identified by Fairclough, (2003), then one particular question stands out. The question of the extent to which decisions on some of these key features of the project, speed in particular, *have been equally open to those who wish to contribute*. HS2Ltd's management of the consultation points towards a process that invites a wide range of inputs yet appears inclined to regulate the dialogue with key features having been closed down by earlier discussions, ones that are closed in the sense that input from the public has not been invited.

Managing the Community Forums

Other indications of the way in which HS2Ltd has sought to regulate the dialogue have been the framing of the questions of the initial 2011 consultation and the limited time allowed for responses to the more technical 2013 Environmental Statement Consultation discussed in

chapter five. Yet through the observations (and what discussions were possible with the HS2Ltd staff involved in delivering consultations) there was a strong suggestion that this phase of the project was not perceived as an opportunity for those outside of the process of planning and appraisal to significantly alter the outputs such as the design of the route. The widespread dissatisfaction with the consultation process expressed in the final independent report on the Environmental Statement[8] certainly suggests that many of those who did participate in the consultation were dissatisfied with it. On its one this could simply indicate that those who were opposed to the project were more likely to participate in the consultation and to be dissatisfied with an outcome that did not support their position. The research, however, has enabled more detailed observation of the Community Forums conducted by HS2Ltd. This has allowed the research to engage with people living in the affected areas, providing a means of examining consultation as a social interaction between groups, individuals and organisations. The picture here is of a fractious oppositional process in which there was little evidence of any real dialogue between the parties.

From the interviews that it was possible to secure with HS2Ltd staff it became apparent that the forums were an ill thought out and *ad hoc* response to a realisation that a project of this scale could not proceed without some form of engagement. Recent legal requirements for participation in environmental decision-making, the Aarhus Convention in particular, meant that failing to consult in a way that allowed for at least some participation would open HS2Ltd up to legal challenge. There are a number of pieces of evidence for the assertion that there had not been a strategic or thought out approach to consultation. The first comes, in part, from the admission that similar forums had been tried on Crossrail and it was assumed that they could be applied to a project that affected far greater numbers in areas that were considerably more sensitive. This approach to engagement with the public was described as, "like stepping into a swimming pool without knowing how deep it was" by one senior member of the consultation team suggesting the costs and difficulties had not been fully understood. This same interviewee also acknowledged a lack of appreciation of how quickly the tone of the forums would become negative. Ultimately it would be acknowledged by the previous Chairman of HS2Ltd Douglas Oakervee (Pitt, 2012) that there had been a lack of resources to properly conduct the forums; this, it was accepted, had soured relationships and generated bitterness amongst the communities that were affected. This lack of resources was attributed to HS2Ltd's change of roles; from an advisor to government to a delivery body. Something Oakervee argued occurred at the point at which the Secretary of State for Transport, Justine Greening

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[8] 9,280 comments from 21,833 responses expressed dissatisfaction with the consultation process, the fourth most significant issue. (Golder Associates 2014).

announced the Government's decision to commit to the project in January 2012. At this point the organisation's role became one of "promotion and *development*" (Oakervee quoted ibid, emphasis added). This suggests that, from the perspective of the Chair of the organisation, there had been a shift towards what might be considered (based on the distinction between planning, appraisal and *delivery* discussed in chapter four) delivery rather than simply planning and appraisal.

It would be dangerous to read too much into the use of a single word, 'development', by HS2Ltd's former Chair. Nevertheless, there is further evidence of a perception amongst HS2ltd staff that the consultation process was a stage in project delivery to be passed through on the way to the eventual construction and operation of HS2 as indicated in the project timeline (see Appendix D). As discussed in chapter five, as early as the Atkins Report (2003) it has been clear that consultation is perceived by some in the rail industry as a process of managing stakeholder's expectations of participation in decision-making. In light of this, comments such as "our primary commitment is to deliver a railway" made by a senior member of the consultation team to the Euston Community Forum are revealing. This raises important questions about the extent to which citizen inputs (into what was a large and costly consultation exercise) can realistically been seen to have shaped the outputs. More importantly it raises questions about the extent to which HS2Ltd saw itself as having a role in facilitating participation in decision-making and whether the organisation, with such a clear agenda and remit, was best placed to manage a consultation process.

During the research it became apparent that the forums were viewed as a type of, what has been described by Arnstein (1969) as 'therapy' in the sense that they were getting people used to the inevitable disruption and seeking to help them achieve some form of acceptance. It should be noted that in these conversations it was clear that in most cases those people expressing this view of consultation did not appear to believe that, ultimately, the disruption would be as great as the opponents of the project claimed it would be. They did not appear to be callous or cynical and did acknowledge that the construction phase in particular would be very disruptive. Yet this view of consultation, from those involved in delivering it, appears to contrast with one that is aimed at increasing the participation of citizens in decision-making. The following quote gives an indication of how the process was perceived by some of those conducting it, here the public requires information about what will happen to enable them to understand, they are not participants who are able to contribute and shape outputs or outcomes.

> "you have to recognise, when these schemes start the public at large really have little concept of exactly what it is they are dealing with. And it takes some time…and this is always the problem…of getting people to grasp really what the scheme is about,

how big it is, what the impact is going to be, what the mitigation will be and so on."

(Interviewee with experience of HS1 and oversight of the HS2 Consultation)

The observation that the forums delivered very little in terms of dialogue, negotiation or agreement was supported when cross checked with interviewees. This was one area where there was complete consensus, all involved saw the forums as adversarial although there were suggestions that those closer to Birmingham were less fraught. There was little evidence of issues being resolved through the forums and where there were modifications to the route it was unclear what role the forums had played. Certainly it was a consistent source of anger that Euston Community Forum was unable to resolve key issues such as the loss of greenspace and rehousing those who were due to lose their homes to demolition.

7.4 Framing

The following section is a discourse analysis of policy frames (Schön and Rein, 1994) and the way they create the 'narratives of necessity' (Owens and Cowell 2011) that legitimate both the wider political decisions and also shape the process of planning and appraisal in this case. Here, of the strategies for legitimation that have been identified in previous studies (Van Leeuwne and Wodak, 1999) both; rationalisation, the appeal to the wider utility or public benefit of a decision; and mythopoesis or the creation of stories and narratives are of particular relevance. These can be seen in three '*categories*' (Fairclough 1999 pp69-73) identified within the discourse that together form a narrative used to justify both the design and approach taken to implementing HS2. This reveals a discourse that is in some respects closed in that groups outside are unable to reconfigure the framing of issues (ibid). Nevertheless, other categories are not closed *per se* indicating that some parts of the discourse are more open; at least to some groups such as politicians and commentators that adhere to an agenda of global competitiveness. This narrative frames the way the problematic situation appears to be conceived.

- The first category is a strong one characterised by a rigid framing, generated within the rail industry. It is based on the calculations of value performed by civil servants and defines the problem initially as one of capacity: demand for rail travel is increasing *and speed is the solution*. Here legitimation is through rationalisation with the argument that the lack of capacity represents a common problem that can be resolved through new infrastructure operating at the highest running speeds possible.

- The second category is more rhetorical. Here there is the development of the story of the UK's, once world class, rail infrastructure which is defined in terms of its

Victorian origins. This has become outdated, it is inappropriate for the twenty first century and will soon be unable to meet the increasing demand.

- The third category is essentially a political one. It is a weak category in the sense that representatives of all main political parties and infrastructure promoters contribute to a framing of issues that extends beyond this project. Here the narrative of the Victorian infrastructure is further developed. Immediate action becomes imperative as, due to the timescales for implementation and a historic reluctance to commit to major projects, the UK risks falling behind other advanced economies in the 'global race'.

NARRATIVE OF SPEED

THE CAPACITY CHALLENGE
(Strong Framing)

THE 'CREAKING VICTORIAN NETWORK' — BINARY OPPOSITION — 21st CENTURY AMBITION

THE 'GLOBAL RACE'
(Weaker Framing)
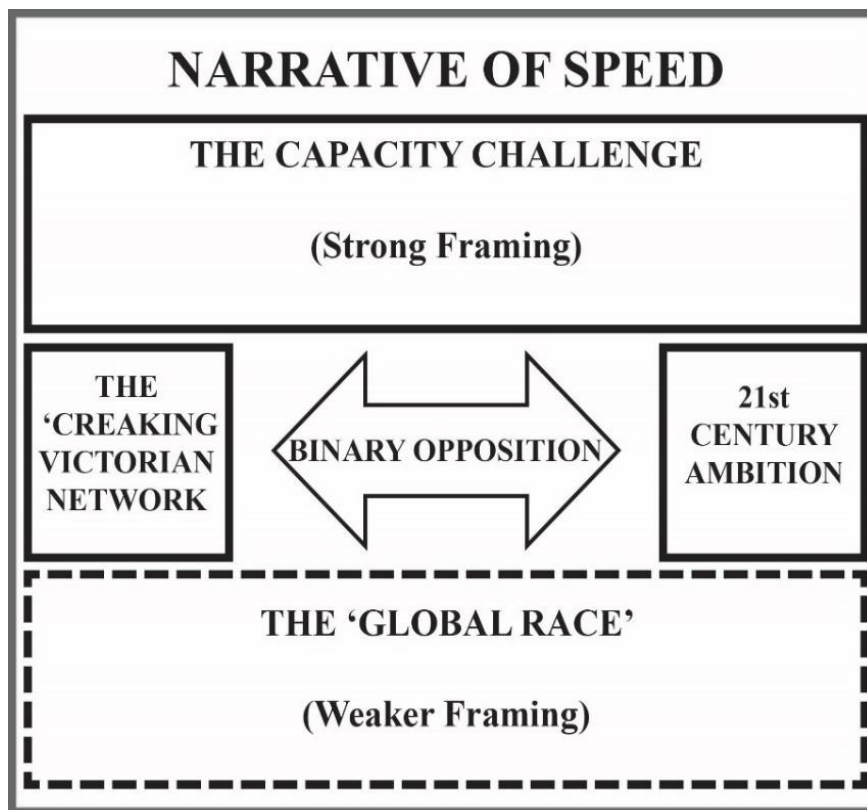
Figure 7.3: The narrative framing of HS2.

The 'Capacity Challenge'

Increasing demand for rail services has been a key element in the case for HS2. Early reports concluded that new lines would be required as the capacity of routes in and out of London would be reached by 2016. Capacity was defined as 60 per cent of average daily load leading to overcrowding at peak times (Atkins, 2003). Among the alternatives considered at this stage were new classic lines. These were rejected as options as there were deemed to be fewer benefits and specifically 'speed benefits' (ibid). This is despite the acknowledgement that,

with classic lines the mitigation of the adverse environmental impact is easier. By the time increased investment in HSR became government policy in 2010 predictions of the 'capacity challenge' had worsened with load factors predicted to increase to 80 and even 100 per cent on routes between London and the North (between the major northern cities of Leeds, Manchester and Liverpool) and Birmingham in the Midlands (DfT, 2010). Network Rail had also been defining the problem and solution in similar terms concluding in 2009 that new high speed lines were the solution to a growing 'capacity conundrum' (Network Rail, 2009b). The Government makes the case that new rail lines are the only acceptable option for addressing the demand for travel between the North and the South and specifically that only HSR will deliver 'significant connectivity benefits' (ibid). It is the calculation of those benefits and the disproportionate valuation of travel time savings (particularly for business travellers) that illustrates the value placed on high running speed.

(1)	Transport User Benefits	Business	£11.1 bn
		Other	£6.4 bn
(2)	Other quantifiable benefits (excl. Carbon)		£0.4 bn
(3)	Loss to Government of Indirect Taxes		-£1.3 bn
(4)	**Net Transport Benefits (PVB)**		**£16.5 bn**
	= (1) + (2) + (3)		
(5)	Wider Economic Impacts (WEIs)		£4.0 bn
(6)	**Net Benefits including WEIs**		**£20.6 bn**
	= (4) + (5)		
(7)	Capital Costs		£17.8 bn
(8)	Operating Costs		£6.2 bn
(9)	**Total Costs**		**£24.0 bn**
	= (7) + (8)		
(10)	Revenues		£13.7 bn
(11)	**Net Costs to Government (PVC)**		**£10.3 bn**
	= (9) – (10)		
(12)	BCR without WEIs (ratio)		1.6
	= (4)/(11)		
(13)	**BCR with WEIs (ratio)**		**2.0**
	= (6) / (11)		
Source: HS2 Ltd			

Figure 7.4: The BCR (HS2Ltd/DfT, 2011b p43).

HSR with its 'speed benefits' is presented as the *only* solution to the 'capacity challenge'. As the Government set out the economic case for the project in more detail the weighting of the monetised values in favour of speed becomes clear. Figure 7.4 shows how over 50 per cent of the net benefits are predicted to come from journey time savings to business travellers due to a higher estimated value of business user's time. This is despite the majority of predicted users being non-business travellers with 70 per cent travelling for leisure trips and other non-business related reasons (HS2Ltd/DfT, 2011b p22). Some of the assumptions inherent in this calculation have been heavily exploited by organisations campaigning against HS2 when seeking to undermine the economic case, in particular assumptions that travel time is

unproductive. There has also been more nuanced criticism, from the wider public of NGOs, of this calculation as an accurate proxy for value when estimating the benefits of the project (Theiss and Kersely, 2013).

As the narrative develops through further iterations of the Government's 'business case' the 'capacity challenge' becomes more urgent. It is established as a category in its own right. In the 2010 Command Paper the challenge is framed as part of a wider "long-term capacity and connectivity challenge" (DfT, 2010) in which HSR is the only solution to the increased north-south travel demand. In the following quote it is possible to see a more rhetorical framing of the problem in the 2011 consultation document 'High Speed Rail: Investing in Britain's Future' (DfT/HS2Ltd, 2011a p5) with the addition of the adjective 'huge'. This phrase appears on the first page of the document bringing the capacity challenge into focus as the problem HS2 is conceived to address. The capacity challenge is also made specific rather than generalised. It is associated with the West Coast Main Line (WCML) and there are no alternatives to action, it is described as 'essential'.

> "It is a tribute to our Victorian forebears that we are still using their rail networks today. But today's railways face a huge capacity challenge. Rail passengers are familiar with overcrowding, used to long queues and are almost certain to have found themselves standing on a long-distance journey at some point. And demand is set to rise sharply in the years to come. On the West Coast Main Line, in particular, new rail infrastructure will be essential." (DfT/HS2Ltd, 2011a p5).

In addition to establishing the capacity challenge as a problem the text also contains examples of the other two categories or frames that form this narrative, the 'creaking Victorian infrastructure' of the UK and the rhetoric of the 'global race'.

The justification within this particular category is very much the 'rationalisation' described by Van Leeuwne and Wodak (1999). It is presented very much in terms of common benefits and the wider utility of decisions. On the one hand this is presented as a technical exercise in linking places 'gateways', airports and other rail infrastructure such as the existing main lines and Crossrail. Here benefits accrue to population centres and to the wider economy. Yet this takes a more mythic turn as the 'transformative' potential of these benefits is set out. This includes 'bridging the North South divide' and 'rebalancing the economy' (DfT/HS2Ltd, 2011a p8) as well as regenerating cities and whole regions. Benefits are initially expressed in technical terms, they are capacity and increased speed. In the case of the latter the technical calculations of CBA play a role (discussed above) in calculating and justifying decisions. The document provides assurance from the then Secretary of State for Transport, Philip Hammond that the Government wishes to be certain that "final proposal is the right one – in the long term

national interest" (ibid p6) This will be ensured by the consultation, launched in the document, "one of the largest and most wide ranging ever undertaken by the Government" as; "no final decisions will be taken until everyone has had the opportunity to have their say." (ibid). This appears to attribute the public consultation with the status of a process that will ultimately legitimate the process of planning and appraisal, ensuring it reaches the 'right decision'. Something very much at odds with the evidence of the way in which the process has been managed and conceived by HS2Ltd as discussed above.

'Creaking Victorian Infrastructure'

This categorisation of the rail network does not appear until the 2010 Command Paper. Previous documents discussing HSR do use the term 'Victorian' but it is specific to the WCML and used as an adjective for the route as a whole, distinguishing it from the East Coast Main Line in the context of those parts of it that are unsuitable for high speed running (DfT, 2009). The adjective first gets applied to the whole network in the 2010 Command Paper. Here it is first applied to both north-south arteries, the East and West Coast Main Lines, in the context of the problems associated, not with the lines themselves, but of the east-west routes between them (DfT, 2010). It is only later in the document that it is possible to see the emergence of an opposition between the 'Victorian network' and HS2.

> "To appreciate the full and potentially transformational benefits of the 'Y' network, it is important to recognise the opportunity it provides to overcome the acute connectivity limitations of the Victorian rail network" (ibid p70).

Here a binary opposition begins to develop between the *problem*, as defined by the limitations of the Victorian network on the one hand and the *solution,* HS2, on the other. There is a further development of this category within the overall frame later in the 2011 consultation.

> "High speed railways were first built in Japan in the 1960s, and have now been developed in countries across Europe and Asia. This progress shows no sign of stopping, and China, France and Spain, amongst other countries, are all pressing ahead with ambitious plans. Britain cannot afford to be left behind. Our current railway system dates back to the Victorian era and will not be sufficient to keep Britain competitive in the twenty-first century." (DfT/HS2Ltd, 2011a p5)

The opposition is not simply between the Victorian Network and HS2 but between the Victorian Network and the twenty-first century, and crucially, national competitiveness in the twenty-first century. This categorisation of HS2 as a twenty-first century policy tool with the potential to transform the nations outdated rail network appears in the 2010 Command Paper with the whole first chapter outlining the 'Twenty-First Century Transport Challenge'. The

quote above is useful as it illustrates the link between the Victorian network and the final category of the discourse of speed that constitutes this framing of HS2.

The creation of a narrative justification for HS2 provides a clear example of the mythopoesis discussed by Van Leeuwne and Wodak (1999) as a legitimatory strategy. The narrative locates the UK's current network in the Victorian era. Whilst it is certainly true that the vast majority of the network was constructed within this period there has also been significant rationalisations and modernisations since then. There are other periods in the history of the railways that could also be deemed significant; the inter-war period with its iconic advertising and world famous locomotives the Flying Scotsman and the Mallard, the high speed rail of their day; or even the post-war development of high speed rail in the UK through the intercity 125s, 225s and Advanced Passenger Train, for example. The use of the term Victorian brings with it connotations of the heroic engineering achievements of Stephenson and Brunel, indeed the current network is described as "a tribute to our Victorian forbears" in the introduction to the 2011 consultation (DfT/HS2Ltd, 2011a p5). Whilst the Victorian character of the network is defined in negative terms in this case it has not treated as a negative quality in all circumstances. St Pancras, Kings Cross and the Ribblehead Viaduct are all Victorian features of the railway and its infrastructure but rather than having been defined as negative and unsuited to the modern world they have all been valued and preserved. The repeated use of the adjective Victorian in a pejorative sense represents a strategy to create a narrative that legitimates HS2 as essential to bring the UK's rail infrastructure from the distant, albeit heroic, past into the twenty first century.

'The Global Race'

The categorisation of HS2 as a twenty-first century transport solution to the problem of capacity is expressed most forcefully in the 2010 Command Paper produced under the Labour government. This is incorporated into the 2011 Consultation produced under the Coalition although with less emphasis. In contrast the rhetoric of the 'global race' is developed much more forcefully in the 2011 document. There is, initially, the consideration of the 'Capacity and Connectivity Challenge' in relation to European competitors (DfT, 2010) however it is not until the 2011 document that this competition is categorised as a *global* one;

> "Our competitors already recognise the huge benefits high speed rail can bring and are pressing ahead with ambitious plans. Britain cannot afford to be left behind. Across the globe we have seen how high speed rail can revive and regenerate cities. We must ensure that the UK's principal population centres benefit from this high speed effect." (HS2Ltd/DfT, 2011a p5).

This is a category within the narrative that points to the risks to Britain of being left behind as international competitors forge ahead with 'ambitious plans'. This final category is significant as it links the narrative developed around HS2 to wider political narratives through the process of 'intertextuality' (Fairclough, 1992) discussed in chapter four. The phrase itself does not appear in the 2011 consultation document although as the above quote indicates HSR is conceived very much in terms of international competitiveness and the use of international comparisons has been a feature of the discourse since the Network Rail study of 2009 (see figure 5.6).

This represents a wider political framing, developed within a powerful discourse coalition and employed by both the Conservatives and Liberal Democrats within the Coalition (The Economist, 2013). This has seen the publication of populist political texts by young Members of Parliament with titles such as 'Britannia Unchained' (Kwarteng et al., 2012) and 'Race Plan' (Browne, 2014). They argue that Britain risks a slide into mediocrity in comparison with other rising economic powers, that the 2008 crash has brought about the demise of post-war social democracy (ibid) and one of the solutions to this is long-term investment in skills and infrastructure. Crucially it has been directly linked to HS2 by statements from the Prime Minister, David Cameron who has states the project is 'essential' if the UK is to be a "winner in the global race" (London Evening Standard, 2013). The 'global race' rhetoric is not just a feature of the libertarian right of the Coalition. This theme of the risks of failing to invest in infrastructure has also been voiced by the original promoter of HS2, Lord Adonis who described any attempt to scrap the project as potentially an "act of national self-mutilation" (Adonis, 2013). This comment was a warning to colleagues in the Labour party citing other historic major infrastructure projects cancelled by incoming Labour governments such as a new London Airport and the Channel Tunnel in the 1970s. This theme was also recently developed in a report by a group of rail industry leaders and infrastructure providers appointed to promote the project. The report, 'Great Britain: Connected or not?' argued that failure to invest in HS2 would result in a situation where;

> "Investors and employers will be put off by the creaking infrastructure and lack of ambition to upgrade what is at its heart a Victorian transport system." (High Speed Rail Industry Leaders Group, 2013 p21)

They also refer to past experiences of infrastructure projects such as Crossrail and a third London Airport which they argue have been revived, at a greater cost, after previous decisions to cancel the project (ibid).

This final category links the framing of policy on HS2 to much wider political narratives of national decline, or at least the threat of it. Something that echoes Margret Thatcher's fury at

Mitterrand's comments cited in chapter five. In the current narrative the UK may have already have fallen behind or factors such as outdated infrastructure may be holding the country back. Legitimation in this case comes both from the need to address this threat and through the creation of a mythic narrative of a global race. This is a flexible, fuzzy narrative with 'gentle nationalistic overtones' feeding into popular fears (The Economist, 2013). It calls for deregulation on one hand yet state investment in infrastructure on the other. Yet the idea of global competition as a zero sum game has little resonance with economists (Beckett, 2013) with others describing the metaphor as 'nonsense' as "races must come to an end; they don't go on for ever" (Skidelsky, 2013). This undermines the presentation of the global competitiveness argument as a rational one revealing a highly normative narrative regarding the role of the state as a facilitator of business interests as identified in other studies (Tomaney and Marques, 2013).

7.5 The necessity of speed

It is now possible to describe the way in which these three categories come together to form a narrative in which speed is essential. Under this narrative the UK is shackled in the global race, by Victorian railways. HS2 and the 'speed benefits' it brings to the economy provide a solution to the crisis of a predicted lack of capacity. Yet the necessity of speed refers not simply to the high running speeds and the economic benefits, identified as accruing from the time savings generated for high earning business people. Speed is also essential as there is a threat that the project may be cancelled due to a 'lack of ambition'. This lack of ambition is not specific; it is not clear who lacks ambition however in leaving it hanging it is ready to be attached to anyone who doubts the benefits of HS2. In overcoming this opposition speed of implementation appears to be the solution. Its promoters argue "delay simply entrenches opposition" (Adonis, 2012). If the project can be implemented quickly before opposition can build then the implication is this lack of ambition can be overcome, or at least evaded.

If this narrative of speed were simply one among many narratives that surround the project — or if the decision-making process were configured in such a way as to allow different narratives to contribute to the framing of the project — then it may not be so problematic. One would not wish to deny some of the concerns that are reflected here. Demand for rail travel has increased and the UK does have a history of cancelling big projects after a long and often adversarial decision-making process (Hall, 1980). Where the problem occurs is in the 'order of discourse' (Fairclough, 1999) where one group dominates and seeks to structure the narrative in their own terms creating a narrow policy frame for the project, one that is closed to inputs from civil society and those outside of a the 'discourse coalition' of project promoters and advocates (Hajer, 2000).

Speed of operation

In the discussion of narrative categories and social facts produced and shaped by discourse it is important to remember that this discourse shapes the process of planning and appraisal. It opens up some options and closes down others and these choices have consequences. For example, the planned speed of operation effectively undermines some of the potential carbon savings and rules out other options for route alignment. The first of these is acknowledged in a report produced through a collaboration between environmental NGOs, Greenguage 21 and rail industry contractors. This highlights the costs of speed in terms of fuel consumption with running speeds of 300 Kph instead of the planned 360 Kph offering a 19 per cent reduction (Greenguage 21, 2012 p4). When considered alongside the terms of reference under which HS2Ltd was established it is clear there are limited aspirations to achieve other potential environmental benefits from the project (such as the modal shift from air discussed in chapter five). Indeed, the Terms of Reference state;

> "Speed: the new line should be *sufficiently high speed to optimise journey time benefits* balanced with operational energy costs and achievement of maximum capacity. It is likely to be designed to at least the maximum speed for HS1. *It should also have the ability to maintain high average speed, which will mean avoiding any permanent speed restrictions* (e.g. sharp bends) which also impact on energy consumption and effective capacity, managing the approaches to cities (especially if shared with classic lines) and *avoiding intermediate stops.*" (ibid, p1 emphasis added).

The apparent prioritisation of speed over CO_2 emissions is significant because, as late as November 2012 Ministers were still describing the project as having an environmental case and offering a "low carbon alternative to short-haul flying and long-distance motoring." (Burns, 2012). This is despite the fact that modal shift from air to rail has never been a priority for HS2 as indicated by the initial discussions of the organisations remit (chapter five). In prioritising speed over some of the environmental benefits the evidence from the Terms of Reference indicates that this emphasis of speed affects the design of the route. It is exactly the sharp bends referred to in the above quote that increase the opportunity to avoid settlements and sensitive environments. The current alignment affects 41 ancient woodlands and has an impact on two Sites of Special Scientific Interest (SSSIs) and in particular on the habitats for Bechstein's bat an internationally protected species (HS2Ltd, 2013). The ruling out of intermediate stops reflects a choice of speed over greater connectivity and the regeneration benefits additional stations might bring, it also conflicts with desires for town centre locations in preference to the parkway stations seen in Phase Two.

Speed of implementation

The consequences of the speed of implementation are felt in the way in which decisions are made, in the way some opportunities to mitigate the effects of HS2 are ruled out, and in the conflict that is generated between speed and the principles of democratic participation and good decision-making. The most dramatic consequences are seen in the impact of the project on the West Euston Area. It is here that the greatest amount of demolition will be necessary (see figure 5.13) with 216 households forced to relocate (HS2Ltd, 2013). In its consideration of options the speed of construction is a factor in the rejection of three of the six options considered, including one option requiring fewer demolitions (ibid). Here speed is not the only concern with another 'iron triangle' (Dimitriou et al., 2013) consideration, cost, also a factor here. In isolation the trade-offs between social, environmental and economic costs and benefits that any disruptive project would have to make might not be so significant. However, in the context of the wider debate it becomes clearer that the focus on speed of implementation has an effect upon the process of planning and appraisal. Here it brings the process into conflict with some of the principles of democracy and meaningful participation by rapidly moving towards closure and closing down inputs.

The attempt by HS2Ltd and the DfT to gain parliamentary consent within a single Parliament has indeed proved to be 'overambitious' (NAO, 2013). The process has now spanned two parliaments which could have opened it up to major revision or even cancellation by an incoming government (or by a returned Conservative administration with a small majority and large sections of the party opposed to the project). While this may have opened a process that had sought a degree of closure to political scrutiny from the top down it has also had costs in terms of unduly regulating bottom up input into the process of planning and appraisal. It has led to an approach to implementation that one interviewee, a senior academic and supporter of HSR has described as 'boneheaded' referring to the way in which the proposals have been forced through, without concession, in the face of growing opposition. This emphasis on speed of implementation has shaped the process of planning and appraisal, a process that has settled, at an early stage, on a single solution or output (the route with its high running speeds). The problem has been framed in such a narrow way as to permit only one solution. This has excluded the benefits of multiple inputs into the process of planning and appraisal leading to a failure to "focus on the problem rather than the solution" (Priemus, 2008) in the early stages of decision-making and to consider a broad range of policy options.

Summary

The findings set out in this chapter begin to address the question of the character of planning and appraisal indicating a process that is relatively closed to civil society. They also begin to

address wider questions of legitimacy with analysis of the key processes by which inputs are invited from interests outside of the organisations managing the planning and appraisal of HS2. These *inputs* could be proposals from civil society or from other organisations such as local authorities or groups of private individuals. Whilst closure and a lack of transparency in some circumstances can appear justified, or at least meet with quite wide acceptance where it appears to threaten property interests, this is ultimately problematic, in this case calling into question the legitimacy of the appraisal of options. In analysing the discourse reflected in key policy documents it is possible to identify some of the principles (such as speed of implementation and operation) that govern the process conducted by HS2Ltd and DfT. In analysing the connection to wider political discourses that shape the perceptions of those who will ultimately decide, parliamentarians, it is possible to interpret some of the claims to legitimacy that the proposals rest upon such as, the claim that it is necessary in order for the UK to remain internationally competitive.

Chapter Eight: The different roles of civil society.

"Citizenship, taken by itself, is today mostly a passive role: citizens are spectators who vote. Between elections, they are served, well or badly, by the civil service. They are not at all like those heroes of republican mythology, the citizens of ancient Athens meeting in assembly and (foolishly, as it turned out) deciding to invade Sicily. But in the associational networks of civil society, in unions, parties, movements, interest groups, and so on, these same people make many smaller decisions and shape to some degree the more distant determinations of state and economy. And in a more densely organized, more egalitarian civil society, they might do both these things to greater effect." (Walzer, 1991 p6)

8.1 Introduction

Whereas the previous chapter examined whether the planning and appraisal of HS2 tended to be more open or closed this chapter considers the contributions CSOs have made to the process. It begins to answer the questions concerning the roles played and strategies adopted and also whether, and if so how, the activities of the CSOs involved have opened up this black box. In this chapter the *political* and *economic* roles performed by CSOs are examined in the light of differences between the ways organisations operating at different scales perform these roles. Finally, the chapter considers the evidence of the way in which civil society has created a forum for deliberation of the issues generated by HS2.

The findings discussed in this chapter are that the opportunities for CSOs to contribute to a more open and transparent process of planning and appraisal have not been realised in this case. The failure to gain broad acceptance for the proposals seen both in declining public support and the opposition of local groups raises the question of whether a more open process (one that invited inputs from civil society) would have been better at addressing some of these issues. Whilst it may be hard to know with complete certainty what the outcomes of a more transparent process might have been it is possible to examine the alternative options (for the design of the route or stations—see figure 6.4—or for alternative compensation mechanisms) suggested. The following chapter considers those alternative options produced by CSOs and the judicial and political challenges brought against the current process. From this analysis it is possible to consider what contributions civil society might make to a more open process of planning and appraisal. Furthermore, it possible to speculate, informed by this analysis of the alternative options and political challenges, whether or not the outputs produced would have served wider interests and attracted more broad-based public acceptance than the current proposals.

The distinction between (political) challenges and the (economic) delivery of alternatives
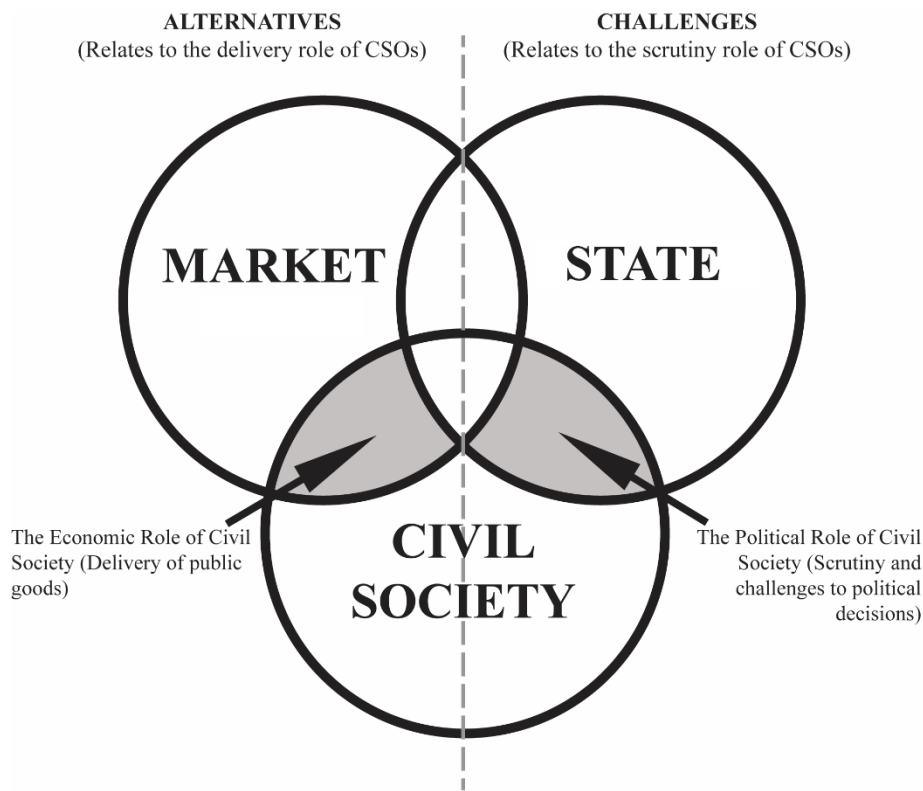
Figure 8.1: The economic and political roles of civil society.

The roles played by CSOs fit loosely into the concept of civil society developed in chapter three (figure 3.2). On the one hand they can be seen to be challenging the current proposals and on the other, developing alternative options for route and station design or compensation schemes. The *challenges* brought by different organisations relate to the political scrutiny role played by CSOs, whereas the development of alternative proposals relates to the economic delivery role. In this case 'closure' (in the sense that alternative options for both the route and the compensation scheme have been largely excluded from the process of planning and appraisal) has been identified as problematic and has faced legal challenge as discussed in chapter six. Despite this alternative options have still been produced by CSOs. It has been necessary to apply a loose analytical framework as it is difficult to neatly separate challenging a decision from suggesting an alternative option. It is possible to challenge without producing an alternative, although it immediately begs the question of what the alternative might be. However, presenting an alternative is in itself a challenge.

Defining challenging decisions as *political*, (as discussed in chapter three) in the sense that it is an exercise of power directed towards the state and therefore related to the political role of

civil society, is not difficult in this case. This is CSOs seeking to scrutinise, influence and change the decisions of the state (or in this case public and quasi-public bodies). Treating the alternatives produced by civil society as *economic* rather than just another form of challenge requires more explanation. The use of the term economic here relates to the production of public goods and services by CSOs, a distinct category of social action concerned with the use of resources (Weber, 1978). These goods and services are also the type of outputs identified in figure 7.1, rather than outputs of the specific process of planning and appraisal they are the products of the more nebulous process of social decision-making (legitimation). What is produced by civil society, the proposals, plans and practices, such as the charters, financial mechanisms and online tools, can appear to be dwarfed by the goods produced by the state if they are compared purely in terms of monetary value. For example, the £500,000 spent by the National Trust on alternative mitigation proposals may be significant to them but it barely registers when compared to the £42 billion budget of HS2. It would, therefore, be easy to dismiss the former as insignificant by this comparison. This, however, ignores the evidence that significant resources (from the perspective of the organisation) were allocated by the Trust to the production of their alternative plans. The nature of these resources is important, in the case of the National Trust it is a wealthy charity however the funds are still significant and are diverted from other charitable objectives. In the case of HS2AA these were voluntary donations from private individuals, some wealthy (Rozema et al., 2015 p105) but also a myriad of small individual donations channelled through the local action groups. In the case of the Pan-Camden Alliance these resources were non-monetary but rather the time, effort and expertise of the individuals who developed the alternative options for Euston station.

The definition of *alternative options* used here has two features, the first is that significant resources are allocated, and the second is that what is produced is an alternative proposal rather than simply a challenge to existing proposals. An example of the distinction between challenges and alternatives in this case would be the judicial reviews discussed in chapter six and property bond proposed by HS2AA and discussed in more detail in this chapter. In both cases HS2AA was deeply involved and the organisation allocated considerable resources to this activity. The first is clearly a political challenge to the decisions of the state, through the legal system, by a group of organisations of which CSOs form a part. In the second case there is clearly an implication that the current compensation mechanisms are inadequate yet the response has been the development of a proposed *alternative* financial instrument for compensating those affected by HS2. Even in this case, this is combined with legal challenge[9]

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[9] Judge Ousley's (2013) ruling on the compensation scheme consultation conducted by HS2Ltd was that it was 'so unfair as to be unlawful'. As discussed in chapter six, this was the only point on which judicial review has been successful.

to the current proposals something that illustrates the difficulties in separating challenges and alternatives. Nevertheless, it is important to do so (as discussed above and in the previous chapter) as the restriction of alternative options or inputs may be problematic in terms of the perceived legitimacy of the final decisions.

8.2 The (political) scrutiny role of CSOs

Based upon the typology, developed in chapter six, (of CSOs as national, regional or local) it is possible to examine how organisations operating at these different levels perform the political scrutiny role. This is the role envisaged by Flyvbjerg et al. (2003) as a mechanism for greater accountability and transparency. As a result it is possible to understand whether or not there are differences between the ways different types of organisations operate and the extent to which they challenge decisions of the state. This section first considers the interaction between national NGOs and HS2Ltd through a formal programme of engagement, open to invited representatives of selected NGOs. At the local level different forms of interaction took place; through the Community Forums; but also through other channels such as bilateral meetings between local representatives and HS2Ltd teams that were arranged to discuss particular issues; and finally, there was indirect interaction through FoI requests.

8.2.1 National NGOs and the 'Environmental Forums'

When the role of national NGOs is considered the key finding in this case is that these organisations have *not* been particularly effective in performing the scrutiny role. This is in the sense that they may have *set* normative standards yet they have struggled to hold HS2Ltd to them. This is a finding that emerged through the process of research in the sense that the initial assumptions, discussed in chapter nine were that these particular organisations would be central to a process of deliberative policy making. The evidence for this particular finding comes predominantly from interviewing participants in the NGO Forums held by HS2Ltd but also analysis of, documentary evidence and timelines. The initial evidence of the Right Lines Charter (discussed in chapter six) suggested that the national NGOs were collaborating to engage in a dialogue with decision-makers and establishing a set of normative standards for HS2. Yet in examining actions of the national NGOs for whom HS2 is one of their many concerns, rather than national bodies that have formed to oppose the project, it is possible to identify a very specific role played by the former. The national NGOs have been, nominally, invited into the process of planning and appraisal. There are two forums organised specifically for NGOs. Both are considered Environmental Forums by HS2Ltd yet these are divided into the Environment Roundtable and the Environmental NGO Forum. The differences between the two are discussed below as they are both confusing and revealing.

The membership of the Environmental Round Table and the Environmental NGO Forums overlap (see appendix E) and at times the meetings followed on from each other both being held at the DfT offices in Great Minster House. The main difference between the two types of meetings was that a government minister would be in attendance for some or all of the Environment Round Table. The nomenclature here is relevant as at least one meeting that is attended by a minister is minuted as an Environmental NGO Forum. This suggests the distinction between the two may not have been that clear even to those organising the meetings. Whilst forum members were free to raise issues membership was by invitation only, something that has effectively excluded any of the anti-HS2 organisations[10]. The minutes indicate some criticism of HS2Ltd such as calling for quicker progress on the establishment of an endowment fund (that communities could apply to in order to pay for additional mitigation measures). Yet a study of the minutes reveals the meetings are more advisory with little evidence that HS2Ltd are held do account or cross examined in any meaningful way. From interviews with those who have attended the meetings it is possible to see that access to decision-makers and ministers is valued. The attendance is higher for the ministerial Environmental Round Table than for the regular Environmental NGO Forum meetings. This is true even when the meetings followed on from each other suggesting that some attendees may have prioritised the meeting at which the minister was present.

Figure 8.2: NGO engagement timeline.

The timeline (figure 8.2) for the introduction of this formal process of engaging with selected national NGOs (see Appendix E for full list of attendees) suggests that rather than a strategy adopted at the outset of the process of consultation (or even in the pre-consultation phases when plans for the project were being developed) this was adopted after the omission of a forum of this type was brought to the attention of HS2Ltd. This may even have been an issue they were challenged on although this is hard to be certain about, a number of interviewees

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[10] Martin Tett the chair of the 51M and Leader of Buckinghamshire County Council does attend one meeting yet it is unclear in which role.

from national NGOs indicated that they had channels of informal lobbying, for example, through the personal networks of their high profile board members or trustees; the 'old boys' network identified as a feature of UK civil society by Casey (2004). However, this behind-the-scenes lobbying was a subject national NGO interviewees were unwilling to discuss in detail. Yet the timing of the NGO Forums is significant as it suggests that consultation of this type had not been planned from the outset by HS2Ltd. It may be that their establishment, relatively late in the process, was as the result of pressure to engage more fully. With the public consultation for Phase One beginning in February of 2011 and the Right Lines Charter launched in April of that year formal engagement with national NGOs did not begin until late June of the following year. In the interim there were two significant events the first was an 'expert seminar on public engagement and High Speed Rail' (Right Lines Charter, 2011) hosted by the National Trust and chaired by Civic Voice which saw calls for more 'strong, independent challenge' (ibid p8).

A particularly important piece of documentary evidence that HS2Ltd had not fully considered how to engage with national NGOs early in the process of planning and appraisal comes from a FoI request. Received on the 21st May 2012 FOI12-418 (see Appendix F) requests quite specific information on NGO Engagement in Phase One and Phase Two of the route. The response sets out the current structure for engagement (figure 8.3) in which no specific mention of NGO participation is made. It also states that;

> "We are also currently having discussions with the department of transport about setting up regular meetings with the Secretary of State and environmental NGOs" (HS2Ltd's response in FOI12-418)

The meetings discussed began not long after this FoI request was received, on June the 28th 2012. Given the technical and specific language of the FoI request it appears that this may have been from one of the environmental NGOs seeking to put further pressure on HS2Ltd to engage more fully.

"The Community Forums enables local participation facilitating on-going discussions and building relationships, allowing us to identify local priorities and explore opportunities for local community benefits."
"The Planning Forums facilitates discussion of design development, planning issues, environmental impacts and mitigation principles and involves officers from local authorities and other transport and planning bodies."
"The Environmental Forum involves national representatives of government departments and statutory organisations. This group assists the development of environmental policy for the development stage of HS2."

Figure 8.3: HS2Ltd's Three Part Forum Structure (Source: FOI12-418, 2012).

In a preliminary interview with one regular attendee at the NGO Forums it was suggested that the national NGOs were unwilling to be seen to oppose a rail project, particularly following the successful opposition many of the same groups had mounted to the third runway at Heathrow. This, combined with the presence of the road lobby and libertarian groups within the anti HS2 campaign, something that made opposition an unattractive position for many environmental NGOs. In the same interview the respondent indicated that DfT were not seen as well disposed to civil society in general. If this is the case then the establishment of the various NGO Forums represents, on the one hand, some success. The national NGOs may have successfully opened up a space for themselves within a closed process securing access to decision-makers and ministers. On the other hand, HS2 has seen a more muted response from national NGOs than in other cases for example the recent challenges to changes in national planning policy which saw many of the same organisations actively campaigning against the Government (Booth & Vidal, 2011).

One part of the national picture in which there has been direct criticism of HS2 has been from what are commonly described as think tanks, groups established to influence policy in one direction or the other. On the libertarian right groups such as the TaxPayer's Alliance and the Institute for Economic Affairs (IEA) have produced reports, critical of HS2, that challenge some of the economic and capacity arguments that underpin the project (TaxPayer's Alliance 2013; Wellings 2013). The TaxPayer's Alliance also recently provided support in-kind to the HS2AA campaign to encourage individuals to submit petitions as part of the hybrid Bill process through allowing the use of their London offices. Categorising some these groups as CSOs is difficult due to a lack of transparency about their funding (Monbiot, 2011). As most of these organisations are not charities (political campaigning is not considered a charitable activity) they do not have to submit any financial information other than the accounts that any private company has to submit to Companies House. These accounts are not detailed enough to identify individual donors or backers. On what could be described as the environmental left it is a little easier with groups such as the New Economics Foundation (NEF) transparent about their sources of funding. For example, in this case their work on HS2 (discussed in chapter six) was funded by a grant making trust.

Whilst the NEF intervention was certainly high profile it was time limited due to its dependence on a single grant, also they are not aligned to the opposition groups something they have been at pains to point out;

> "And we were immediately branded anti-HS2 people. And that was really sad for us because, we're not anti-HS2, we're anti-bad decision-making. And so we spent two years beating this, we're independent, impartial, and people would always come back

and say no, you're not, because you're not for it. And if you're not for it well then you're against it and that was really, really difficult." (NEF representative)

The role of the think tanks was significant more as national bodies willing to directly criticise HS2 where the national NGOs were less inclined to do so. In other respects, they were more peripheral to the opposition campaign, there is the connection with HS2AA noted above and also one rail consultant who has been central to the 51M proposals, Chris Stokes, has also produced briefing notes for the TaxPayer's Alliance (Stokes, 2011a, 2011b). However, impressions gained from interviews and observations suggest that the views of the libertarian think tanks were not reflected across the campaign as a whole. The work of the TaxPayer's Alliance and IEA was sometimes mentioned by those on the political right but the campaign as a whole could not neatly be classified as right wing. In contrast the NEF report was popular with opponents across the political spectrum with the parliamentary launch event hosted by Cheryl Gillan MP (Con).

8.2.2 Local Action Groups

In contrast to the national level it is at the local level where it is possible to see some of the greatest attempts to increase scrutiny and transparency as action groups have sought to 'tease out' the impact of the project on their immediate area. At the regional level there have also been attempts to hold decision-makers to account through the courts. BBOWT and the Chiltern Society both supported the judicial reviews conducted on environmental grounds and calling for a SEA. However, these groups have not led this activity, they have only contributed as the judicial reviews were led by a combination of local authorities, HS2AA and the private sector promoters of the Heathrow Hub alternative. In contrast, for the local groups much of the information they are seeking is related to the local impact of the project. This is often unclear due to the evolving design process in which the local effects become clearer as more detailed designs are produced.

'Teasing out' information

One finding, which emerged from the interviews and observations of the way (particularly the local) CSOs operated, was the way local action groups saw their role as drawing information out of HS2Ltd and DfT. At the outset of the enquiry it was unclear just how much the information produced by HS2Ltd would be contested and how wide the lack of trust in the quality of information would become. The following comments highlight the way planning and appraisal is perceived as a process that is closed, lacks transparency and in which the agenda is unclear.

"That's what we're about, and what's our role in the campaign? It is to *tease out* from HS2 more about what they are actually up to, some of which is probably below the surface." (Local Action Group Representative, emphasis added)

The use of the phrase 'teasing out' had particular resonance, and relevance for this research, as it described the response to concerns raised that information was released both incrementally and strategically by HS2Ltd. The information released in this way did not simply concern minor details. In one particular meeting of the 6th June 2013 between local groups and HS2Ltd (an additional meeting not a Community Forum) it was announced that between 35,000 and 50,000 sets of human remains would have to be exhumed from the 18th century burial ground beneath St James' Gardens (a West Euston park that would be heavily affected by the station redevelopment). There was no suggestion that this information had been hidden or suppressed nevertheless there was no prior discussion. Numerous interviewees gave similar examples of key information being announced without prior discussion at Community Forums. This links the role of the organisation in 'teasing out' information directly to the perception that there is a process from which they are excluded. Yet it also points to the practices of HS2Ltd in generating this perception.

One area where this process of 'teasing out' was particularly evident was where local groups were seeking to propose specific alternatives such as increased tunnelling or alternative station design. In these cases there was often a perception that the processes of designing these structures and assumptions within them were closed to groups suggesting alternatives. In the case of Euston Station the Pan-Camden Alliance made extensive use of a combination of FoI requests and bilateral meetings with HS2Ltd in order to establish the parameters to the design process. While these meetings in theory allowed for greater engagement and more detailed discussions than would be provided through the Community Forums there were limits. HS2Ltd were free to postpone or reschedule bilateral meetings and information was in some cases restricted on the grounds of commercial confidentiality. The phrase had further resonance as 'teasing out' also refers to the way several interviewees (including the interviewee cited above) described the way they would ask strategic questions during the Community Forums in order to draw out information they believed HS2Ltd were unwilling to discuss. It also describes the extensive use of FoI requests by groups seeking information from HS2Ltd and DfT. This in itself generates costs for the project as the average price of a FoI request in the UK was recently estimated at £293 (Colquhoun, 2010). This may also be a reflection of a lack of a trust and the perception, for local action groups, that incomplete information is being provided. Due to the time it takes to respond to a request the effect of this is also to create a stilted dialogue between groups and project promoters.

Contested Information and mistrust

The extent to which information was contested was an issue where the distinction between local groups and national NGOs was particularly relevant. It begins to explain the strategies adopted by local action groups in seeking to gain access to information. At the local level interviews confirmed that there was very little faith in the information provided by HS2Ltd. In contrast it was at the national level where interviewees from national NGOs were more complementary about HS2Ltd staff and the organisation's achievements. For example, they were considered professional and one interviewee considered the chosen route a good design given the parameters, even though they disagreed with some of the design principles such as the high running speeds. This does not mean that national organisations were satisfied with the information provided by HS2Ltd in the case of HS2Maps produced by CPRE (discussed in the following section) the base data was also 'teased out' through FoI requests. This project in itself represents feeling among national NGOs that the production of information by HS2Ltd was inadequate in the sense that it leaves out issues that are of particular concern such as local distinctiveness and measures of tranquillity (CPRE/Land Use Consultants, 2007).

Sentiment expressed at the local level, where the mistrust of HS2Ltd was palpable, confirms the comments (cited in the previous chapter) from former HS2Ltd Chair, Douglas Oakevee (Pitt, 2012) indicating that the poor management of the forums had generated considerable bitterness. It was difficult to find any representative of a local group with a positive view of the organisation as the quote below suggests.

> "So through the participatory process; it's got absolutely nowhere, [we] have been met with obstruction, evasion, I would have said lying…" (Local Action Group Chair)

There were also numerous, similar, accounts where HS2Ltd staff were accused of being dishonest or disingenuous. Whilst it would be easy to dismiss such allegations as the product of a fractious process, to do so would risk ignoring the reasons why the process had become so adversarial. Information itself was often highly contested, a good example of this is the cost estimates and design parameters for Euston Station discussed later in this chapter. Yet what emerged from the research was the way in which the management of information and the process by which it was disseminated also proved to be contentious (as was the case with the management of the consultation process discussed in the previous chapter). In seeking to interpret this situation there are difficulties caused by the limited access to the internal processes of HS2Ltd. There are strong allegations against the organisation yet the other 'side' of the story is largely incomplete. There is, however, a strong suspicion that the emphasis on speed of implementation discussed in the previous chapter may have had a role to play.

Yet even if, as the Atkins Report (2003) suggests, consultation is seen more as communication and that participation in decision-making is ultimately limited, then the failure to perform even a communication role effectively at a local level has been striking. The high profile mistakes discussed in chapter five had numerous parallels at the local level. One example of this is an incident related in the course of an interview. It illustrates the way in which the interactions with local people were often mismanaged and the stress the resulting confusion can cause. In a regular meeting with representatives of a local group an 'Engagement Officer' (described by HS2Ltd as a Stakeholder Support Officer) admitted they had not been informed that letters had been sent to households in the area requesting access to the ground beneath individual properties. Similar letters had, in the past, caused serious concern as it was unclear from the wording of the letters what the implications were and some recipients assumed demolition of their property would be required. When the interviewee pressed the issue the Officer indicated that despite their role as an Engagement Officer they did not seem to be informed about issues such as this as a matter of course. This incident was cited as an example of the muddled arrangements within HS2Ltd and the DfT that left local groups feeling unsure, when they did engage, that they were either speaking to the right people or receiving accurate information. This was not an isolated incident with other similar issues reported along the line including 250 residents of Bridgwater Place, a tower block in Leeds mistakenly receiving letters stating their property was "at risk of being required for construction" (BBC, 2013).

8.2.3 What has been the effect of scrutiny from civil society?

In analysing the scrutiny role played by civil society it is possible to point to clear differences between the more collaborative dialogue at the national level and the more polarised opposition at a local level. Evidence suggests that the positions taken by CSOs were a mix of strategic choices and a reaction to the circumstances. For example, the national environmental NGOs were unwilling to campaign against a rail project. This left them with a limited range of options. On the other hand, the evidence from early meetings of the local action groups shows that a division of labour evolved quite early on. What became HS2AA sought to mount an evidence based challenge to the business case for the project. Nevertheless, there was always going to be a populist campaign of opposition, a role taken on by Stop HS2. This relationship between local action groups and both strands of the opposition, evidence based challenges and populist campaigning, indicates a strategic choice even if it is one that evolved on an *ad hoc* basis. Other strategies can be seen elsewhere, yet what was notable in this case was the failure to achieve a broad coalition of the type that opposed a third runway at Heathrow (Stewart, 2010).

It would require a more detailed comparative study of the two opposition movements to reach a firm conclusion as to why such a coalition did not form in this case. A number of factors appear to have played a part. As mentioned there has been a reticence among the environmental NGOs towards campaigning against a rail project, also the presence of those on the political right within the anti-campaign may have deterred organisations whose support base is more aligned to the political left. It may also be something as simple as personalities with John Stewart, the figurehead of the Heathrow campaign, a particularly charismatic figure, able to form relationships across political divides. This was something observed first-hand whilst in conversation with John at the launch of the NEF report at the House of Commons in June 2013. There was a chance meeting with the former Secretary of State for Transport Justine Greening, the two knew each other and had campaigned together against Heathrow expansion. In a previous interview John had described a good working relationship with Greening of whom he had said;

> "because given her Heathrow experience she gets this sort of campaigning…And I think had a genuine belief in the need for mitigation"

What was significant was the warmth of the greeting between a Conservative Government Minister and an environmental campaigner and former anti-road protester at a meeting in which neither party was seeking to engage politically with the other. The anti-HS2 campaign, in contrast, has never had a similar figure although Jo Rukin of Stop HS2 has been seen to attempt to bring together the different rural and urban areas and is a figure, from an organisation based in the Midlands that one can hear campaigners in London speak warmly of. In this case it was hard to find strong evidence of division between the rural (generally Conservative supporting) local campaigns and the urban campaigns in which the local Labour party was quite visible however there was also very little evidence of a strong connection.

It is hard to be certain whether or not different strategies may have produced different results however it seems likely, given the closed nature of the process, that alternative strategies would not have altered the outputs. In this case the lack of changes to the main outputs of the project; the speed of operation; route alignment; location of stations or for that matter the speed and style of delivery; make it hard to point to tangible results from the adoption of either a collaborative or oppositional strategy. No interviewees were able to point to changes in the project as a result of their activities. Mitigation may have been increased in some areas but requests in others were rebuffed and in no cases was it possible to directly link activity by local or national groups to increased mitigation. The only case where there is clear evidence of an effect being the 'Gillan Tunnel' discussed in chapter five, which if it is attributable to any activity, it is to personal lobbying. Indeed the outcome of the Higgins Review (2014), reflecting as it did the preference of Network Rail for the abandonment of the link to HS1

along the North London Line (Network Rail, 2014) suggests that the lobbying of powerful institutional stakeholders has been far more effective

The most robust and verifiable consequence of opposition by CSOs of any type identified by interviewees was the attachment of controversy to the project. This has injected considerable doubt into the public discourse surrounding HS2. This is something that, not without good reason, the anti-HS2 campaigns believe they have achieved as the following comment suggests;

> "we have taken HS2 and turned it into something which is variously described as the 'controversial, HS2 project' or the 'highly controversial HS2' we have been effective [in] that way. (Representative of a national anti HS2 campaign)

In terms of a role for civil society in legitimating MTP decisions the findings in this case study indicate the role of politicising the issues has been performed most effectively by the opposition groups. At the local level the actions of HS2Ltd have faced considerable challenge whilst at the national level the opposition have been successful in attaching controversy to the project. This has shifted the discourse and may have had a role to play in shifting public opinion (Jordan, 2013; Dahlgreen, 2014) with national poling indicating that, by mid-2014, a majority opposed the project. Yet in this case effectiveness is a relative term as neither the national NGOs, the opposition campaign nor the local action groups can claim to have achieved their objectives nor brought about substantive changes to the project.

The consequences of this controversy may yet prove greater than simply generating hostile media coverage. For opposition groups delay is a valuable tactic, it is certainly perceived as a risk by project promoters (Adonis, 2012). The inability of HS2Ltd to keep to the initial timescale (Appendix D) opened up the project to the risk that (in the event of a change of government) an incoming administration may look again at the project and its costs. It is hard to attribute this failure solely to the activities of civil society. Nevertheless, it seems reasonable to assume that judicial reviews, forced extension of and the re-running of consultations may have played a part. Certainly it was well understood by HS2Ltd that it was important to reduce the amount of individuals who would be seeking to raise an issue with the hybrid Bill Select Committee (known as 'petitioning') as this is a time consuming process. There was also a strong drive by the opposition groups to encourage petitions. The ultimate success of this strategy will depend on wider national politics. Yet it indicates that the right to participate gives civil society power that can be used strategically. This also puts an onus on the promoters to seek to resolve issues before the petitioning stage of the Bill, something they proved unable to achieve.

8.3 The economic role of civil society

Given the closed nature of the planning and appraisal of HS2 it has been hard to find evidence of CSOs working together with HS2Ltd or DfT to deliver elements of the programme. There is not the co-production of public goods one might see in health or education. There is, however, one example of something approximating partnership working. This was a series of visits to HS1, organised by Civic Voice in 2011 for representatives of affected areas. Whilst the visits were run by Civic Voice who met most of the costs Alison Munroe (the Chief Executive of HS2Ltd) attended, and the company met the costs of a journey on HS1. Other proposals such as the endowment fund previously mentioned and as similar Countryside Management Initiative introduced as part of HS1 will ultimately create the opportunity for local groups to access funds to support community initiatives. These initiatives create spaces for greater involvement of civil society albeit at the margins and can, at best, mitigate some of the effects of the project.

In the course of the research a number of examples were identified of CSOs undertaking work to produce alternative proposals that deliver public goods such as services, products and potential solutions to problems generated by proposals for HS2. They have involved the allocation of significant resources for these organisations. As with the scrutiny role it is hard to point to 'successes' in the sense that any of the proposals outlined have been adopted. Yet to simply dismiss such activity as unsuccessful would ignore the reasons why CSOs choose to devote resources, usually the resources donated to the organisation, to producing alternative proposals. These proposals can be broken down into two types of activity. The first reflects a desire to shape the agenda, to establish standards or to re-frame the debate. The second type of activity is related, it concerns attempts to raise specific issues that (from the perspective of the CSOs concerned) have not been considered or have been excluded from the planning and appraisal process conducted by HS2Ltd.

8.3.1 Proposals that shape the agenda

In considering the activities of CSOs aimed at setting the agenda there are three different proposals, which are of particular relevance. The first two are the most obviously concerned with agenda setting as they seek to establish standards. The Right Lines Charter is an attempt to set normative standards for the planning and appraisal of options for HS2 and the wider political decision-making process and HS2 Maps (a mapping tool produced by CPRE), seeks to set standards of information provision. The third proposal, the plans for a 'land bridge' around Hartwell House produced by the National Trust could also be seen as putting a specific issue onto the agenda. This would be an issue of concern to the Trust due to its management

of the property. However it is the way in which the plans were developed through consultation and consensus building with the Trust's neighbours that, in part, marks this out as agenda setting.

The Right Lines Charter

The Charter represents a proposal for an alternative approach to the project. It is an attempt to define a set of normative standards. The proposals and funding for the Charter came originally from the regional CSO the Chiltern Society although the original proposals were taken on and developed by CPRE. This national NGO hosted a temporary staff member to develop the Charter, a process that saw thirteen organisations sign up. These signatories were twelve national NGOs and one regional organisation (The Chiltern Society). Of these thirteen, seven have been occasionally or regularly involved in the NGO and Environmental Forums (see Appendix E). The Charter was launched in April 2011 mid-way through the initial consultation 'High Speed Rail: Investing in Britain's Future' (DfT/HS2Ltd 2011). It was made clear that each signatory is;

> "individually bound by their specific charitable and constitutional objectives and will want separately to emphasise their own particular priorities through the HS2 consultation process. There is, however, sufficient common ground between them to create a powerful joint approach on a range of fundamental issues." (Right Lines Charter, 2014)

The charter sets out four principles for 'doing high speed rail well';

Principle 1. National Strategy

High Speed Rail proposals need to be set in the context of a long-term transport strategy stating clear objectives.

Principle 2. Testing the Options

Major infrastructure proposals, such as High Speed Rail, need to be 'future-proofed' by comprehensive testing against different scenarios. This will help identify the best solutions for genuinely furthering sustainable development.

Principle 3. Public Participation

Early public involvement in the development of major infrastructure proposals, including High Speed Rail, is essential. People need to be involved when all options are open for discussion and effective participation can take place.

Principle 4. Minimise Adverse Impacts

High Speed Rail proposals need to be designed from the start to avoid significant adverse impacts on the natural environment, cultural heritage and local communities (including biodiversity, landscape, tranquillity and access) during construction and operation.

(Right Lines Charter, 2011)

In assessing the affect that the Right Lines Charter has had it is very hard to find evidence that any of the four criteria set out has been adopted. Of the four criteria there is little strong evidence that;

1. HS2 has been considered by or integrated into a long-term national transport strategy;
2. that a wide range of scenarios have been considered (for example there is no consideration of the technological changes that may reduce the need for travel that opponents often cite as reasons that the long-term passenger forecasts for HS2 are unreliable);
3. public participation has come late in the process when key principles such as speed as the primary means of addressing capacity have already been established;
4. finally it is hard to see that the minimisation of adverse impacts has been a primary consideration due to the effect on the community around Euston and the woodlands and SSSIs along the route. Here reduced speeds would have produced more options for mitigation.

Whilst these 'products' of civil society can be seen as public goods the evidence indicates that there are limits to the capacity of civil society to deliver such goods and services. The Charter presents an alternative—a way of 'doing high speed well'. Yet within this alternative is the strongly implied criticism that the current approach is not 'doing well'. This criticism is not simply aimed at the Government but both sides of a polarised debate that focuses on the narrow detail of the economic case. The first limitation is that, for alternative proposals produced within civil society to have an impact a receptive audience that is willing to adapt their plans is required. The second issue concerns resources; to produce alternatives requires organisations with a level of resources and capacity that often excludes the smaller local action groups or groups in areas where social and economic resources are limited.

HS2 Maps

CPRE has also led the development of an online mapping tool (HS2Maps, 2014), an alternative to the way in which spatial information is presented by HS2Ltd. This offers a more

user friendly portal to access this material seeking to raise the standards of technical information provided to the public. They initially sought to develop the tool in partnership with other NGOs, however when other organisations were unable to contribute CPRE were able to use a donation they had received to develop the tool on their own. This was, in part, a response to the perceived inadequacy of the information produced by HS2Ltd. However, there was an aspiration for the tool to become a "GIS system for the NGO sector" (CPRE Representative), an alternative to different organisations all producing their own mapping data. The problem is not so much a lack of accuracy but ease of accessing relevant information when the volume of data is so great (50,000 pages in the case of the final Environmental Statement). This is an issue, particularly for large infrastructure projects, where the need to produce a large amount of detailed information can come into conflict with the need for that information to be accessible to the public. Here the standards being set are drawn from other areas where advocates of transparency and open data have been establishing norms. HS2 Maps is based on the principle that public information needs to be released as 'five star data' meeting the standards set out by Sir Tim Berners-Lee (5stardata, 2014) in that it is open access, in a usable format, searchable and linked to other sources. CPRE point out that this is currently not the case with the National Transport Model used by DfT (Smyth, 2013) and that DfT performs poorly in comparison to other departments like HM Treasury who are more advanced in releasing data.

National Trust mitigation proposals

The National Trust's central proposals are for alternative mitigation; a 'land bridge' across the tracks offers an alternative to the cutting HS2Ltd have proposed for Hartwell House, a property the Trust manages (discussed in chapter six). The mitigation proposals developed by the Trust may not have been adopted by HS2Ltd yet they have been significant in a number of respects. They have devoted considerable resources to the mitigation proposals (the £0.5 million discussed at the start of the chapter). To an organisation with an income (or 'Net Gain' the term used by the Trust to describe operating profit) of £23.9 million (National Trust, 2013) this represents a significant investment, particularly when working at risk. The Trust is in a position to work in this way as it is a major landowner with an income from the properties it owns and manages. Therefore, it has a resource base that many other CSOs lack. This also gives the Trust more freedom to act than other organisations. Membership payments make up only 30 per cent of the Trust's income. Whilst this income is important it does not mean that the organisation is beholden to its members. Indeed, the terms under which the Trust was established (by act of Parliament in 1907) mean that its responsibilities are to the nation rather than its members.

The Trust's approach to HS2 has sought to maintain a position that, if not completely neutral, is at least 'more neutral' within the spectrum of polarised positions on the project. The position is often described as opposition 'not in principle but in practice'. The organisation remains agnostic on the merits of the project as a whole but opposed to specific effects on property and landscapes they own or protect. This position is one that acknowledges an interest; "if we were not affected we wouldn't do this" as one interviewee pointed out. However, there is a realisation that any proposals put forward must also be supported locally. The organisation cannot be seen to simply be protecting its own interests. There has been an extensive two year programme of stakeholder engagement for Phase One in order to develop the Trust's alternative proposals. This has enabled the Trust the time to build relationships with, landowners and specifically parish councils who have endorsed the plans. Whilst most effort has gone into the 'land bridge' proposals their staff have been visible, attending forums where they have an interest and supporting other alternative proposals. For example, the Trust has also called for changes to the road alignment around Waddesdon Manor, another Trust property, and supports a fully bored tunnel for the Chilterns AONB. Evidence of the extent of the engagement comes from the time and resources devoted to the process. The Trust is not offering a radical democratic alternative, the proposals appear to be simply good practice in engagement and building relationships with stakeholders. In itself it might not be so remarkable, however in this context it provides a stark contrast between the way this particular national CSO has operated and the approach adopted by HS2Ltd.

The decision to declare the land around Hartwell House 'inalienable' relates to the alternative mitigation proposals but is also clearly an attempt at agenda setting. The right was granted to the Trust as part of the original body of legislation beginning with the 1907 Act that establishes the Trust and its remit to preserve and protect places for the nation. The right protects land from being sold, mortgaged or otherwise developed without the Trust's permission. In normal circumstances declaring land inalienable means it cannot be compulsorily purchased without parliamentary consent. This is largely symbolic in this case as Parliament can overrule the declaration and will be able to do so with the hybrid Bill. However, it raises the bar in the way it evokes the Trust's responsibility to manage land for the benefit of the nation. The implication here is that mitigation that is insufficient due to cost calculations are not in the nation's interest.

Success in setting the agenda?

The findings here are that there is a desire (and a capacity) among the national NGOs to be involved in setting the agenda for HS2. As discussed, there is little evidence that any of these proposals, produced by CSOs have been effective. The New Economics Foundation's proposals for an alternative approach discussed in chapter six may have led to some discussion

and questions raised by politicians such as those on the Public Accounts Select Committee however among the project promoters there has been little consideration of alternative policy packages of this type. The National Trust's proposals have not been adopted into plans for HS2 and, as discussed above, there is little evidence that the Charter has had a direct impact. Nevertheless, it may be that without the Right Lines Charter HS2Ltd would not have established the NGO Forum and the Environmental Round Table. In interviews with representatives of the national NGOs several expressed the belief that there would be some improvements to the management of the consultation and the Community Forums in Phase Two. If this is correct then there would be a demonstrable effect, though it would require further research in order to establish; a) if this was indeed the case; and b) whether this could be attributed to the actions of the work of the national NGOs discussed here.

8.3.2 CSO proposals that have successfully forced the consideration of issues

Success in holding HS2Ltd to the standards established by civil society appears limited. However, there has been some, qualified, success in forcing issues onto the agenda and forcing HS2Ltd to open up issues that they would have preferred to remain closed. The first of these is the consideration of compensation. This was the one area where judicial review proved successful as HS2Ltd were forced to re-run the compensation scheme consultation due to inadequacies in the way the original process was managed. Yet this has gone beyond simply challenging decisions as HS2AA have produced an alternative proposal for a 'Property Bond'[11]. The second example is around the development of Euston Station where a group within the Pan-Camden Alliance have produced alternative designs that may offer less disruption to the local area.

The Property Bond

In this instance, from the perspective of those campaigning for a change in government policy on compensation, it is hard to talk of 'success' as the rejection of the proposed alternative compensation scheme has been seen as a 'bitter blow' (HS2AA 2014c). Unlike plans for Euston Station (discussed in the following section) the question of whether or not the Government will explore a bond based system now appears closed. In response to the 2013

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[11] The current scheme offers those within 60 meters of the line compulsory purchase of their property at the market value plus 10 per cent (capped at £47,000) plus moving costs. Homeowners up to 120 meters away from the line can apply for voluntary purchase at the un-blighted market value (HS2Ltd, 2013e). In contrast a bond scheme would guarantee that HS2Ltd would act as the purchaser of last resort, up to a cut-off point (after one year of operation) if no other buyer could be found (HS2AA, 2013).

consultation HS2Ltd announced that it had ruled out implementation of a property bond for Phase One (HS2Ltd 2014c). It is clearly of little comfort to those who had hoped a property bond would provide them with greater security. Yet it is possible to point to what has been a success by HS2AA in forcing a consideration of the issue. When features of the way in which the issue was successfully put on the agenda are examined, it is possible to identify how a more open process may be able to resolve some of the complex issues generated by MTPs such as HS2. The fact that the decision-makers ultimately reverted to the characteristics of a closed approach (rather than being open to a potential innovation from civil society), rejecting credible alternatives, indicates the fundamental flaws in this approach to dealing with uncertainty. In this case the property bond represented an innovation that offered to alleviate some of the risks of blight, potentially enabling a more open process of appraisal of options and possibly even addressing one strong objection to projects of this type, their threat to property values.

HS2AA estimate the full cost of blight from Phases One and Two at £12 billion arguing that there is only £2.5 billion available for compensation (HS2Ltd 2014c). This theoretical £9.5 billion gap between the two estimates symbolises the gulf that exists between the two parties. Where HS2AA can justifiably claim some success, is in the acknowledgement that a property bond is at least as good, and may actually perform better, than the existing compensation proposals. When considering the evidence of the report produced by consultants Deloitte in September 2013 it is possible to see at least one proposal for a scheme that appears to equal or outperform the current arrangements. The report avoids making a recommendation hedging any conclusions and making it clear that the decision is for DfT (Deloitte, 2013). It states that;

> "although we consider the proposed bond scheme has features that should help property markets to function normally, and is in theory capable of implementation…the DfT may consider that it is not appropriate to introduce this new concept for a project the size of HS2, within the timetable for implementation that is proposed. Conversely, the DfT may consider that the proposed bond scheme is sufficiently credible for the DfT to propose it as a mutually exclusive alternative to the Voluntary Purchase Scheme in the forthcoming consultation." (ibid p2)

However, in the assessment against policy criteria carried out it is clear that the form of property bond proposed by Deloitte performs well against the current Voluntary Purchase Scheme on average and better than the current scheme under three of the five policy criteria[12]. The justification for the rejection of a property bond is couched very much in terms of

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[12] 1. Value for Money; 2. Fairness; 3. Functioning of the Housing Market; 4. Community Cohesion; 5. Feasibility, Efficiency and Comprehensibility

uncertainty, the scheme "*could not guarantee* sufficient benefits to outweigh the risks" (HS2Ltd, 2014c emphasis added). However, in a unique case such as HS2, the certainty and guarantees demanded of the property bond are in short supply.

What is absent from the Government and HS2Ltd's compensation proposals is any clarity about principles. The 'Compensation Code' for compulsory purchase is described as a 'set of principles' (DCLG, 2010, p30) yet these are not explicitly stated. In consultation literature produced by HS2Ltd the 'principle of equivalence' is cited "meaning that a person should be no worse off in financial terms after the acquisition than they were before. They should also be no better off." (HS2Ltd, 2013e). Another notable absence from the debate is evidence. All studies appear to be based on two small bond schemes; one run by Central Railways and the other by BAA (British Airports Authority) for projects that have not yet come to fruition. No academic or independent studies are cited in the literature from HS2Ltd, DfT, DCLG or either of the consultancies PWC or Deloitte.

This is a situation for which HS2AA has proposed one solution to resolving the issue of property blight. Their success has been not to get the proposed property bond accepted but rather to get it considered, in part through legal challenge and in part through the quality of the proposals. Resources have been allocated within the process conducted by HS2Ltd and DfT to appraise these alternatives. At least one of these appraisals has concluded that some form of property bond may at least be as good as the current compensation scheme. Yet there is no evidence that the benefits of a bond scheme have been considered in terms of its potential to enable a more open process. This may still be a long way from an ideal situation whereby there is a transparent process to bridge the gulf between alternative valuations of the cost of blight. However, the evidence of the property bond does indicate that CSOs, even those opposed to the project, can produce solutions that merit consideration. It indicates that in some circumstances this makes it harder for project promoters to ignore these solutions and forge ahead with ones that suit their own interest.

Pan-Camden Alliance Euston station proposals

Of a very different scale to the alternatives produced by the National Trust are the proposals developed by members of the Pan-Camden Alliance (an area based CSO discussed in chapter six) for an alternative redevelopment of Euston Station. Indeed, scale is relevant here as these are the most significant proposals produced by a local/area-based CSO. They form part of a wider strategy under which the cancelation of the project is the preferred option. Even those individuals most deeply involved in drawing up plans for the alternative station designs say that their preference is to see the project cancelled or failing that the London terminus to be located at Old Oak Common.

Where Pan-Camden Alliance have had more success has been in gaining some acceptance of the viability of their proposals from key stakeholders Transport for London who in April 2014 accepted that the proposals "appear to work in concept" (TfL, 2014). Network Rail in contrast has been less willing to accept the designs seeing issues such as maintaining train operation and the alternative proposals for Hampstead Rd[13] bridge as 'show stoppers' (Euston DDD, 2014b). Where there has also been some observable impact of the campaigning for a more acceptable, less disruptive plan for Euston station is that following the Higgins Report (2014) a high level working group has been established by the London Borough of Camden. This is chaired by the Deputy London Mayor and includes the Leader of the Council Sarah Hayward and Alison Munroe the Chief Executive of HS2 Ltd. The group also includes members of various local action groups including the Pan-Camden Alliance (LB Camden, 2014).

The working group appears to be making use of the opportunity created by the Higgins Report to force the issues around Euston Station's design back on the agenda. One consequence of this is that the consultancy WSP has been recruited by The London Borough of Camden to conduct an independent review of the alternative Double Deck Down (DDD) proposals DDD2+ (as the current iteration of the plan is known). This combined with the qualified acknowledgement from TfL that the plans merit further investigation indicates some success in getting proposals and ideas from outside of the closed process of planning and appraisal onto the agenda. It may be hard to credit CSOs alone with opening up issues as the influence of powerful stakeholders such as TfL and the Greater London Assembly is hard to rule out. Nevertheless, if it can be demonstrated that a station at Euston could be constructed without the disruption and demolition of housing blocks on the Regents Park Estate then this will be due, in no small part to the work of the Pan-Camden Alliance.

8.4 Promoting Deliberation

The final role for civil society, identified in this case study is the extent to which civil society itself establishes a forum for deliberation. This is in essence a political role as it concerns the exercise of state power, however it is a different conception of politics as it concerns the establishment of institutional arrangements the 'dikes and channels' (Dewey, 1927) by which state power is constrained. Yet the evidence discussed above, of the way in which CSOs have sought, albeit with limited success, to shape the agenda and force the consideration of issues that project promoters would rather exclude from the process of planning and appraisal, gives

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[13] These proposals are crucial to avoiding the level of demolition caused by current proposals as the 'throat' where the tracks narrow from the multiple lines from the different platforms to join the main line is where most demolitions will be required.

an indication of the type of issues involved. Any deliberative process, either a political process whereby such issues were considered and possibly decision made or a more open process of planning and appraisal in which the black box was opened up and more inputs from civil society (such as those alternative proposals discussed above) would have to address issues of compensation and consider a wider range of route options and governing principles. Furthermore, it would have to contend with the expertise *within* civil society, the expertise to produce viable alternatives to the options generated by project promoters.

The research has always encountered the difficulty that the strong normative position set out in this thesis in favour of more deliberative democracy is faced with limited empirical evidence. What the evidence shows is a process in which planning and appraisal are closed to inputs from civil society and that the wider process of decision-making is highly polarised. In some respects the evidence appears to refute the position taken by the researcher. A common response, noted during fieldwork and in interviews, when the subject of the research (the role of civil society in the decision-making of HS2) was discussed, was incredulity followed by a simple answer 'there is none'. Yet it would be a simplistic reading of the evidence to assume this was the case. It would ignore the fact that the majority of civil society interviewees, when asked directly[14], saw themselves as part of the decision-making process. If nothing else this indicates a sense of a wider process and the desire for a dialogue with the project promoters even if the reality was very different. Furthermore, it is important to acknowledge that there are examples of organisations adopting or calling for a more deliberative approach and also examples of organisations using deliberation to resolve (usually internal) issues of strong, principled disagreement over HS2. These examples are small and may have been missed if a different methodology had been adopted as the evidence was uncovered through the process of observation and discussions with interviewees. Yet these examples are important in pointing to the potential of more deliberative approaches to decision-making. They address the important questions of whether or not these alternatives offer approaches to the planning and appraising of MTPs in such a way that public trust is not squandered.

Evidence of deliberation

The strongest evidence for deliberation occurred within CSOs with a federal structure operating at a regional/national level. The level appears to be significant as it was tensions between the national position and the views of the local branches representing areas affected by HS2 that generated the need for deliberative problem solving. This was most apparent in the case of CPRE an organisation that has quite visibly struggled with the difficulty of

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[14] This was a direct question, asked to all interviewees, see appendix A.

maintaining even qualified support for HS2. The difficulty in maintaining this position, was confirmed in an interview in which a representative of CPRE acknowledged that some local branches were very unhappy with the national position. Local groups felt that the organisation ought to oppose the project outright rather than the original position adopted. This was of support for the principle combined with criticism of some of the ways in which the project was being designed and implemented discussed in chapter six. The response to this, from the national body, was to facilitate a meeting between those with strong objections to HS2 and those branches who were not opposed or felt that it was better to seek to influence the project. This meeting, and the realisation that others within the organisation held different views, was credited with stopping the aggressive opposition to the national position coming from a number of branches. The perception of this disagreement, particularly within the federal structure, as potentially valuable was acknowledged as the following quote indicates;

> "by being a federal body we do gain something and I am…aware there is a range of views on this. That means when we have a position it is a lot more robust." (CPRE Representative)

It was felt, by this interviewee that this approach produces positions that are legitimated through this process of debate between the national body and the branches, each of which is constituted as a separate organisation. In the interview the contrast was made between 'big name' charities that are more top-down in their organisation, an approach that the interviewee felt 'lost something'. When combined with the comments above, this appears to indicate that the perception, by some, that deliberation produces more robust and legitimate decisions. Further evidence of deliberation as a method for solving internal problems within CSOs, and in particular those with a structure that operates at both the regional and national level, comes from Civic Voice. There is also evidence here of seeking to bring together different, conflicting views within the organisation. There was an acknowledgement of the tension this causes and the costs to the organisation in terms of the loss of members unhappy with the national position.

The Right Lines Charter is a call for greater participation through Principle 3 (see above). There is also evidence that charter signatories were involved in promoting a different, more deliberative, approach to policy makers in DfT in late 2011. This seminar (see figure 8.2) developed by Civic Voice, hosted by the National Trust and attended by officials from the DfT (Right Lines, 2011) dealt with many of the issues that have proved problematic in the case of HS2. These include;

- blight as a problem that inhibits early strategic discussion of route options,
- tensions between strategic benefits and local costs,
- disagreement amongst experts on key issues, and
- the problems of individuals and groups adopting entrenched opposing positions.

The record of the heavily caveated comments from DfT indicates that by December 2011 it was too late to influence the approach to consultation on Phase One although the contents of the seminar may influence the approach to Phase Two. The seminar saw examples of how deliberative decision-making can work in practice on other strategic issues of national interest such as deficit reduction and planning issues in National Parks (Mattinson, 2011). The report concludes with the statement that;

> "The process needs to be developed with a strong independent challenge and an independently led process to build trust and confidence and encourage participation. DfT and HS2 Ltd need to be front and centre of the process and operate transparently and not in a black box" (Right Lines, 2011 p8)

The final evidence for civil society as a forum for deliberation comes from a series of observations of the way the public formed around HS2 has operated in this case. These include; the way the National Trust has needed to be seen to be working collaboratively rather than simply pursuing its own interests; the way a collection of local action groups, described as 'organised chaos' has held a relatively consistent and coordinated position on the route rather than groups seeking to defend their area at the expense of others; finally, the way that different positions are tolerated within the same organisation. An example of this is the way both Railfuture and the National Trust can manage a situation in which the public figurehead takes a different personal position to that of the organisation, something that would be hard to imagine would not be problematic for a public body or private sector company. Individually these observations might not be significant but collectively the whole is greater than the sum of the parts suggesting open deliberation, aimed at achieving consensus, may indeed be one feature of the way civil society and CSOs operate.

Summary

The findings set out in this chapter indicate that the actions of CSOs can be interpreted as different roles. This is in the sense that some actions involve challenging and politicising issues that project promoters had sought to avoid addressing through a closed process of planning and appraisal. Other activity could be characterised differently in the sense that it involves the *production* of public goods (reports, charters, plans and financial instruments by which compensation could be delivered). Whilst this may appear a fine distinction as one could easily categorise all this activity as 'campaigning' the distinction becomes important when one considers what a more open process of planning and appraisal might look like. In such a process the goods produced by CSOs become important as they challenge the monopoly on technical expertise of the project promoters and show how the knowledge and expertise

within civil society has to be considered alongside (and in some respects equal to) the proposals produced by public bodies and their private sector consultants.

Chapter Nine: Emergent findings from the experience of researching a closed process

> "confidence in political institutions is the product of governmental performance in much the same way that estimations of the trustworthiness of others, and willingness to trust them, are based on the experience of how others behave" (Newton and Norris, 1999)

9.1 Introduction

The following findings are distinct from those set out in the previous chapters as they are a product of my experience as a researcher. They emerge from the ethnographic methodology, the interactions between myself and those opposing, supporting and seeking to deliver HS2. They reflect the way this experience altered my own preconceptions as a researcher. In the discussion of reflexivity in chapter four Gadamer's concept of *horizontverschmelzung* (fusion of horizons) is used to illustrate the value in challenging one's own preconceptions (Bernstein, 1983). The findings set out in this chapter describe this process as it reveals the way in which the actions of HS2Ltd have led some, (myself included) who were initially predisposed to support the project, to conclude that it does not offer to deliver outputs that are broadly in the public interest. Further evidence of key features of the process of planning and appraisal conducted by HS2Ltd are also examined. They are considered in terms of the way they fail to reflect the value placed on potential losses by local people or allow for a meaningful dialogue between project delivery bodies and the people who are affected. Here again the ethnographic methodology is important as it has been through the observation of what people do and how they talk about issues that it has been possible to gain 'familiarity with local knowledge' and the 'architectures of meaning' (Yanow, 2003), and of value, constructed by those groups who are directly affected by HS2.

9.2 A process of (de)legitimisation

The way the promoters of HS2 have struggled to legitimate their actions is particularly apparent at the local level. Here the endemic mistrust identified in the previous chapter has led to a perception (particularly among local action groups) that the institutions charged with planning, appraising and ultimately delivering HS2 lack legitimacy. In order to understand the way in which the actions of project promoters affect perceptions of legitimacy my own experience as a researcher provides a framework. The *horizontverschmelzung* or shift in

perceptions is presented as a journey from initial support to opposition with the significant points along the way identified. The journey can be expressed through three stages which (although not strictly linier) describe the way my own beliefs changed. These stages are; 1) a starting point characterised by a degree of mutual suspicion between myself and local action groups; 2) my own experience of finding the process of planning and appraisal closed; 3) the realisation that the key 'institutional fact' HS2Ltd (an output of the process thus far) was considered by many to be illegitimate and that this was due to the organisation's management of the consultation process. The importance of this journey, from initial support of the principles of HSR to a belief that the costs of HS2 are not outweighed by the benefits, became apparent during an interview when a similar personal journey was related back to me. This was a story that I had heard several times before expressed in slightly different ways although the following quote describes it well;

> "I love high speed rail. I've travelled a lot to Paris, travelled in Germany on high speed rail, in Italy and Spain. It's my favourite way of travelling and…when I heard about high speed rail in Britain I thought great, it's what we need. Then I began to see and think about the consequences of bringing such a proposal into a fairly ancient, congested, complicated neighbourhood. And my interests was in really what it would do to the neighbourhood I live in. This is a curiously peaceful little enclave and I'm more concerned about the process of building it." (Local Action Group Representative)

At first I failed to register the significance of this journey. I attributed comments such as; "at first I was supportive but then when I looked at the details I became sceptical", to a desire to appear reasonable and not to have rejected the project outright. But as I continued to hear similar statements and as my own position moved from support to scepticism the significance of these comments became apparent.

Mutual Suspicions

The beginning of this journey or the initial 'horizon' is discussed in chapter four as this sets out my own initial scepticism towards the arguments developed by local action groups. However, the experience of the research made it clear that, if as a researcher I had suspicions then, some of the people I was interested in talking to also had suspicions of me. The first observation provides an illustration of this, the event was of an anti-HS2 protest outside Parliament organised by Stop HS2. The observation was conducted at a stage in the research when the possibility of gaining access to the delivery bodies (HS2Ltd or DfT), the pro-HS2 campaign or the anti-HS2 campaign was unclear. As a public event this allowed me to begin the process of 'snowballing', gaining contacts and access, as well as understanding the issues.

I emerged from Westminster underground station and walked towards a group of between 60 and 80 bedraggled protesters and an inflatable white elephant (Ellie the mascot of Stop HS2 the national campaigning organisation). It was mid July 2012, a day of violent summer rainstorms. As the group retreated to the limited protection offered by the Plane trees of Old Palace Yard (the green in front of the entrance to the House of Lords, the setting for demonstrations and television broadcasts) I struck up conversations with the protestors. People were happy to talk and recount the various concerns they had with the project; the cost and in particular poor cost benefit ratio; the environmental impact, particularly on the Chilterns and the lack of compensation. Among this group of predominantly older, white and middle class protesters there was a slight suspicion of myself, a younger man asking questions. I was asked on a couple of occasions whether or not I was a journalist.

In this instance I asked people whether or not they were personally affected by the project (based on my own preconceptions that the majority of the opposition were concerned with the impact of the project on their property). I spoke to some people who were directly affected (the proposed route passed close to their property) and others who were only indirectly affected. This was something I stopped doing quite early in the process of research switching to a question; 'what would you say your interest in HS2 was?' This was because I found that interviewees generally offered the information about the personal impact of the project. They were clearly conscious of the perception of being self-interested. Three interviewees actually described themselves as NIMBYs, they were clearly well aware of the pejorative connotations of the term and yet took it on as an indication that they cared about their local area. It was also evident that some had thought about the issue at length. It was clear that

Figure 9.1: Ellie.

these individuals in particular saw their response to the project as a combination of personal interest and reasoned objection. (Account based on fieldwork notes and interviews).

Other instances where I experienced a degree of suspicion were often light hearted, I was certainly never made to feel uncomfortable, however these experiences do shed some light on the context in which civil society and in particular local and opposition groups operate. In one instance as I introduced myself to a large meeting of opposition groups in the Chilterns I was asked directly, "are you for or against [HS2]" in a way that implied a need to state a position. In these circumstances I would always say that I was studying the process, some elements of which concerned me (which by this point they did), but that I was reserving judgement on the project as a whole. The sense of a need to be for or against was supported by further observations and conversations. Local opposition groups appeared to feel embattled and engaged in a struggle against a much more powerful and perfidious opponent. There was frustration with the refusal of national NGOs, CPRE and the National Trust in particular to oppose the project. In the Chilterns I also encountered anger and frustration with the Conservative Party's support for the project (there was similar anger in the Euston area at the role of the Labour peer, Lord Adonis *of Camden* – the irony of this was often mentioned). One interviewee was very open about way he had changed from traditionally voting for the Conservatives to voting more strategically describing the election of five UK Independence Party (UKIP) councillors, in the 2013 local elections, in wards affected by the route as a positive result in the sense that it registered discontent with the support for HS2 from the leadership of the Conservative Party.

Finding the planning and appraisal of HS2 closed

A significant point in my own journey was the realisation of the extent to which the process of planning and appraisal was closed, even to researchers. I had assumed that it would not be difficult to negotiate, at least some, access to the internal processes of HS2Ltd. I was part of a research group, specialising in mega-transport projects, within the school of planning of a well-known London University and was originally quite positive about HS2. Initial research had identified the large number of Community Forums being conducted by HS2Ltd along the line of Phase One. Due to the scale of the program, this appeared to be a thorough attempt to engage with people in areas affected by the project. As part of the initial research an approach to HS2 was made. Here I indicated my interest in the forums as a means of establishing dialogue between the delivery organisation and those who were affected as well as requesting permission to speak to the HS2Ltd teams involved in delivering the forums. Given the semi-public nature of the events I had assumed this would not be problematic. As a result I was surprised to receive the following email;

Dear Mr Durrant,

Thank you for your email of 25 September 2012. Please accept my apologies for taking so long to respond to your request to attend the HS2 community forums as part of your PhD research. I have been looking into whether your request will be possible but unfortunately I cannot give permission for the following reasons:

- *Your participation would require internal support from HS2 Ltd and I cannot spare the time required of a staff member at this time.*

- *Agreement for an observer to attend an HS2 forum can only be given by the forum membership rather than HS2 Ltd.*

- *These are local forums created to enable discussion on local mitigation issues and concerns and forum attendance should be restricted to reflect this.*

Email received 12.10.2012 from Lisa Levy, (now Head of) Community & Stakeholder Engagement, HS2Ltd.

Aside from the inconsistency within the email this appeared as an attempt to restrict access to what was, at least a semi-public event. Through other avenues I was, however, able to gain an invite via the Chair of the West Euston Forum. When I discussed what I described as a somewhat 'Kafkaesque' response from HS2Ltd (this refers to the apparent contradiction in refusing a request whilst denying that the decision is theirs to make), which I had, at the time, assumed came from a junior member of staff who had found it easier to refuse than to elevate my request within the organisation, the response was revealing.

> "Oh no I think it is far more sinister than that. It does raise the whole relationship between the Department of Transport and HS2[Ltd]. Because, as an executive agency they do not see themselves as public servants who are committed to the highest standards of public administration. They see that they have got a project to deliver."
> (Community Forum Chair)

It was apparent from the response of HS2Ltd that this appears to reflect a desire to close the process down through a narrow definition of 'the community'. They state that forum attendance should be restricted to "enable discussion on local mitigation issues" (HS2Ltd, 2012). The Chair's comments also raise the issue of delivery with the organisation seen as having project delivery as its primary function. Something supported by the comments (discussed in chapter seven) from senior HS2Ltd staff that illustrate the way they perceive the process of consultation as secondary (at least) to delivery.

Where this observation contributes to the 'fusion of horizons' is the realisation that the 'closure' of the Community Forums seen here parallels the management of policy frames discussed in chapter seven. In the framing of policy alternative definitions of the problems HS2 is intended to solve are excluded through management or regulation of the discourse. Here what is being managed is the public (and the public discourse). Through defining 'the community' in their own terms HS2Ltd were seeking to regulate access to the forums. Furthermore, this reflects a desire to control what can and what cannot be considered by the forums. The Forum Chair's assessment points to a conflict between a desire to deliver the project and a need to deliver 'the highest standards of public administration'. The significant realisation here was that my experience of the HS2Ltd seeking to close off access to the process of consultation was similar to the experiences of other individuals. These people were involved and interacted with HS2Ltd, through the forums and other means. They had come to the conclusion that they were closed out of the process of planning and appraisal and that this closure was a function of the way the process was managed.

Illegitimate outputs

The final stage of the journey was the realisation that it was the actions of HS2Ltd (both the closure of the process of planning and appraisal combined with the desire for rapid implementation) that were contributing to the loss of legitimacy. Up to this point the assumption had been that the concern was mostly with the regulation of *inputs* through the closure of the process (as discussed above and in chapter seven). However, in the process by which this position was amended, discussions (often with individuals with very different political opinions both to my own and to each other) were essential. They challenged my preconceptions about the nature of opposition to projects of this type. The normative position of the research in favour of more open, deliberative forms of MTP decision-making was also discussed, a position some interviewees agreed with whilst others were highly sceptical of. The preconception that personal interests were the central issue behind the local opposition was expanded to fit within a wider 'architecture of meaning' (Yanow, 2003). The almost universal criticisms of HS2Ltd combined with the narrative (discussed above), revealed in discussions, indicated that the situation was not simply a failure of input legitimacy. Rather output legitimacy was at least as significant, as the following quote indicates;

> "Is the process legitimate…? In the sense that it has wide cross-party support it has legitimacy. In the sense that the company given the responsibility for implementing it has been flawed in its ability to transparently display its thinking, and its costings. It has created wide swathes of doubt which have effectively de-legitimised it." (Local Action Group Representative)

The above comments were made within a wider discussion of the failings of HS2Ltd. These were the more visible well publicised mistakes described in the previous chapters and more mundane examples including the mismanagement of the consultation process and general engagement with those affected at the local level. At this point it became apparent that the actions of HS2Ltd and its management of the consultation process were at least as significant for the individuals I was speaking to as the way in which the process of planning and appraisal had been closed to civil society.

The journey from support to scepticism

This journey from initial support for the principles of HS2 to scepticism of the claims that this particular project was in some way in the public interest has not only been observed in individuals. One organisation, CPRE, has recently indicated a similar shift from qualified support to opposition. This was acknowledged by the organisation's Chief Executive Shaun Spiers, citing an inability to see the project as delivering environmental benefits given the Government's continued enthusiasm for road building and airport expansion (CPRE, 2014). This journey is closer to my own as it is based on the national and global consequences of the project. This may appear to contrast with the journey made by a number of interviewees based, at least in part, on the local consequences however there are important common features. The following explanation of a personal *horizontverschmelzung* highlights these common features and how they shed light on the shift in values that may be occurring in this case.

The original 'horizon' or preconception was not completely erased, I still believe there is a strong case for investment in rail infrastructure although the initial perception has shifted. This combined support for the principles of the project with scepticism of the local groups as potentially self-interested and the assumption that the national NGOs and their interaction with HS2Ltd was a more likely forum for deliberative policy making. The 'expansion' of my own horizons came at the point that I realised that for local activists their opposition sits within a rational framework, one that cannot be *simply* explained in terms of self-interest. In short it is not possible to dismiss their concerns as NIMBYism. It appears rational to oppose a project in which the key processes of planning and appraisal occur within a black box and is 'closed' in the sense that inputs from CSOs (both at the national and local level) appear to carry little weight. This relates to the procedural critique of MTPs and the allegations that decision-making is characterised by a democratic deficit. In terms of legitimation this can be seen as a failure of input oriented legitimacy as there has not been a process that is widely seen by those directly affected as fair, transparent and one that they can participate in. What also became apparent was that simply having a personal *interest* does not rule out a reasoned argument against the project. All parties had an interest although in some cases this was much less

transparent than the interests of the local level opposition. Furthermore, those objecting to the proposals at the local level had good grounds for doing so.

Whilst the failure to justify HS2 to those in the local action groups on the basis of input oriented legitimacy might not seem so surprising to some. One could argue that for these groups no process that delivers a decision to proceed with HS2 would ever be perceived as legitimate. What was more significant and led to a major personal shift in perception was the realisation that for many of the local action group members the key problem was not the failure of input legitimacy but rather, the *failure of output legitimacy.* The perceived inability of HS2Ltd to manage the consultation process, the Community Forums or even to provide clear information to those affected by HS2 can be seen as a failure of effective government. HS2Ltd, despite being a public (or quasi-public) body, is failing to meet the standards of institutional quality and common problem solving that Scharpf (1999) sees output-oriented legitimacy as dependent upon. The numerous examples set out in the previous two chapters indicate that this perception of HS2Ltd is not unfounded. Therefore, this led me to the conclusion that in this case personal interests (and allegations of NIMBYism) is not nearly as significant in understanding the nature of opposition to HS2 as the failure of HS2Ltd to achieve either input *or* output legitimacy for the project.

HS2Ltd has failed either to manage a process of planning and appraisal that is open and transparent, however, it has also failed to demonstrate that it can effectively manage relationships with the people who are likely to be directly affected. In most circumstances, public institutions in advanced democracies will draw on a combination of justifications for their actions. Some will be more procedural (or input-oriented) with decisions based on an open, participative and transparent process. Others will tend towards (output-oriented) justification based on the fact that the institution itself is trusted and public goods and services it provides are acceptable to the public. What is noticeable in this case is that HS2Ltd seems to be able to claim neither. This combination of a closed process and ineffective management seen in this case has alienated potential (local level) supporters of the project. There may be other areas where the institution's performance is of a high standard, the technical design process or internal management for example. However, these are obscured both from the researcher and the wider public by the closed process of planning and appraisal.

This leads to the question of whether the promoters of the project are indeed favouring outputs over input-oriented legitimacy. The initial assumption here was that the haste to deliver the project was due to a belief that the ultimate outputs (the railway, the stations and associated developments) represent solutions to common problems. This was based on the arguments of Lord Adonis that the "national interest needs to come first" (Adonis, 2012) discussed in chapter seven. Yet the calculations of costs to householders, communities and the environment

and benefits to a small number of business travellers call this assumption into question. Again it is hard to attribute output-oriented legitimacy to the current proposals based on the principles of distributive justice as the benefits are not fairly distributed (and neither are the costs). This raises important questions about the role of delivery bodies such as HS2Ltd. Is this an institution of government committed to solving common problems in an open transparent way or is its role to deliver a project whose principals have already been established? Within these principles what is the relationship between delivering environmental and social justice and rapid implementation based on the belief that the national interest is best served by infrastructure that gets the UK ahead in the 'global race'?

9.3 The valuation of costs

Another area where the perception of local action groups, and the demands they were making, significantly shifted came with the realisation of how little the value placed on local communities, economies and environments had been taken into account. This was one area where it was clear that perceptions of project promoters and local groups were so far apart as to be mutually incomprehensible. Many of the interviews flowed without prompting or specific questions into descriptions of the area affected, the community and its history or the landscape. Property, and property ownership was clearly an issue but not one that anyone was uncomfortable about acknowledging with some admitting that if they were not personally affected they would have been unlikely to get involved. It was clear that over and above personal costs such as the loss of property and amenity there was a much wider perception of costs voiced in terms of community, environment or landscape. If anything the gap between the mitigation that was on offer and the perception of loss was even wider here than the £9.5 billion gap between the calculations of blight and the compensation on offer identified in chapter eight. In the case of compensation money provides a proxy for value that both parties can agree upon. However, in terms of the value placed on the communities, and local environments there is mutual incomprehension. In the case of Drummond Street this can be seen in the comments by senior civil servants involved in the project. There was the admission to the Public Accounts Committee in July 2013 by Alison Munroe, the Chief Executive of HS2Ltd that no calculations had been made of the costs to local businesses. In a response to the House of Commons Select Committee for the High Speed Rail (Preparation) Bill comments from DfT officials indicated that local businesses could expect no support, that once construction began "the nature of the area will change. That happens with all construction projects" (Prout quoted, UK Parliament 2013).

While the civil servants and project delivery bodies may not be willing to address the costs to local businesses, for those businesses the risk is perceived as significant. As the following quote indicates;

> "the devastation that's going to take place, the community's going to be ripped apart, and those [things] have not been considered at all. Even the businesses are not getting any compensation…we want...something, compensation, just to survive because…obviously that means that the people won't come to a place where there are big constructions going on and the pollution, and the noise, and everything..." (Representative of Drummond Street Businesses)

The above quote points to the way in which 'the community' and local business (the respondent's personal 'interest') are not seen as separate in terms of the impact of the project. This sentiment was confirmed in conversations and interviews with other individuals in both rural and urban areas where the community, landscape and personal consequences of the project were not seen as clearly delineated. If this were only the case for individuals who were personally affected then it may make sense to be sceptical or to attribute such comments to a desire not to appear self-interested. However, this was not the case, exactly the same sentiments were expressed by people in affected areas for whom the project had little or no personal impact.

Expression of social value in these circumstances is complicated given that much of what is valued is not necessarily be monetised. There have been attempts to assess the costs that can be monetised yet are excluded from the CBA conducted by HS2Ltd and the DfT. Work by the London Borough of Camden points out that the Euston area produces £3.37 billion per annum Gross Value Added (GVA) a figure that is argued could be affected by HS2. In addition, there is the demolition of commercial property with a value of £335 million (LB Camden, 2013). On top of this they estimate over 3,500 homes, over 2,000 businesses, 70 open spaces, 45 community facilities and several existing and proposed schools will be directly affected to some extent by HS2 (ibid). However, of these figures alone fail to capture what will be lost if 'the nature of the area changes' irrevocably. One alternative expression of the 'value' of the area comes in narrative form from the commentator, journalist and London Mayoral candidate, Christian Wolmar, who has spoken out against the project and the impact on West Euston.

"Mohammed Salique owns a restaurant called Diwana in Drummond Street, which runs west from the side of Euston station. Diwana, which opened in 1970, claims that it was the first restaurant in Britain to serve South Indian vegetarian food. It wasn't the first Asian food outlet in the street: Ambala, now a chain of shops selling Indian sweets, opened in 1965, catering to the immigrants from India and Bangladesh (then East Pakistan) who had started moving into the Victorian terraces in the area. Their arrival galvanised a district long blighted by the noisy steam trains that thundered in and out of Euston; Drummond Street became the heart of the community. When the main line out of Euston was electrified in the mid-1960s and steam engines were replaced by diesels, Drummond Street and the surrounding area began to prosper. In the 1970s a battle was fought by local squatters – with support from the Asian community – against a large property company… Determined resistance saved the area for a mixed community, with a thriving street culture of small shops and cheap restaurants. There are few neighbourhoods like it in central London. (Wolmar, 2014).

Figure 9.2: Shops and restaurants on Drummond

The features of the description were all confirmed as significant in conversations and interviews; the role of restaurants and Indian food in the area's economic development; the way restaurants provided economic opportunities for local Bengalis but also served all sections of the community and commuters. Good community relations were a feature of the area as was coming together in the face of external threats; those mentioned above and also a recent attempt by the Crown Estates to sell off social housing adjacent to Regents Park which

had been successfully opposed; were also cited by interviewees as examples of previous victories.

Many of the features of an area (such as those discussed above), that have value to the people who live there, may be hard to reduce to a monetary value. Yet what was noticeable in the process of planning and appraisal conducted by HS2Ltd was a reluctance to even attempt to value some identifiable costs such as those identified by LB Camden, (discussed above) or even acknowledge some of the social costs. In addition to this there was a total lack of any mechanism to capture the non-monetary values with both the identifiable and harder to define costs to local people effectively excluded from the process of planning and appraisal. There was no evidence of any attempt to adopt alternative appraisal methods, such as Multi Criteria Analysis (OMEGA Centre, 2010) or Social Return on Investment (Cabinet Office, 2009) that at least attempt to capture wider costs and benefits. Indeed, the lack of concern shown by senior civil servants is in stark comparison to the very high value placed on running speeds, business user's time and rapid implementation of the project.

9.4 A failure of dialogue

Observations of the way Community Forums actually functioned further altered my perceptions of the way deliberation and dialogue occurred in this case. What I had initially assumed would be a dialogue was anything but, both parties appeared to be talking (sometimes shouting) past each other as if they were speaking different languages. On the one hand was the language of participation 'our voices are not being heard' on the other the language of delivery 'we have a railway to deliver'. This begins to explain the contested nature of information discussed in chapter eight. The observation that there are two different positions is not in itself a remarkable finding however where it becomes more significant is when it becomes clear that *this opposition is, in part, structural*. The way the wider process of decision-making is configured, seen in the planning and appraisal conducted by HS2Ltd and DfT and in the management of the consultation process, reveals limitations in the mechanisms for public input. Even when a forum for consultation was established there appears to be undue expectations on the ability of the mechanisms, in particular the Community Forums, to cope.

The language of participation

The evidence of the previous chapters of the products developed by CSOs to shape or to put issues on the agenda reflect a desire at all levels of civil society for input into the process. The following quote illustrates this desire at a local level.

> "We believe that there should be a partnership which should develop this thing and, within that partnership, options should be considered which should include

terminating the line somewhere else. Or rebuilding Euston in a much more interesting and creative way." (Local Action Group Representative)

This is an example of the views expressed by a number of interviewees on the failure to establish a dialogue or 'partnership' through the forums and other forms of engagement with HS2Ltd. It reflects a desire to open up issues such as the terminus of the route and design of the station that the organisation is unable or unwilling to consider. It also suggests a desire to engage and work in partnership rather than simply implacable opposition. While it is true that some of the opposition to HS2 was entrenched, and probably from the outset, hostile to the project there was a significant section of the community whose opposition (as had my own) had developed as a response to the failure of the delivery bodies to enter into a meaningful dialogue. It is, therefore, significant as an indication of the way in which the approach to delivery, the language and actions of HS2Ltd created opposition where there had been the potential for support and partnership.

The language of delivery

Whilst the dissatisfaction with the Community Forums was clear and the events were certainly often heated I did not witness any personal abuse. One interviewee (a representative of a national NGO) did recount behaviour by forum members that she described as "personal attacks on people doing their jobs", something she believed was unacceptable. Yet the events I personally witnessed in the West Euston Forum did follow a pattern that took on an almost ritual quality. At times it appeared as if the forums were enacted rather than engaged in, by both parties. There was usually a cross examination of Senior HS2Ltd staff in which they were criticised for not having resolved certain issues since the last forum, housing being one particularly contentious example. There would be a robust defence in which they would concede little with key issues, such as housing, considered beyond the remit of the forum. The atmosphere was rowdy with regular comments from the floor questioning the accuracy or integrity of information provided by HS2Ltd or their consultants. The local MP would be present issuing regular, forthright, denunciations of HS2Ltd, DfT and their management of the process. One particularly telling observation was of the first forum I attended. In this instance the way the room was set out was particularly noticeable (see figure 4.3). HS2Ltd and their consultants were on one side of a large rectangular table (their backs were literally against the wall) and 'the community' was on the other. The forum was particularly heated with a number of individuals, one in particular, calling out pointed criticisms. At the end of the forum, once the Chair had closed the meeting, it was as if hostilities had formally ceased. It was possible to see small groups of HS2Ltd staff, consultants and forum members in perfectly civil conversation including, noticeably, this most vocal individual.

When I spoke to staff from HS2Ltd, particularly junior staff I found them helpful and professional if a little guarded in their replies. I was also able to establish contact with one, more senior, member of staff who provided some insight into how this consultation process was perceived by those delivering it. However, as the research continued and I learned more about how the forums were conceived I began to understand the frustration of forum members. Attendees regularly described the forums as a 'box ticking exercise', something done to meet a requirement rather than having any real meaning. My own observations (that have informed the conclusions reached in chapter seven) do not contradict this. There was a strong sense, as discussed, that they were a stage in project delivery to be got through and that one of the functions was to prepare local people for the inevitable disruption. There was little capacity for the forums to resolve issues, some were to be resolved by Parliament through the hybrid Bill and others, such as the high running speeds, decided upon already. Yet at the same time the forums were fulfilling a legal requirement for some form of consultation.

A conversation with a member of HS2Ltd staff confirmed what I had suspected; that if the forums were frustrating for the members then they were also equally unpleasant for those delivering them. In this conversation this particular individual talked, with some feeling, about how hard the process had been on their team. If they were the grim ritual they appeared at times to be, enacted simply to fulfil a legal requirement then they were costly in financial terms but also time, effort and no doubt stress. There were 147 separate two hour forum meetings along the line each attended by 8-10 HS2Ltd staff as a minimum, usually considerably more including consultants. This illustrates the paradox of the Community Forums something that may well have contributed to the frustration felt by both parties. On the one hand they appear to be a well-resourced attempt to consult widely with those affected by HS2. Yet on the other hand this programme of consultation occurred at a point in the process of planning the route (discussed below) where there was limited scope for input from the communities to affect the outcomes.

'Designing in Public'

The phrase, 'designing in public' (used a number of times by a senior HS2Ltd representative to describe the process they were involved in) took on particular meaning after observing the way the organisation operated. It was possible to see why they would perceive the process in these terms. They were working under the glare of publicity. At the local level every action and decision was scrutinised in minute detail. Their work was also heavily scrutinised by parliamentarians through formal mechanisms such as select committees but also by hostile local MPs such as Frank Dobson (Lab) and Cheryl Gillan (Con) who maintained coordinated pressure on HS2Ltd on behalf of their constituents. On top of this was a largely hostile media ready to exploit any mistakes made by the organisation as seen in chapter six. On the other

hand the organisation was committed to a rapid process within which there was considerable uncertainty. Large institutional actors clearly carried considerable weight as can be seen in the decision to abandon the link to HS1 in light of the objections from TfL, Network Rail and the GLA (Network Rail, 2014; TfL/GLA, 2014a). There also were other inherent uncertainties such as the number of sets of human remains benieth St James' park which could not have been known prior to the investigations conducted as part of the project.

There is the perception that appeared to be held by HS2Ltd staff that they are conducting a rapid process of in order to develop a proposal to be put before Parliament very much in the public eye. On the other hand there is the perception, of groups in affected areas, the national opposition campaign and even, to an extent, the national NGOs, that the planning and appraisal of HS2 is in many ways a closed process. These mismatched perceptions begin to explain the failure to establish a meaningful dialogue through mechanisms such as the Community Forums. The way the process is constructed creates little, if any, opportunity for a public appraisal of alternatives. As discussed the consideration of different route options has never been conducted in public due to the fear of blight. Alternative proposals and objections may be made in public. Groups presenting alternatives require publicity to generate support. Nevertheless, these alternative options often struggle in the face of the preferred option. The preferred option has the support of the state and the resources of state agencies behind it. The extent of the power of this preferred option is revealed in comments by different organisations who sought to develop alternatives. Two separate CSOs had found it difficult to find consultants due to the monopoly HS2Ltd had within the rail industry. They found almost all the independent consultants were working on HS2 with one group believing that consultants were unwilling to work on alternatives for fear of jeopardising future work.

In having a single option (Figure 9.3) prior to the point at which the process of planning and appraisal was opened up to inputs from the public, HS2Ltd has encountered all the drawbacks of 'designing in public' without any of the benefits of public input. A more public process of options appraisal would have the benefits of greater transparency and possibly greater legitimacy as a result. It would have allowed for many of the issues raised by local groups during the consultation phase to be considered at the point when designs were more flexible and open to revision. It would have reduced the costs of alterations both the financial costs and the time costs that appear to be a central consideration in this case. In short a public

Pre-Consultation (Closed)
Multiple route options considered one selected, key principles of speed and direction established.

Consultation (Open)
Single option with limited scope for refinement (within pre-established principles).

Parliamentary Phase (Open to those directly and specially affected)
Single option*.
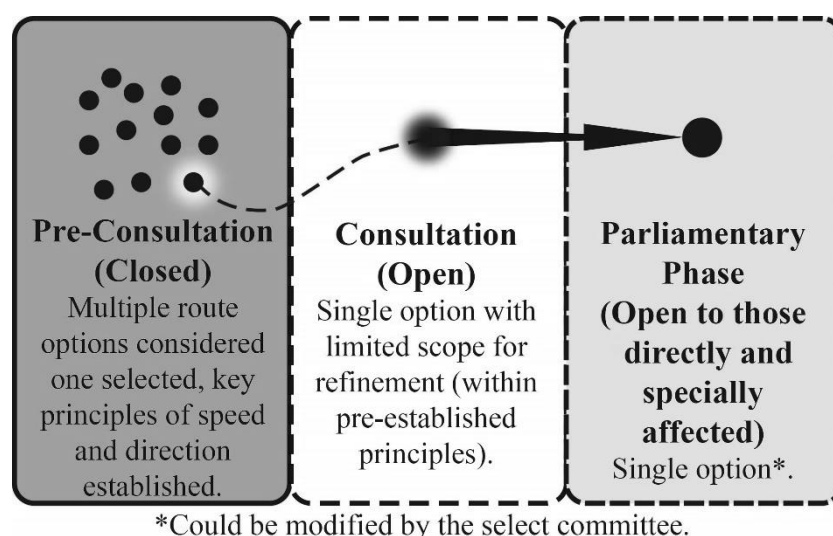
*Could be modified by the select committee.

Figure 9.3: Open and closed phases of route design.

consideration of alternative route and policy options at the point when decisions were still fluid may well have lowered the stakes in the inevitable conflicts between local, national and global interests.

At the other end of the process the way in which consent is granted through the hybrid Bill also exhibits a mix of inputs from the public with decisions made by Parliament. Members of the public who are 'directly and specially affected' (UK Parliament 2014b) can 'petition' Parliament which means that a section of the public, those who consider themselves affected in some way, can speak directly to the MPs on the select committee hearing the Bill. Yet by this stage consideration of alternatives is impossible as the Bill contains a single option presented by HS2Ltd. The only choices the select committee have are to amend the current proposals, recommend parliamentary approval or scrap the bill. This does allow individuals who are affected by the project to talk directly to decision-makers and request amendments. However, it does not allow the appraisal of alternatives as the principle of the project cannot be considered in the hybrid Bill as the *principle* was established when the Government decided to commit itself to delivering HS2. This in effect doubles the opportunities for the public to input into the process. The process is open to the wider public with the parliamentary bill

phase open to a smaller but still significant public. However, as the evidence of the Community Forums suggests it is not so much the quantity of the consultation that has been problematic but the quality.

Summary

The key premise established by the findings in this chapter concerns the question of what is legitimation in this context. The findings also address questions of how decisions are (or are not) legitimated and the nature of planning and appraisal. The central finding is that in this case *the failure to legitimate decisions, thus far, for those affected by the project can be explained at least in part by the failure of HS2Ltd to manage an effective process of consultation and engagement.* This has led to a failure to establish trust at a local level. What is so significant is that through the ethnographic research, and the way in which my own preconceptions have been challenged it became apparent that this is not simply a failure of input-oriented legitimacy. This is in the sense that the process of planning and appraisal conducted by HS2 was not transparent and open to participation. This was certainly problematic, however from the perspective of those affected, the failure of HS2Ltd to provide accurate information, to manage a consultation process without significant flaws (or for that matter to provide satisfactory compensation or a robust justification for HS2) and to work in partnership with those affected, is at least as problematic. This can be seen as *a failure of output-oriented legitimacy* in the sense that through its actions a public institution has become perceived as ineffective and untrustworthy and has thereby de-legitimated itself. In this case this failure of legitimacy may have an impact beyond the local level as this negative perception may jump scales and ultimately spread to general, negative public perception of the whole HS2 project.

Chapter Ten: Trust and the 'Tragedy of the Commons'

"Trust is desirable in itself. When it is paced well, it enhances relations of all kinds. Life is more enjoyable, work is more productive, relationships are more meaningful and rewarding. And it is also part of a complex of factors − association, social capital, community, democracy, equality, health and happiness − that make for a good society. Trust is to be sought for its own sake and because it keeps good company." (Kohn, 2008)

10.1 Introduction to the conclusions

This final chapter discusses the central conclusion of this thesis, a conclusion that takes one of the OMEGA study lessons as of particular relevance in the case of HS2. This is the lesson on the importance of transparent, accountable and ultimately sustainable institutional frameworks (OMEGA Centre, 2013 pp30-32). The conclusion of this thesis is that *civil society is an essential and overlooked component of the institutional framework necessary to delivering successful MTPs*. The OMEGA study argues that a robust institutional framework is critical to ensuring that the full range of 'agent of change' benefits are realised. This chapter expands upon this position based on the conclusion that it is *only* through civil society (as part of a framework that includes state, market and civil society institutions) that the full range of benefits and the nature of the change required by late modern societies can be understood.

In the following sections of this chapter the research questions set out in chapter one are reviewed. There is particular emphasis on conclusions regarding the role or roles of civil society organisations both in the case of HS2 and in MTP decision-making in general. This leads to a set of recommendations on the way in which civil society could contribute productively to the institutional frameworks required for contemporary MTPs. In this final chapter there are also reflections upon the methodologies used in this research and the influence of the philosophy of the Pragmatists on this enquiry. Finally, this thesis concludes with a response to some of the wider questions. These questions concern the way in which advanced democracies make decisions of this type and crucially, the role civil society has to play in ensuring such decisions serve a wider public interest.

10.2 What is the character of the planning and appraisal process conducted thus far?

The findings set out in this thesis indicate that a key characteristic of the process conducted by HS2Ltd has been a tendency towards a closed approach to planning HS2 and appraising the alternative options. Yet given the concerns of the Pragmatists (that have informed this

research) with the threat to democratic decision-making posed by epistemarchy (the rule of experts) it is of value to consider the extent to which this characteristic can be explained by the technocratic nature of MTP decision-making. It may be the case that, due to the technical nature of the type of decisions that have to be made, any similar process would exhibit similar characteristics. Furthermore, it may be the case that, as advocates of HS2 have argued, public (or national) interest is best served by a process that limits the opportunity for consultation (Adonis, 2012) and as a result the participation of civil society. The character of decision-making identified in this case clearly fits with that of the technocratic style of governance described in chapter three. It exhibits a hostility to participation, operates in an administrative setting seeking to avoid public scrutiny and seeks to shape the context of political deliberations through 'discourse coalitions' (Fischer, 1990; Hajer, 2000, 2003) and discursive practices such as the establishment of 'narratives of necessity' (Owens and Cowell, 2011).

To conclude, however, that the actions of HS2Ltd can be explained *purely* in terms of their technocratic character is insufficient in this case. On its own the technocratic project is rather fragile. The history of UK planning disasters suggests that this type of justification for projects is no guarantee of success and crucially, it is vulnerable to shifts in public values (Hall, 1980). Technocratic styles of management can be seen in regimes on both the political left and the political right, in democratic and autocratic governments (Putnam, 1977). Of particular relevance to this research is the way they can also be found in the service of post-war social (and liberal) democracy, bound up in the 'modernist infrastructural ideal' (Graham and Marvin, 2001). Therefore it is logical to conclude that technocratic practices must be understood with reference to the political ideologies they serve. In understanding the ideology in this case the exchange between the academic and the politician referred to by Tomaney and Marques (2013) is useful. It is not technical justifications for HS2 that are cited by Conservative MP and proponent of the 'global race' Kwasi Kwarteng but rather the intuitions of business people. The evidence in chapter seven of the disproportionate weight given to business travellers in the CBA and the framing of HS2 as a means of getting ahead in the 'global race' points towards an ideology in which the market and the needs of market actors are seen as the ultimate justification. The conclusion is, therefore, that the technocratic practices that govern the process of planning and appraisal operated by HS2Ltd can only be understood with reference to the neoliberal conception of the role of the state they serve.

10.3 What is legitimation in this context?

In chapter one the importance of legitimation was acknowledged as an assumption on which this thesis is based. The concerns of Habermas (1975) that representative democracy produces passive citizens that can only withhold consent are not completely confirmed by the evidence

of this case study. Nevertheless, there is a question that remains. This is the question of whether the limited success of CSOs at all levels in influencing the closed decision-making of HS2Ltd will engender wider cynicism and disenchantment with politics. One could argue that it is the formal process by which the state implements its decisions that is important and any idea of legitimation through civil society is, at best, peripheral and, at worst, irrelevant. The case study provides two responses to this argument. First, there are tangible costs associated with the failure to legitimate decisions. This can be seen in the case of HS2 in a prolonged process of gaining consent and the failure to meet key deadlines.

The second response to the question of whether or not legitimation is important goes beyond this case study, yet it relates to two issues identified in the literature on megaproject decision-making. Peter Hall's (1980) concept of a 'planning disaster' based on a shift in the values of a society in which a planning decision becomes seen in a negative light combines with Altschuler and Luberoff's (2003) observations. If, as they argue, bad decisions on megaprojects create a tragedy of the commons whereby trust declines to the point that decision-making becomes increasingly difficult, then it may also be true that bad decisions contribute to wider shifts in the values of society. In the cases considered by Hall it was the rise of the environmental movement that saw the abandonment of the plans for London's urban motorways. The question this research opens up is whether or not this case reflects a wider shift in values and if so in which direction. Answering this is beyond the scope of a single study into a single project yet one possible conclusion is that the path of modernity has reached a fork. In one direction lies increasing scepticism of expertise and institutions and in the other the task of learning to work with the messy bricolage of institutional design that makes full use of the plurality of institutions found in state, market and crucially civil society.

Whilst it will always be hard to make a direct link between a specific project or decision and a change in the values of a society some projects do become emblematic. What causes a project to become seen as symbolic of wider dissatisfaction with politics and government is likely to be a combination of factors beyond the scope of this thesis. Yet in other situations (one senses the more likely outcome in this case given that the project has never been central to mainstream political debates) they may contribute to, and draw upon, a steady disenchantment with political decision-making. This disenchantment with politics in general appears to be a feature of the current zeitgeist. This can be seen reflected in the growth of populist politics and political parties across Europe and in the UK, often with an apparent anti-politics message. Perhaps this is what a 'legitimation crisis' looks like, a generalised decline of trust in mainstream politics combined with increasing difficulties in garnering support for costly disruptive projects.

10.4 What is the role (or roles) of civil society?

In this thesis a concept of civil society has been developed that seeks to go beyond the political role of challenging decision-makers, holding them to account and ensuring transparency. Whilst definition is notoriously difficult, the different roles identified in this thesis indicate that it is possible to conclude that civil society has a role to play in generating both conflict and consensus. Furthermore both have the potential to make a productive contribution to decision-making. Yet in order to answer the questions posed in the introduction to this thesis about the kinds of democracy required for complex, costly MTPs then it is essential to understand what civil society and particularly the institutions generated within it offer in the case of HS2.

What roles can CSOs be seen to play in this case?

The *political* role of civil society has not been difficult to observe. CSOs have sought to challenge government decisions, influence decision-makers and public opinion with some success. Civil society can even, in some respects, be seen as creating a forum for deliberation of political issues. However the implications of the case study in understanding the role of civil society in MTP decision-making suggest that caution is required if national NGOs alone are expected to ensure transparency and accountability. This case study supports the view that civil society has a role to play in increasing transparency yet it is the local groups and the national opposition that have been most motivated and effective in doing so. This is of value when considering the post-political critique of participation and consensus as tightly managed and excluding necessary conflicts (Swyngedouw, 2009), discussed in chapter three. Certainly one reading of the cross party consensus in favour of HS2, or even the role played by the national NGOs, may support the view that consensus has obscured the true political nature of the conflict generated by the project. Yet a wider examination of the actions of CSOs reveals that (particularly at the local level) the 'sub-politics' of civil society (Beck 1994, 1997) has opened up these technical issues. In teasing out information these local groups are dragging issues that project promoters would prefer to treat as technical and apolitical into the public realm. At the national level the opposition groups such as HS2AA and Stop HS2 have also been successful in politicising the assumptions inherent within the CBA. It is possible to identify the power of the expert in defining costs and benefits and in the form of the final outputs such as the route or station design. It is, however, also possible to see this power actively challenged. The expertise that exists within civil society (combined with the opportunities created by the expectation of greater openness and transparency) has, in some cases, effectively challenged the expert knowledge produced within the discourse coalition formed by project promoters.

In considering the *economic* role of CSOs there are a number of goods or products produced by civil society that have been identified. Just as private consultancies produce reports or studies so to do CSOs. Indeed the reports or proposals produced are often the work of private consultants commissioned by CSOs. There is evidence that these 'products' of civil society, the alternative proposals identified in chapter six and discussed in chapter nine, could have offered alternative solutions to many of the problems identified in the case of HS2. A property bond *may* have allowed the public consideration of a range of route options and enabled a more open and transparent process of selecting a preferred route. This is one innovation HS2 could have already delivered to the way infrastructure is planned in the UK. The adoption of the Right Lines Charter *may* have contributed to a process of consultation that was less adversarial as well as seeing the proposals developed as part of a national transport planning process. The New Economics Foundation proposals *may* have offered a means of delivering the policy objectives of HS2 that was quicker, more equitable and less risky and the Railfuture alternative offers a route that, whilst slower, *may* have been less controversial and easier to implement. Finally, the Pan-Camden Alliance proposals *may* have offered a design for Euston Station that preserves housing, green space and local businesses. These alternatives are possibilities and, it is not certain that any of them would deliver what they offer. Yet there are also considerable uncertainties inherent within the existing proposals. What is most significant is that a process that fails to fully consider these and other alternatives in a way that is public and transparent risks being perceived as illegitimate and may well also produce outputs that are not seen to be in the public interest.

What is civil society in this case?

One area where the activities of CSOs have been shown to be significant in the case of HS2 is the establishing of norms around issues of procedural justice and output-oriented legitimacy. More specifically the latter refers to the quality of public institutions and the value of public goods and services they distribute. The conclusion based on the previous chapter is that the two are hard to separate. In a context where there are established norms and legal requirements for project promoters to consult; to ensure access to information; and where there are rights to challenge decisions in court, then the effective management of the planning and appraisal process requires a degree of openness. Civil society was directly involved in the establishment of these norms as rights through the Aarhus Convention and has sought to maintain and extend the norm of participation in this case. The third 'pillar' of the Aarhus Convention (1998), and the expectation of the right to participate, can be seen in the alternative proposals produced by CSOs and calls for a partnership which reflects a desire to establish and extend the right of participation.

It is clear that the development and maintenance of a legal framework in which rights to participate are enshrined is one *general* feature of the role of civil society. As a strategy, in this case, judicial challenge has been one of seeking to hold project promoters to the existing frameworks established by the Aarhus Convention and EIA Directive. In the case of HS2 the judiciary have been unwilling to perform the role of decision-makers which would potentially undermine Parliamentary sovereignty. This would establish the courts as an alternative forum in which MTP decisions are taken, one form of the judicialisation of controversial policy decisions discussed in chapter three. Yet the maintenance of this legal framework is in itself significant. It explains why HS2Ltd were compelled to engage in a difficult, costly yet largely tokenistic consultation. This is an important and shifting feature of the context in which contemporary MTPs are delivered. Restricting consultation is no longer a viable strategy as it opens organisations up to the risk of a successful legal challenge for failing to consult. Tokenistic consultation, however, still has its risks as it creates the expectation of participation in decision-making. Therefore, if this expectation is not met and participation that is widely perceived as sincere and well-managed is not forthcoming then the organisation is seen as ineffective.

The role of CSOs in increasing participation has been evident as can be seen in the huge responses to the various consultations. The scrutiny conducted is certainly a precondition for democratic decision-making however the evidence of civil society extending the principles of deliberative democracy is more limited. This should not be a surprise as interpersonal reasoning in public as a principle of decision-making requires a commitment to deliberative democracy. It requires a level of openness and an acceptance of the need for input-oriented legitimacy that is clearly lacking in this case. Nevertheless, there is still evidence of civil society creating a forum for deliberation at a systemic level and across scales. To see this deliberation between regional, local and national scales is highly significant as it is the problem of scale (Parkinson, 2003) that is often raised as a criticism against more deliberative forms of decision-making. This is the argument that beyond a certain scale (generally small-scale face to face communities or essentially local issues) it is impossible to manage deliberative democracy hence decision-making switches to non-deliberative mechanisms such as voting and electing representatives. With MTPs the question of scale is particularly pertinent as, if they are to deliver broad public benefits and a large group of 'winners' this may well come at the expense of 'losers' at the local level. The CSOs such as Civic Voice and CPRE that operate at both the local and national scale can be seen (as discussed in chapter eight) to effectively manage deliberation across scales. This indicates a valuable role for civil society in building institutional frameworks that facilitate this deliberative dialogue between the local and national levels. This is crucial if definitions of public and national interests are

to be develop that do not unjustifiably impose national interests onto local communities who ultimately bear the costs.

Differentiation between civil society, state and market

The argument, discussed in chapter three, that state, market and civil society form separate, differentiated realms (Arato and Cohen, 1992) and that the colonisation of civil society by either state or market is problematic appears to be, in part, supported by this case study. The ability of CSOs to perform the political role of scrutinising and challenging government decisions appears to be greatest where there is differentiation (the opposition and local action groups) and weakest where there is less (the national NGOs). This appears to point to a relationship between civil society and the state as one of co-option at the national level. This can be seen in the reluctance of the national NGOs to campaign against HS2. It is possible to speculate, given the way in which the NGO Forums were established, that these were an attempt by DfT and HS2Ltd to forestall the type of opposition that had developed in the past. For example, in the case of the third runway at Heathrow Airport where a national coalition of NGOs *and* local groups had formed against the project. Yet even if this was a tactical decision to prevent a coalition forming there is a question of the extent to which it has produced a strategic benefit to the project promoters. Groups such as CPRE, for example, do not appear to be so co-opted that they are unable to switch their position.

At the local level the differentiation, between state and civil society, is less clear. In the case of the opposition campaign and local action groups there is often a strong working relationship between local government and CSOs. The (local) state and civil society not only share objectives but also activity, as can be seen in the collaboration between HS2AA and Buckinghamshire County Council on judicial review. Around Euston Station there was also joint working groups established by LB Camden in which the Pan-Camden Alliance participated. Supporters of HS2, Greenguage 21 in particular, reflect a close relationship between civil society and market institutions such as the consultancies and engineering firms that support Greenguage. In some respects, this could be seen as lobbying and yet in others it has provided CSOs such as CPRE and the RSPB with access to expertise on the carbon impacts of HS2 that may have been costly or difficult to access without the collaboration with Greenguage 21. The conclusion here is that, whilst the risk of co-option is present it is not insurmountable particularly in a mature, plural civil society where different organisations can perform different roles. This is one feature of the original position that remained largely unchanged by the experience of the research. The concept, adopted in this thesis, *accepts* the blurring of the boundaries between state, market and civil society as (potentially) a source of innovation and 'social enterprise' (Leadbeater, 1997).

As a forum for conflict or consensus

It would be difficult to produce a single definition that encompasses the plurality of the public formed around HS2 let alone one that covers the whole of civil society. The calls of Flyvbjerg et al. (2003) for a greater role as a means of ensuring transparency and accountability appear to draw on a view that emphasises civil society as a forum for conflict. He dismisses its role as a forum for consensus as 'detached' and so idealistic as to be oppressive (Flyvbjerg, 1998). The problem with a dismissal of the role of civil society as a forum for consensus is that it reduces the roles played to a single dimension. A view of civil society that acknowledges only conflict risks seeing only conflict.

Recent history and the trail of 'planning disasters' stretching back to the 1960's and London's never-completed urban motorways suggests that, in conflicts over MTPs civil society can often be successful in achieving the cancellation of unpopular projects. Yet recourse to conflict presents risks to both parties. Promoters risk planning disasters and being forced to abandon a project, costly attempts to buy off opposition or an inability to address 'difficult' issues. Yet for CSOs simply opposing a project without offering alternatives risks their own legitimacy if they come to be perceived as reflecting narrow rather than wider public interests. The evidence of the role of the national NGOs in this case suggests that whilst collaboration may be problematic, this has to be balanced, for some at least, with risks of losing access to decision-makers if they are seen to only oppose policy. To fail to acknowledge the constructive role of civil society and CSOs in building consensus ignores a significant part of the picture. The evidence of this case study is that CSOs are not only engaged in political challenges but also in producing alternative proposals and creating forums for deliberation. To claim that one of these roles is superior to the others denies the essential plurality of civil society.

10.5 How are planning and appraisal decisions legitimated in the case of HS2?

In answering the overarching question, how are decisions legitimated in the case of HS2, Scharpf's (1999) distinction between input and output-oriented legitimacy is central. The initial assumptions in this research were that procedural, input-oriented legitimacy would be central to the process of legitimation. It was assumed that the closed process of planning and appraisal conducted by HS2Ltd would be problematic. This was due to the way in which it restricted opportunities for those outside of the delivery bodies and the discourse coalition of project promoters to participate in decision-making. The findings (particularly those of chapter nine), however, were that for many in the local groups the effectiveness of the delivery bodies, namely HS2Ltd, in managing a process of consultation and providing reliable information was

as important. This indicates that output-oriented legitimacy is at least as significant. It is the quality of public institutions as well as the goods and services they distribute that defines output-oriented legitimacy as conceived by Scharpf. This leads to two important conclusions that are relevant not only to this case but also to other examples of megaproject decision making in advanced democracies.

The first is that, whilst both input and output-oriented forms of legitimacy are significant, the quality of institutions is critical. Furthermore, in advanced democracies such as the UK where rights to participation (through measures such as the Aarhus Convention and EIA Directive) are enshrined in law. Where there is an increasing expectation that government ought to be more open and the public should be able to participate. In a context such as this one where there is a well-developed and politically active civil society, then for an institution to be perceived as effective it must, generally, be open and transparent. Perhaps in a more deferential era the distinction between the technocratic expert and the public was easier to maintain and earlier institutions could rely more on the justification (or output-oriented legitimacy) that the outcomes that were delivered (infrastructure, public health, education etc.) were broadly in the public interest. In many ways this was correct given the huge rise in living standards associated with the technological progress writers such as Dickens (cited in chapter one) were commenting upon. However, as faith in the benefits of that progress has declined and awareness of the costs increased, institutions that are capable of building trust with a sceptical public are required.

The second conclusion is that in this case institutions and processes governed by the principles of the market appear to fail to deliver *either* input *or* output oriented-legitimacy. This illustrates the weak foundations that the legitimacy of neoliberal conceptions of the role of the state rest upon. On the one hand, the closed process of planning and appraisal operated by HS2Ltd, with a tokenistic consultation meant that the organisation struggled to claim input-oriented legitimacy. This could only be based upon claims that HS2Ltd operated an open and transparent process in which the public was able to participate. On the other hand, the outputs that the project offer do not appear to have widespread benefits given that most benefits accrue to business people. The current proposals appear to reflect the intuitions of business people that this is a good way to invest public money in transport with the aspirations for regional economic development and reducing the carbon emissions from transport weak or non-existent.

The modernist ideal rested upon, largely, justifiable claims that the outputs of technological progress, and the projects and institutions intended to deliver it produced widespread benefit. On this basis the need for input-oriented legitimacy based on procedural justice and open forms of decision-making was not so acute. Under neoliberalism, however, the tendency

(inherent within the modernist ideal) towards a technocratic restriction of inputs has been retained whilst the distribution of public goods has shrunk to the point where the role of the state is perceived as one of serving a small elite. The further questions this conclusion opens up are those of how long can institutions with such limited claims to legitimacy sustain themselves. This is a similar question to that raised above regarding the extent to which projects such as HS2 become emblematic of a wider shift in the values of society. Again the answers to this are beyond the scope of this thesis, however a question more consistent with the Pragmatist philosophy that has informed this research would be to ask what type of institutions *could* generate the legitimacy that is so clearly lacking in this case.

10.6 What role should CSOs play?

The following section is a series of recommendations as to how civil society might play a role in decision-making however if this were to be the case it is of value to briefly consider the research question that relates to the legitimacy *of* civil society. In this case the conclusion is that CSOs have sufficient legitimacy. Personal interests, such of those of property owners are undoubtedly a feature of much of the local level response and even organisations such as the National Trust (something all interviewees acknowledge). There are, however, sufficient wider concerns with the justification for the project, and the way it has been managed, to accept that civil society cannot be dismissed purely as a vehicle for serving private interests. However, if there were to be a greater role for civil society there would be a greater onus on CSOs to demonstrate their activities were guided by the principles of reciprocity that Evers and Laville (2004) argue are central to claims that the activities of CSOs reflect a different form of economic activity.

Recommendations

Before the wider questions of how advanced democracies make complex and controversial infrastructure decisions are considered it is useful to identify possible recommendations both for HS2 and the way infrastructure is planned, appraised and delivered in the UK. Sadly, many lessons on how greater openness to civil society may resolve, or at least better address, some of the problems of infrastructure delivery do not appear to have been heeded in the case of HS2. The lessons concern the value of early consultation (OMEGA Centre, 2013a) and of greater openness as premature closure risks selecting a preferred option too early (Priemus, 2008). The tendency towards rapid closure of decisions is problematic not only in terms of good decision-making but it also as it undermines trust and is incompatible with the institutions of democracy (Stirling, 2008) forcing promoters into a technocratic 'decide-announce-defend' model of government (Groves et al., 2013). The following

recommendations concern the productive use of the conflict generated in the planning and appraisal of MTPs and particularly, the context (and UK) specific tensions observed in this case.

1.   **Resolve the tension between the risk of blight and public consideration of options.** It is relevant to any projects where planning blight is an issue but particularly the UK as a dense urbanised country where property values are a hot political issue. The most transparent solution is a more public consideration of alternative route option. Yet the (perceived) risk of property blight makes this unlikely. Therefore, a mechanism to meliorate the risk of blight is desirable on the basis that it can increase transparency. A property bond is one option which appears, on this basis alone, to merit a greater consideration than it has been given in this case. This is important as it provides a precondition for the second recommendation.

2.   **A more public forum for the deliberation of the merits of different options is required.** Early consideration of a range of route and policy options is a basic principle of good decision-making in megaprojects of this type (Priemus, 2008; Samset 2008). Civil society has a role in first, generating options and second, creating and independently managing a forum in which they are considered. The generation of options is an area where civil society has shown that it can play a role. The evidence of other high speed rail projects, HS1 in the UK and HSL-Zuid in the Netherlands (OMEGA Centre, 2013b) suggest that proposals from outside discourse coalitions of project promoters can offer better alternatives. Civil society is not the only source of alternatives, market institutions are another. It is also possible to see partnerships between civil society and market organisations or civil society and the state (particularly local government) such as the 51M proposals in this case. There will always be the risk of a dominant option championed by powerful groups. Therefore, such a forum should seek to maximise public participation in order to establish the widest possible conception of what the public interest is in the specific context. It would need to be able to address questions of how the 'problems' a proposed project is intended to address are framed and the way in which they might be re-framed whilst keeping the question of public interest to the fore.

3.   **Trust should be viewed as a common resource and not squandered.** In this case, due to the nature of the research and the ethnographic methods used, the focus has been on the loss of trust primarily at the local level. This is important because of the way in which issues jump scales and local opposition can feed into the national discourse. It is also significant for local politics. In this respect there has, in the case of HS2, been a clear relationship between the local opposition groups and the

actions of local government and parliamentary representatives. What has been noticeable has been the failure, not only to build trust with the communities affected but also a failure to gain the trust of local authorities such as Camden and Buckinghamshire. Furthermore, given the long duration of projects such as HS2, building trust with local authorities and the partnership with local communities, called for by some interviewees in this case, is essential. There is inherent uncertainty about issues such as timescales and the nature of construction in projects of this scale, however, if there is a basis of trust and functioning partnerships then this uncertainty may be easier to manage and may even generate opportunities as changes to the initial plans arise.

4. **Project promoters should think more in terms of publics and less in terms of stakeholders.** This relates to the central conclusion of the research that civil society institutions are an essential component of MTP governance. Whilst the concept of a stakeholder is potentially exclusionary, transactional and closed, the concept of a public remains open in that it is open to those who see themselves as having an interest in decisons. This openness may be problematic if one is seeking to define who can participate, or who cannot. However, in advanced, networked modern democracies defining stakeholders is inherently problematic due to the ways the understanding of the impact of projects has grown. Yet if one looks to the public as a source of information, innovation and as a way of testing and legitimating decisions then the need to define the public is not the paramount concern. By opening up the potentially closed process of planning and appraisal civil society offers a means of addressing the conflicts generated within such a process in a way that is more consistent with the norms of a democratic society.

In reflecting upon the lessons from HS2 it is useful to conclude with reflections upon the scope for innovation and the value placed on learning. As the OMEGA Centre study (2013a) shows "the learning of lessons is not currently a significant feature of the planning, appraisal and delivery of MTPs" (ibid p32). In the case of HS2 this is certainly true. Indeed, where there is any evidence of learning lessons from previous projects it appears to be the 'wrong' lessons that have been learnt. It is the lesson from HS1 that 'participation causes blight' that appears to have exacerbated a tendency to closure and a failure to publically consider different route options. Salet et al., (2013) also highlight the importance of the 'learning environment' generated by MTPs. They call for a Deweyian 'experimental attitude' to both the testing of route options and crucially the creation of this 'learning environment'. It is perhaps the absence of a willingness to learn and to reject a more cautious iterative approach in favour of a headlong rush to implement that may explain why so few of the lessons discussed above

have been heeded. MTPs represent huge public investments which ought to generate a whole variety of lessons. One is forced to conclude that a further tragedy of the planning and appraisal of HS2 to date is that so little innovation appears to have occurred in the way state agencies relate to citizens given the productive potential of the tensions generated by MTPs.

10.7 Reflections on methodology

The methodology used has been critical in enabling this case study to contribute to knowledge and theory on megaproject decision-making and civil society. It has allowed research into the complex public that is generated in response to proposals for this potentially disruptive MTP. In allowing the researcher to enter the picture it has illustrated one way in which a decision and the institutions of government implementing it can come to be seen as illegitimate. One area where the methodology could have gone further would be to understand how the organisations of civil society relate to other personal journeys from potential support for HS2 to opposing the project. The findings that other interviewees had experienced something similar, something that could be seen particularly at the local level, suggests further questions about how personal experience is shaped by and shapes the institutions of civil society. Does the experience of finding other individuals with similar concerns increase a belief that one's opposition is justified? Does the information that is clearly shared amongst groups of opponents play a role in shifting or confirming positions? This would require a much more detailed study at the level of the individual organisations and possibly participant observation within one or a number of organisations. This would be valuable in understanding the process of forming institutions and knowledge within civil society and the role of deliberation within this.

In this case the discourse analysis has focused on the technocratic rationalities that are deployed to justify the project. It has allowed some insight into the black box that is planning and appraisal allowing the research to overcome the problem of lack of access. In a case where the imbalance of power was so obvious with CSOs unable to shape the agenda or the outcomes of the project in a meaningful way this appeared justified. In this case the 'order of discourse' (Fairclough, 1999) that establishes power relations reflected in a discourse was interpreted through analysis of the texts produced by DfT and HS2Ltd, discussed in chapter seven. Yet were this situation altered, if the "balance of power between civil society and the political system" (Habermas, 1996) did indeed shift (for example if the project were cancelled or amended considerably), then it would be useful to direct similar scrutiny towards CSOs. It would be important to also examine the rationalities that underpinned opposition to the project. This may require a different combination of methods due to the plurality of different groups and interests. Perhaps here a combination of discourse analysis and opinion surveys amongst

opponents of the project may help to identify correlations between particular views of the role of the state and towards different forms of transport infrastructure.

The arguments set out here, that there are good grounds for thinking that there are benefits to a greater involvement of civil society in decision-making, should not be taken as an uncritical support of civil society. It is not a magical solution to policy problems. Further ethnographic research at the level of groups would be highly desirable in order to understand how knowledge is created and validated at this level both in groups of project planners and in opponents. In this case there appears to have been little strong evidence of the instrumental use of civil society by hidden interests. Yet this does not mean that the problems of closure to other views or the blinkered pursuit of a narrowly defined objective criticised in HS2Ltd and DfT might not also occur within the opposition. A polarised debate is undesirable from the perspective of better, more deliberative decision-making. The ethnographic methodology, and combination of policy studies and ethnography called for by Hajer (2003), appears to have something to offer in terms of understanding these tendencies towards polarisation and rigid framing of the issues. Further examination of the link to the social psychology of opposition (Devine-Wright, 2013) also offers much in this respect. It offers an understanding of how 'local knowledge' (Yanow, 2003) develops, something that would be valuable in constructing the deliberative forums required to bring it into dialogue with the expert knowledge that is essential to plan and deliver MTPs.

10.8 Reflections on Pragmatism

A valuable contribution that Pragmatic theory has made to this research has been the understanding of the relationship between expertise and local knowledge, however in this case it has proved useful to look beyond this distinction. It has been of less value in interpreting the expertise that exists *within* civil society. In particular, the work of the Pan-Camden Alliance suggests local knowledge can also be expert knowledge. Dewey's concept of a public has been useful in focusing attention on this very loose institution in terms of what it does rather than what it is. A public responds to issues and constrains decision-makers. It would, however, be wrong to see publics as purely reactive. They are also a forum in which issues and the consequences of decisions are identified. As such they provide a source of information about social value and the acceptable balance between costs and benefits. Therefore, further research on the way in which publics can productively contribute to project development across the different phases of the project lifecycle would be of value. Yet as civil society engages in practical action to limit decision-making through judicialisation or participates in policy delivery it appears to create its own class of experts. If connection to the grassroots as a source of legitimacy (Taylor and Warburton, 2012) is broken and CSOs can no longer claim to reflect

local knowledge then the warnings of the Pragmatists of the risks of technocratic governance again become relevant.

The second pragmatic concept that has proved valuable to this research has been that of a social fact. It has highlighted the importance of discourse. Yet at the same time it explains the link between communicative processes and the way in which speech and words, which appear as ephemeral, congeal to form more visible constructs such as the policies and institutional structures that ultimately shape the form of the final physical infrastructure. This also illustrates the importance of discourse in challenging and altering these social facts which relates to the discussion of framing in chapter seven. A further contribution has been the Pragmatic theory of knowledge as collaboratively produced. It may appear problematic to view knowledge as the product of a community of enquiry when engaged in research and the production of a thesis that is ultimately the work of a single researcher. Yet at its best the research felt like a collaborative process. In a handful of interviews and discussions it did feel as if it was more than simply gathering information. At these points it felt as if I was equally confronted with a problematic and confusing situation that both I and the people I was speaking to were trying to make sense of. I would not wish to overstate this as it was always clear that we had different aims and objectives. Nevertheless, without this sense of common interest the understanding of alternative perspectives, the fusion of horizons discussed in the previous chapter, would have been difficult if not impossible.

The importance of a theory of knowledge as collaboratively and deliberatively derived has also been essential in maintaining the normative position adopted in this thesis. It provides an empirical basis to this normative position drawing on the Pragmatic epistemic defence of democracy. This relates to the idea of democracy and deliberative democratic processes as not simply a means of deciding but also a means of knowing. A deliberative democratic process of planning and apprising MTPs offers more than simply a bottom-up legitimacy that powerful elite decision-makers can ignore if it conflicts with their own definitions of the 'problems' a given project is intended to address. Part of the problem of MTPs is the lack of certainty. The response to this, from project promoters, too often reflects 'tenacity' (Pierce, 1877) in seeking to stick to a belief in the face of evidence to the contrary. Such strategies are ultimately doomed as Pierce points out (ibid p 70). Something that was true in the nineteenth century is even more so in an information age where the evidence to challenge such rigid conceptions of knowledge is feely available.

As discussed above the insights offered by Flyvbjerg (1998) have great value in drawing attention to the role played by civil society in challenging domination by state and market institutions. There is a risk, however, in defining civil society purely in these terms, that this feeds into a cynicism towards the state and, specifically, the potential of states to undertake

large, costly long-term projects. Cynicism towards the state can be seen particularly in the use of Flyvbjerg's work by the libertarian right (Wellings, 2013) to criticise HS2. This is in contrast Pragmatism's more hopeful view of human potential (Healey, 2008), and specifically the potential to focus attention on the development of democratic procedures and institutions that constrain or at least channel the power of state and market. This offers a more positive alternative as better decisions require better institutions.

The individualism of late modern societies can undermine the collaborative generation of knowledge as groups pick and choose what knowledge to accept, as can be seen in the denial of the science of climate change by groups with religious or libertarian agendas. The growth of a populist form of politics that is sceptical of institutions such as science and the state risks a breakdown in the relationship between expert and local knowledge. It is this distrust of ideology as a threat to modernity and the ability to make use of scientific, local and practical knowledge that is the ultimate contribution made by the Pragmatists. MTPs with their long duration, high risks and costs and inherent uncertainty reflect the social contract between state and polity in the face of the existential threat of climate change. This is a contract based on trust. If states are to act and instigate policies with economic, social and environmental costs in which the outcomes are uncertain then in order to maintain that trust there is a pressing need for an open, transparent and inclusive definition of problems. The appraisal of different policy options needs to be equally open. Yet it is only through ensuring options are not excluded and that the issues and consequences of a decision or course of action are sufficiently understood, that it is possible to ensure they do not violate basic norms of democracy.

10.9 The relationship of state, market and civil society.

There is a strong argument that megaprojects that fail to deliver on their substantive promises are contrary to the public interest. The public tends to bear the costs of any 'errors' in calculation of costs and benefits. This can be through increased expenditure of public resources or missed opportunities to invest in alternative projects or proposals that may have returned more in the way of public goods or public benefits. Focusing on a relatively narrow definition of costs and benefits, however, also risks conflating public benefit only with efficiency and reinforcing the 'iron triangle' definitions of success. In the case of HS2 the race to deliver 'on time' appears to run counter to achieving wider benefits for the project in a number of areas. As the OMEGA Centre (2013a) studies show, narrow definitions of success can undermine attempts to deliver wider public benefit. Yet the studies that focus more on state and market examine the institutions that tend towards more narrow definitions of success. As can be seen from the case of HS2, MTPs make substantive claims at all levels (for example, protecting local communities and environments, and claims to deliver environmental benefits

or economic transformation). These claims require a more fine-grained analysis than simply judging projects in terms of cost, use estimates and timescales, important as these are. It is only through the inclusion of civil society as a third dimension to megaproject governance that the search for structures that reflect the plurality and complexity of late modern democracies can begin.

The alternative is unappealing; certainly from the perspective of anyone who has concerns about the abilities of late modern democracies to meet the challenges of a complex uncertain future in a just and democratic way. MTP governance has traditionally drawn on a very narrow palate of institutional forms associated with state and the market. Both of which have their failings. Walzer's (1991) view of a democratic civil society and democratic state as mutually supportive highlights the ultimate role of civil society in this context. He sees it as providing a setting in which the relationship between state and market and the forms of democratic institutions required are worked out. In this case a forum in which the appropriate institutional forms can be developed for planning HS2 and appraising the full range solutions to the issues generated by the project has been noticeably absent. The institutions that have been established by the state have failed to build trust and struggle to convince a wider public of the benefits of the current proposals. Whilst Beck (1992) identified the institutions of industrial society as producers of environmental and health risks, in this case the risk is more that the state is perceived as incapable of engaging in transformative projects. The neoliberal state, having renounced an 'infrastructural ideal' (Graham and Marvin, 2001) of projects that are intended to deliver on an (albeit flawed) concept of public interest, can be seen explicitly favouring the needs and intuitions of 'business'. As a conception of public interest this has weak claims to legitimacy. Yet there is little in the way of an equally powerful alternative narrative that sees the state as capable of acting in, or developing, a broader definition of the public interest.

In cases such as this, CSOs *can* claim to be acting in the public interest in a way that the state can no longer do. The qualities that make civil society so hard to define are exactly the institutional diversity that makes it so valuable in making controversial decisions under conditions of complexity and uncertainty. It can be reactionary and progressive, conservative and radical often at the same time. Within the network of 'associational networks' (Walzer, 1991) it is possible to find both rigidly structured and highly resourced NGOs and small groups bound together by the loosest of ties. What it offers to decision-making is the chance to transcend scale, whilst retaining legitimacy in a way that the state can often struggle to achieve. Yet civil society can never carry the burden of public interest alone, it is an institution that can never deliver the comprehensiveness of the state. The claims to legitimacy made by the state are, at times, superior when legitimised through representative democracy. Yet the (infrastructural) solutions of the state are often, as Peter Hall points out, a confusing mix of

public goods. Whilst the modernist infrastructural ideal with its state led, expert derived homogeneity appears a poor fit with complex, plural modern societies the alternative 'splintering' (Graham and Marvin, 2001) of infrastructure to serve narrow elites is equally unattractive.

Yet at its heart the modernist ideal saw infrastructure as a public good. If contemporary MTPs are to provide solutions to common problems they must be seen as public goods as opposed to serving private interests. Yet if the failings of the modernist infrastructural ideal are to be avoided then it is the concept of the public that needs to be changed. The complexity, and plurality of interests found in late modern democracies must be reflected in the institutional structures developed to plan, appraise and deliver contemporary MTPs. These structures must form out of a democratic dialogue with the diverse publics that define the problems projects are conceived to solve and the nature of the acceptable solutions. Yet this defining of problems and conceiving solutions cannot be left to states alone whilst dependence on the market appears increasingly unwise. Neither state nor market (either alone or in partnership) have demonstrated the capacity to produce a convincing alternative vision of the good life and the infrastructure it will require if catastrophic climate change and environmental destruction, economic stagnation or rising inequality are to be avoided. In short, they are incapable of defining the public good. It is ultimately, as Walzer points out, within civil society that the monolithic visions of state and market are worked out and found wanting (ibid). Yet it offers an alternative.

> "Civil society is a project of projects; it requires—many—organizing strategies— and—new forms of state action. It requires a new sensitivity for what is local, specific, contingent" (ibid p 11).

The 'local, specific and contingent' projects of civil society may appear to contrast with the megaprojects of state and market. Yet this is a view rejected by this thesis. If MTPs are to be truly 'organic phenomenon' (OMEGA Centre, 2013a) they must act as armatures around which the complexities of urban, social, ecological and economic life can grow rather than prosthetics that risk rejection by the hosts. To conclude with a response to the OMEGA Centre question, these huge bets on an uncertain future can only truly be considered successful when they are in the service of this 'project of projects' rather than at odds with the values of civil society.

APPENDICES

APPENDIX A

Questionnaire Template

What is the role of civil society in legitimating decisions on HS2?

Introductory Questions	**What is your role/position (within the organisation)?**
Locating the interviewee and their organisations and eliciting narrative details.	**How did you become involved?**
	When did you become involved?
	Activity
	Specific work on HS2 – Reports, campaigning etc.
	What resources do you have? How are they deployed?
	What other organisations/individuals do you work with?
	How do you work with other organisations?
	What information do you produce and how?
	What do you use information you produce for?
	• **Reports**
	• **Press releases**
	• **Proposals**
	Interests
	What do you see as your organisation's interests?
Problematic situation	How do you see the process?
How is the problem defined by your organisation?	What problems do you see with the current process?
	Perception of the process
	Is it legitimate? Why?
	Why is that fair/unfair?
	How do you perceive the actions or practices of other organisations?
Decisions on HS2	
There is clearly the main decision on HS2 which is whether to proceed or not however there are also a whole range of smaller decisions which should be explored.	What are the key decisions that concern you?
	Where are those decisions made?
	Who makes those decisions?
	How do you aim to influence decisions?

	Do you believe you can influence decisions?
	Will you petition as part of the hybrid bill?
	The importance or not of the Aarhus Convention?

Civil Society

This may not be a term used by interviewees but they will be aware of it from information given out prior to an interview. There is a need to observe the terms used and whether the distinctions between market state and civil society are recognised by the interviewees.

How do you see the role of organisations like yours in this context?

The structure of the organisation?

How do you see yourself in relation to public and private sector organisations?

What justifies a decision or activity?

Legitimacy

Internal democracy and also concept of truth: How do you (or your organisation) arrive at belief?

Where do you draw your legitimacy from?

How do you decide on your approach?

What is a valid course of action or argument?

Is there anything you would not do or say?

Legitimating

How does your organisation/activity relate to representative/participative politics and political structures?

Activity

How do you/your organisations seek to influence....?

How do you prioritise activity and make decisions within your organisation

What strategies do you adopt?

Participation in decision-making

Perception of and actual evidence of participation in decision-making?

Do you see yourself as part of the decision-making process?

How do you participate?

How do you see your role in generating wider participation or debate?

Is your participation/activity affective? (Short term/long term)

Do you have examples of where you have been affective?

APPENDIX B

Objectives for HS2

hs2

3rd floor, 55 Victoria Street
London SW1E 0EU
Tel: 020 7944 1234

Lord Adonis
Minister of State for Transport
Department for Transport
Great Minster House
76 Marsham Street
London
SW1P 4DR

13th February 2009,

Dear Lord Adonis,

Objectives and remit for HS2

I have now had some time for initial reflection on the issues facing HS2 and the work we need to undertake in order to deliver a report to you by the end of the year. I thought it would be helpful to share with you my initial views on the objectives and remit, to ensure that we have a shared understanding of what we are to deliver.

Scope of work beyond West Midlands

The Memorandum of Association for HS2 states that the company's objects are the 'development of proposals for a new railway line from London to the West Midlands and potentially beyond'. We are required to produce a potential route for the new line between London to the West Midlands. Beyond that, although we are not asked to provide routes, we need to ensure that the new line would fit with HS1 and a potential future high speed network, and we will need to consider the impact of possible future requirements on the configuration of this first, core, route. This could be passive provision for future additional capacity or designing in of capability from the start.

This could have several dimensions. We will need to ensure that proposals for London – West Midlands do not preclude possible future developments to the north. Longer term considerations may influence the choice of London terminus. In considering the Heathrow interchange and connection to HS1, we will need to consider longer term potential for transfer from air to rail, and also the scope for faster east-west connections across London. And we should also consider longer term developments to the west as well as the north. (Greengauge 21 is considering a corridor to the west.)

Our proposed approach is to undertake a strategic level consideration of the longer term options and priorities, building on Network Rail's work, the Atkins study and Booz Allen work, and Greengauge 21 proposals. We do not propose commissioning major new work on longer term options.

In addition, we will consider how to maximise the benefit of the initial route through potentially re-routing train services to destinations beyond the West Midlands either with additional High Speed (the French approach) or existing conventional trains.

Objectives for HS2, London to West Midlands

My understanding is that the objectives for the new line, subject to what I say below about the environment, are as follows, broadly in order of priority:

Passenger capacity: this is the driving consideration, including capacity released on classic lines.

Speed: the new line should be sufficiently high speed to optimise journey time benefits balanced with operational energy costs and achievement of maximum capacity. It is likely to be designed to at least the maximum speed for HS1. It should also have the ability to maintain high average speed, which will mean avoiding any permanent speed restrictions (e.g. sharp bends) which also impact on energy consumption and effective capacity, managing the approaches to cities (especially if shared with classic lines) and avoiding intermediate stops.

Land use and development objectives: We need to ensure that transport and land use planning are properly integrated in respect of the new line. We will pay particular attention to the extent to which new housing development in the West Coast corridor is supported by our proposals – probably mainly through the provision of additional regional and local services using capacity released from the WCML. We will also consider the scope for enhancing economic regeneration in the West Midlands though improved connectivity.

Freight: HS2 should be viewed principally as a fast passenger service route. However, there would be advantage in building it to be *freight capable*, for the added network resilience this would provide, and potential provision of a cost-effective route for large gauge traffic, subject to no significant cost or operational penalties being attached to this. Whether paths were subsequently allocated to freight services would be a separate decision, depending on the passenger, freight, maintenance, economic etc requirements at the time. This is the German approach. HS2 should accordingly investigate the costs of providing freight capability on the new line.

In addition, there is an objective to provide enhanced capacity for freight on classic lines, through the capacity released as a result of HS2. The scale will

depend on an assessment of benefits and costs, alongside other potential (passenger) uses of freed up capacity.

Modal shift from car: The key car modal shift gain is likely to be in respect of access to Heathrow from London, the west and Thames Valley, facilitated by the Heathrow interchange (and local rail enhancements). There are no specific modal shift requirements for HS2: the appropriate balance of modes will be determined by the relative costs and benefits, including environmental benefits, of securing modal shift. In this respect increased car use to parkway stations might be acceptable, if there is a net environmental (and maybe economic) gain secured from the inter-urban leg.

Modal shift from air: Overall modal shift from air is not expected to be a key objective for HS2. There are no flights between Birmingham and London, and it seems unlikely that the shortened 'hybrid' journey times to, say, Manchester, will capture much more market share from air than WCML has already achieved. Nevertheless, we will examine the potential impact of a faster and easier rail-based route to Heathrow on passengers interlining at Heathrow or European airports. With a connection to HS1, there could also be transfers to rail for journeys from the West Midlands to Paris and Brussels, which HS2 will investigate.

Absolute requirements

We need to be clear where there are fixed requirements for HS2, and where alternatively we have scope to make recommendations based on the assessment of costs and benefits. My suggestions for **absolute requirements** are listed below.

General standards: The new line and connections to the classic existing railway will be specified in conformance with EU High Speed Technical Specifications for Interoperability.

Loading gauge: The work by Booz Allen for the 2007 Rail White Paper work assumed double deck ('duplex') trains, which incur marginal incremental construction cost but may provide higher capacity, better infrastructure utilisation and a better business case. This requires height clearance to UIC GB+ gauge or similar. We propose to make this a minimum requirement, as not to do so would be a permanent capacity constraint. This would give the flexibility to run duplex high speed trains to Birmingham and single deck stock beyond.

HS1 is built to UIC GB+ which is also wider than the UK norm. This gives a platform edge clearance issue, but can be managed by train design (as is the case with the current Eurostar rolling stock).

An underlying given is that services on the new line must be able to run onto the existing network, so we need to avoid foreclosing on future options for

defining and managing services running onto the existing network, or for trains configured for the existing network making use of the new line infrastructure.

Heathrow International station: This must provide an interchange between HS2, the Great Western Main Line and Crossrail with convenient access to Heathrow. The nature and location of the interchange are for HS2 to advise on, taking account, inter alia, of the scope for modal shift from air and car. Abstraction of traffic from other UK airports into Heathrow should not be an objective. The feasibility of and benefit case for direct connection onto the GWML westwards will be explored.

Connection to HS1: We need to show that a connection with HS1 is feasible, and to identify options with costs and benefits.

There should be no intermediate stations between Heathrow International and West Midlands. Intermediate stations would lead to significant erosion of average speed. Furthermore, the most realistic practical option for housing development is likely to be incremental growth to existing towns in the West Coast corridor – the transport requirements for which can be met by utilising some of the released capacity on the WCML.

The following are areas where I suggest there should be **no fixed requirements** at this stage.

City centre or parkway stations: There are pros and cons of both, and the preferred solution should be driven by analysis of the relative costs and benefits. Indeed there is likely to be a case for both – for example Birmingham International could be a 'parkway' option for through services, with provision also for a city centre stop for terminating passengers.

Rolling stock: We should not design for any single type of rolling stock although the experience elsewhere of standardisation of trains - for ease of use, uniformity of performance and capacity maximisation - will be taken into account. Rather, we should design the line to a gauge and a vehicle/infrastructure system specification (including wheel/rail, control systems and power interfaces) and for an assumed train length for platforms, with passive provision above first generation requirements. Bespoke rolling stock would require bespoke design, manufacturing and maintenance facilities which are expensive and subject to locational constraints.

Fares premia for high speed services: we will explore a range of fares options with a view to optimising the business case for HS2.

Future proofing: As noted above we intend to make provision for UIC GB+ gauge a firm requirement along with conformance to EU Interoperability requirements which govern many of the detailed technical specifications. Beyond that I suggest that the question of provision for future proofing should be determined in the light of the cost of providing now versus future retro-fitting.

On that basis we will provide a costed option for passive provision for 4 tracks. No high speed line to date is 4-track. However in the UK the southern end of every north-south main line route into London is now effectively operating at capacity. If HS2 were to act as the 'trunk' high speed route to the West Midlands with high speed branches off to the north west and the north east and through running to numerous other cities, the 12 paths provided by 2 tracks could quickly be filled. It would be a great deal cheaper and quicker to lay 2 additional tracks on a safeguarded swathe alongside HS2 than to start from scratch on a second north-south alignment. Experience with the recent upgrading of the West Coast Main Line has shown the great cost from traffic interruption as well as physical staging of having to expand an existing railway not designed for such.

Environment

In discharging our remit, we will be paying close attention to the environmental impacts of the new line, both locally in terms of biodiversity, landscape, noise, etc and at the national/international level in terms of carbon emissions. We will factor these potential impacts into our work on the identification of route options, the specification of the new line, modal shift, etc.

Outputs required by the end of the year

In the time available we are unlikely to be able to produce very detailed designs for the whole route, with options. In some places the route may be pretty well defined – e.g. if using a disused line, and approaching existing stations. Other parts, such as some cross country sections, may be more at the corridor level, but these should not be so broad as to cause widespread blight.

The outputs of the work should be a proposed route option and possible alternatives (with possible sub options e.g. for the Heathrow interchange) with a supporting business case which is sufficiently robust for Ministers to make an in principle decision on a new line, and to proceed to public consultation on the options. The business case will need to address value for money, affordability and deliverability, including environmental considerations.

Other outputs required at the end of the year include:

- Proposed specification (e.g. gauge, line speed, capability).
- Proposed location of maintenance facility/ies and stabling
- Identification of capacity released on classic line(s) – this will be a key element in the business case, and of benefit to communities not directly served by HS2 – although allocation of that capacity would be for industry processes.
- Options for structuring the project for delivery and financing, with a recommended approach

- Assessment of options and implications for public funding
- Recommended public consultation strategy, including requirements for environmental assessment
- Recommended approach to obtaining powers
- Blight management and safeguarding strategy
- Outline plan/timetable through to opening
- Proposals for next steps for new lines beyond West Midlands.

We will need to produce a publishable report.

SIR DAVID ROWLANDS
Chairman

APPENDIX C

Six Principles of High Speed Rail

As a foundation for its detailed design and planning work, HS2 Ltd identified six key principles which underpin its recommendations for high speed rail in the UK. These principles are set out below:

i. High speed capacity should be used in a way which yields the maximum overall benefit, given its high cost and expected strong demand.

ii. High speed rail services should serve long distance, city-to-city journeys rather than shorter distance trips.

iii. New high speed lines should only be used by high speed trains. Adding slower trains reduces capacity.

iv. In the early stages of developing a network, the benefits should be extended to cities further north with trains running off the high speed line and onto the existing classic network. This is crucial to the business case.

v. Over time, however, the longer term high speed network should become more segregated from the constrained classic network to maximise the benefits of reliability and capacity.

vi. High speed lines must be well integrated with other transport networks to allow the time savings to be carried through to the whole end-to-end journey.

(Source: DfT, 2010 p81)

APPENDIX D
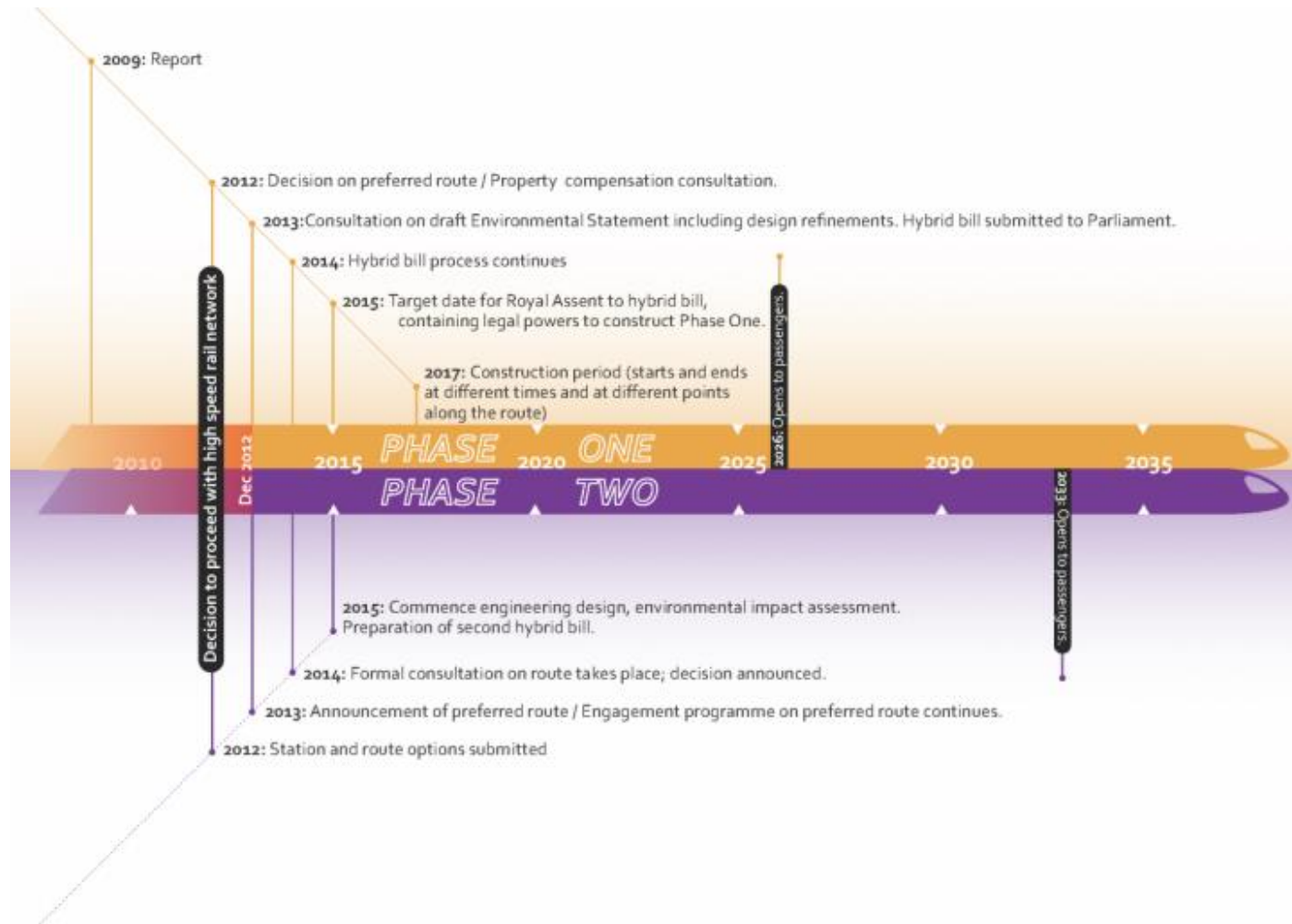
HS2 Timeline

APPENDIX E

NGO/Environmental Forum Attendance

NGO Forum		Environment Round Table	
Regular Member	Occasional Attendee	Regular Member	Occasional Attendee
The Heritage Alliance	London Planning Forum	The Heritage Alliance	The National Association for AONBs Greenpeace
Campaign for the Preservation of Rural England (CPRE)	Canal & River Trust	CPRE	Canal & River Trust
Wildlife Trusts	Land Trusts	Wildlife Trusts	Leeds City Council
Campaign for Better Transport	Friends of the Earth	Campaign for Better Transport	Buckinghamshire County Council
The National Trust	(The National Association for AONBs & Greenpeace – both invited but unable to attend)	The National Trust	
The Ramblers Association		The Ramblers Association	
The Royal Society for the Protection of Birds		The Royal Society for the Protection of Birds	
The Woodland Trust		Friends of the Earth	
		The Woodland Trust	

APPENDIX F

FO112-418

hs2

HS2 Limited
Eland House
Bressenden Place
London
SW1E 5DU
Tel: 020 7944 4908

8 June 2012

REQUEST FOR INFORMATION

Reference: FOI12-418

Dear XXXX

I am writing regarding your request for information received on 21 May 2012. Your request has been considered under the Environmental Information Regulations Act (EIR) 2004.

In your email you requested the following information:

> **I am writing to request the following information:**
>
> **Any information subsequent to the January 2012 decision to proceed with HS2 in relation to decisions how to engage national environmental, heritage and/or transport Non Governmental Organisations regarding phase 1 or phase 2 of the route**
>
> **By non governmental organisation (NGO) I mean third sector (i.e. non-profit making organisations), generally but not exclusively registered charities. I appreciate that national may not be clear either but I mean NGOs that operate across England rather than a more specific geographic area.**

In designing a railway fit for the requirements of a Hybrid Bill, HS2 Ltd works closely with local authorities, communities and stakeholders to develop the design in a way which minimises potential impacts and identifies opportunities for community benefit.

As part of our engagement we have set up an Environment Forum, Planning Forums and Community Forums.

- The Community Forums enables local participation facilitating on-going discussions and building relationships, allowing us to identify local priorities and explore opportunities for local community benefits.

- The Planning Forums facilitates discussion of design development, planning issues, environmental impacts and mitigation principles and involves officers from local authorities and other transport and planning bodies.

- The Environmental Forum involves national representatives of government departments and statutory organisations. This group assists the development of environmental policy for development stage of HS2.

This three-part structure provides formal mechanisms for our engagement in the run up to the Hybrid Bill. It is supplemented by bilateral meetings and engagement, particularly in relation to bespoke issues and localised matters.

Some of our bilateral meetings are with NGOs who can also feed into all of these forums and, when discussing local issues, they can attend the Community Forums.

We are also currently having discussions with the department of transport about setting up regular meetings with the Secretary of State and environmental NGO's.

If you are unhappy with the way we have handled your request or with the decisions made in relation to your request, you may complain in writing to HS2 Ltd at the above address. Please also see attached details of HS2 Ltd's complaints procedure and your right to complain to the Information Commissioner.

Please remember to quote the following reference number, **FOI12-418**, in any future communication relating to this request for information only.

Yours sincerely

XXXX
Freedom of Information Advisor

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