

MINUTES OF ORAL EVIDENCE

taken before the

HIGH SPEED RAIL BILL COMMITTEE

on the

HIGH SPEED RAIL (WEST MIDLANDS – CREWE) BILL

Monday, 16 March 2020 (Afternoon)

In Committee Room 4a

PRESENT:

Lord Hope of Craighead (Chair)

Lord Goddard of Stockport

Lord Horam

Lord Liddle

Lord Snape

IN ATTENDANCE:

James Strachan QC, Counsel, Department for Transport

Jacqueline Lean, Counsel, Department for Transport

IN PUBLIC SESSION

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(At 2.15 p.m.)

1. THE CHAIR: Good afternoon, everyone, and welcome to this the first public meeting of the House of Lords Select Committee on the High Speed Rail (West Midlands – Crewe) Bill. I'll refer to the Bill for short as the 'HS2A Bill'. My name is Lord Hope of Craighead. I am the Chairman of the Select Committee. I have been a member of the House of Lords since 1996 and, until 2013, I was sitting as a full-time judge, first as a Law Lord when the House of Lords was the court of last resort in the UK, and then when the Supreme Court came into existence, as its Deputy President.

2. Since my retirement from that position in 2013, I have participated in the ordinary business of the House of Lords as a cross-bencher. The other members of the Select Committee can be identified by the names in front of them but in a moment or two I shall invite them to introduce themselves when we come to the declaration of interests.

3. This meeting is being broadcast as all our future public meetings will be too. A full transcript of each meeting will be put on our website. That website can be accessed by means of its parent website which is called parliament.uk. Our website will also set out the programme for our meetings, which may have to be revised from time to time, and any other relevant information. Petitioners and all members of the public are encouraged to make full use of it.

4. As you will know, the HS2A Bill was passed by the House of Commons after its examination by a House of Commons Select Committee. That Committee received a total of 301 petitions against the Bill and two additional provisions by which the Bill was amended. The number of Petitioners when the Bill reached this House was much smaller, amounting to 36. Some of the objections raised in the House of Commons have been met, at least in part, with the result that we are now left with 25 petitions which raise issues that have yet to be resolved. In our consideration of the petitions, and the Promoter's response to them, the Committee will be guided by the principles of fairness and impartiality. We shall proceed as fast as we can, but not in a way that would fail to give effect to those principles.

5. The proceedings before this Committee are quite separate from those that took place in the House of Commons although we will, of course, want to know the outcome of points that were raised by the Petitioners which appear before us which were not dealt

with there. As in the case of the House of Lords Committee which examined the Bill dealing with the London to West Midlands section of the line, we will be concerned only with petitioners arguing for mitigation, compensation and adjustment to meet adverse effects on particular interests. We cannot entertain any objections to the principle or the policy of the Bill. That was a matter for the second reading debate which took place in the House of Lords on 9 September 2019.

6. As far as sitting times are concerned, our proposal, subject to any further points that may occur to us as we proceed through our discussion this afternoon, is that we should sit on Mondays from 2.15 to 4.30 p.m., on Tuesdays and Wednesdays from 10.30 a.m. to 1 p.m., and from 2 p.m. to 4.30 p.m., and on Thursdays from 10.30 a.m. to 1 p.m. We intend to finish each day's hearing reasonably promptly but we will, of course, do our best to suit the convenience of those who have travelled here from outside London.

7. I think we should now come to the declaration of interests and that will mean that each member of the Committee can then introduce themselves. So I have one interest to declare. I am a member of the Scottish Wildlife Trust. The Scottish Wildlife Trust is a corporate member of the Wildlife Trust, which is a petitioner before us. And it also has similar interests to the Staffordshire Wildlife Trust which is another corporate member. That completes my own interests so far as I need to declare them. Lord Horam?

8. LORD HORAM: I have no interests to declare, Lord Chairman. I should say that I'm a Conservative peer, I sit on the Conservative benches; I have done since 2013. Before that, I was in the House of Commons for over 30 years and a Minister in successive governments.

9. THE CHAIR: Lord Snape?

10. LORD SNAPE: My name's Lord Snape. I've been a member of the House of Lords since 2004 and a member of the House of Commons from 1974 to 2001. Although, Lord Chairman, I'm a former railwayman, I'd like to make it quite plain, having sat on one or two of these committees previously, that my concern, like other members of the Committee, will be the petitioner's case and I will act in an impartial way so far as each petition is concerned. I have no financial interest whatsoever otherwise.

11. THE CHAIR: Lord Goddard?

12. LORD GODDARD: Lord Goddard of Stockport. I became a member of the House of Lords in 2014; I sit on the Delegated Powers and Reform Committee at present. I've been advised to declare a previous declaration history of, I was a consultant with SP Broadway of London; I ceased that employment in February 2020.

13. THE CHAIR: And Lord Liddle?

14. LORD LIDDLE: I'm Lord Liddle, Roger Liddle; I've been a member of the House of Lords since 2010. I don't have any relevant interests to declare. I was appointed on the list of the outgoing Prime Minister, Gordon Brown, largely I suspect because I'd spent a lot of the previous 13 years working in one capacity or another for the Blair and Brown governments.

15. THE CHAIR: Thank you all very much indeed. One or two other short points before I come to something more significant, which I think we need to discuss with you, Mr Strachan. The first is that, in the organisation of our programme, we will be assisted by our Programme Manager, David Walker. He is a senior legal and parliamentary clerk with the law firm, Winckworth Sherwood. I think he's already well-known to a number of you, certainly to the petitioners to whom he has been speaking. He can be relied on to keep us all informed if, for any reason, we have to make changes to our arrangements. Some of you, members of the public in particular, may think of writing directly to members of the Committee about the matters which we are going to discuss. Please do not do that. It is inappropriate as this Committee has to exercise a quasi-judicial function in these proceedings, acting more or less as judges with all that that entails. This means that we can act only on the evidence and the submissions put before us openly and transparently in the public hearings but we can't entertain private correspondence in any of these matters.

16. Now we're going to begin proceedings today with the Promoter's opening statement. But before we come to that, Mr Strachan, if you allow me, I'd like to say a few words about the COVID-19 outbreak which is, of course, affecting a great deal of what people are thinking about nowadays. The situation is very fast moving and we need to be ready to respond to it as further steps are announced to delay the spread of the outbreak. In view of the situation which we find ourselves in today, there are three points that I should mention. The first is how the members of the Committee should respond to

Government's advice that those developing symptoms associated with the disease, however slight, should remain at home. Now Private Business Standing Order 105 requires all members of a committee to attend every hearing and for the committee to seek the agreement of all parties to the hearing to sit if any members happen to be absent.

17. Now I'm sorry to say that two of our members have already had to withdraw for health reasons associated with the concerns they have about the outbreak. They are Lord Brabazon and Lord Haselhurst, so we're reduced now from seven members to five. I need to seek your agreement, Mr Strachan, for us to continue with the five members that we have here today. Of course, the rest of us will endeavour to fulfil the terms of the Standing Order but we're all exposed to the same hazards as anybody else, so we'll just have to hope that this will be possible as we move forward. So, can I take it that you're prepared to accept the Committee as it now stands?

18. MR STRACHAN QC (DfT): Indeed so, My Lord, yes.

19. THE CHAIR: Thank you very much. Now I know from my own experience as a judge how tempting it is, both to judges and to counsel, if I may say so, to try to carry on out of concern of the need to serve the public and indeed your clients. But, in the present situation, that simply is no longer acceptable. And that applies to you, Mr Strachan, and those behind you, as it does to us. Our policy must be that if any of us develop these symptoms, they must remain at home. As our quorum is four, we could carry on if one of the remaining number of five has to drop out. But I think we're in a position where, if that does happen, we should really not continue these proceedings because to reduce to four really is too much of a hazard, I think. So, we're at risk if any one of us develops symptoms during these proceedings, we will have to accept that we can't continue. I hope very much, of course, that will not happen.

20. But there is another problem and that is that one of the consequences of the experience which you've heard about, and all members of the Committee can bring to these proceedings, is that some of us are rather older than perhaps would be convenient to be. Not all of us are over 70, but at least three or four of us are, and we're at risk of a direction from the Government as to what those over 70 are supposed to do. Of course, if they tell us we have to remain at home, that's simply the end of it.

21. MR STRACHAN QC (DfT): Yes.

22. THE CHAIR: But there is likely to be precautionary advice that we should try to reduce our mixing in society as much as possible. We're fairly far apart from each other in this room, so it shouldn't cause too much concern, but we have to watch what the Government's advice and we'll have to take it if the advice affects us directly. Now what I've said applies to everybody else here; that they will have to follow the advice of the Government.

23. The second point which really requires close attention is our responsibility to have regard to interests of the petitioners. Unless we indicate to the contrary, the fact is that they, together with their witnesses, if any, and their advisers, will have to attend on the dates that have been set out as agreed dates in our programme. If they fail to do that, then their objections will have to be treated as withdrawn. Now our position is that, given the hazards which we're now faced with, it's a rather extreme and potentially very unfair position for us to adopt. There are two situations; one is where a member of the team has to withdraw because the Government's advice compels him to. That's something that has to be allowed for. But, more likely, is simply that petitioners who, of course, live some distance away are unduly nervous about having to come here by train and then face a journey no doubt through the London Underground to get here. And we know at least one petitioner for health reasons is concerned and would really not want to come.

24. What I am proposing, but I'm open to any contrary suggestion, is that any petitioner who feels uneasy about coming to give evidence, or to attend in person here in the programme starting next week, that person should inform David Walker, our Programme Manager, as soon as possible so that he can tell us what the position is and we consider how our programme is affected by it. We may indeed reach the situation where the sensible thing would be not to attempt to continue with that stage of the programme, but I think it may be just a little too early to say so today, but we'll certainly know by the end of Wednesday.

25. So, I think that is the position as far as the petitioners are concerned. But I'm also concerned about your position, in fairness to the Promoter, because supposing for some reason one of your essential witnesses was unable to come for health reasons, then we would have to take into account, and we certainly wouldn't think it would be right to compel you to proceed in the absence of an essential witness. So, I think we'll all have to adapt to the changing situation in the way I've described.

26. MR STRACHAN QC (DfT): Yes.

27. THE CHAIR: Now I'd like to hand over to you, if I may. Before you begin your opening statement to just say what response, if any, you have to the points I've just mentioned.

28. MR STRACHAN QC (DfT): Well, My Lord, we totally understand that position that Your Lordship set out and what Your Lordship says seems entirely sensible, bearing in mind the current state of knowledge and, certainly, we would endeavour to notify Your Lordship's Committee and Mr Walker, of course, if we have any difficulties of the type you've identified, it's something we've already started to think about and the problems and impracticalities that may arise for next week if things develop or if people are unavailable for the reasons Your Lordship's given. But I'm not sure at the moment we've got anything more substantive that we can offer by way of a potential way forward until we know what happens and availability of petitioners next week.

29. THE CHAIR: It did occur to us to wonder whether we could set up some kind of place somewhere in Staffordshire or around that area where people could come and give evidence remotely, but I'm told by the House authorities that that's simply not practical given the requirements for a committee of this kind. So, I'm afraid it is attendance here or nothing.

30. MR STRACHAN QC (DfT): My Lord, I'd understood that to be the case and I understand there are practical problems of giving evidence remotely which are difficult to overcome. It's something we've obviously applied our mind to and we're aware of the same practical problems of arranging that. So, My Lord, I'm afraid I can't give you anything more constructive other than to agree with Your Lordship's analysis of where we stand at the moment.

31. THE CHAIR: Well, thank you very much for that. As far as this week is concerned, obviously we're going to proceed today to listen to your opening statement and, when that's complete, we'll adjourn for the day. Tomorrow we have two teach-in sessions which we will proceed with as planned.

32. MR STRACHAN QC (DfT): Yes.

33. THE CHAIR: And on Wednesday we have the Wildlife Trust and two other trusts which will come and give evidence and they'll present their cases which, I think, we can proceed with because they're not individuals and not affected the same way as the other petitioners. We were planning to deal with the issue of noise on Thursday and on the following Monday, but I gather there are problems about that. Is it possible that we could proceed on Thursday with noise?

34. MR STRACHAN QC (DfT): My Lord, we were exploring – I haven't got final instructions on that – but we were exploring the possibility of the Committee, if it's happy to do this, to visit the sound lab on Thursday. I'm not sure where we've got to and whether that's – I'm getting a nod. And that, Your Lordship, will have heard, that's a special set-up which enables the Committee to experience the noise environment under different scenarios, in a very controlled environment of trains passing under various different set-ups. So, My Lord, if you were content with that, I think we can arrange that on Thursday, as compared with the previous programme which was for a teach-in on noise.

35. What we were currently thinking would be that we would provide the slides that would have been used for the noise teach-in for Thursday, if it's convenient for the Committee, and the Committee to visit the sound lab. And then, rather than have a formal session or teach-in on noise, to revisit that later in the programme. As it happens, the number of petitioners who raised the question of noise directly is very limited; I think it's one or two. So that it may be that it's more convenient to come back to the technical detail, in so far as it's necessary to do so, when Your Lordship and its Committee hears those petitions. And that would overcome a practical problem we've already got in relation to availability of our witness on Thursday. So, if that's convenient to the Committee, I'll take final instructions that we can arrange the noise lab on Thursday morning.

36. THE CHAIR: We'll decide whether it's possible to do that; you'll obviously have to make enquiries about that too. Can we come back to this first thing tomorrow morning and decide one way or the other. As far as the Committee's concerned, there is an advantage us getting as much of this over as we can this week because, if there is an adjournment, it would be better that the length of time we need in the adjourned proceedings is as short as possible; if it can be confined to two weeks, for example, it's going to be easier to fit in what will certainly be a crowded programme once all the

restrictions are lifted. So that's the broad strategy which I suggest we should adopt. But what I suggest we do is, we come back to discuss this first thing tomorrow and I hope by Wednesday, when we rise, we'll have a clear position about what to do next week.

37. MR STRACHAN QC (DfT): Yes. My Lord, we will endeavour to help with getting as much business done as possible and as fairly as possible within the constraints that we've got. So that's why we would welcome using Thursday in the way that I've suggested. But I'll make sure we've got final instructions for tomorrow morning if that's convenient, maybe by the end of the day.

38. THE CHAIR: Well I think tomorrow morning would be fine as well as far as we're concerned. Well unless any of the members of the Committee wants to raise, can we proceed to the opening statement?

Opening Statement by Mr Strachan

39. MR STRACHAN QC (DfT): Well My Lord, my name is James Strachan of Queen's Counsel. I appear before this Committee for the Promoter and, if I may, I will start just by introducing the Promoter's team of barristers. We are Tim Mould of Queen's Counsel who's not present today, but I think you'll meet on Wednesday, and Ms Jacqueline Lean, who's to my right, the Committee's left, who I think will be in front of your Committee tomorrow. And, of course, myself.

40. The Bill before the Committee promotes the construction and operation of a new high speed railway line, approximately 58 kilometres or 36 miles in length, running between West Midlands and Crewe. The proposed scheme, as you know, is known as Phase 2A of High Speed 2, and the railway would run between the connection between Phase 1 of High Speed 2 at Fradley to the north east of Lichfield in Staffordshire, and the connection to the West Coast Mainline to the south of Crewe in Cheshire. And in the Prime Minister's statement on 11 February this year, he made clear that the Government wants to move forward with this Bill as soon as possible, and that he's committed to Phase 2B and Northern Powerhouse Rail. And HS2 is being promoted in phases and, as Your Lordship identified, the first phase has been authorised by the enactment of the High Speed Rail (London – West Midlands) Act in 2017, and that authorised the construction and operation of the high speed line running between London, Birmingham and the West Midlands. And that's the line shown in the darker blue notation on the screen in front of

Your Lordships.

41. The purple line on the screen – I hope the colours are discernible – but the purple line on the screen is the proposed Phase 2A part of the scheme running between the West Midlands and Crewe. And Phase 2A would bring forward the delivery of faster journey times on the western leg of Phase 2, the Phase 2 routes of the north west, sooner than was envisaged in 2013 when the London – West Midlands Bill was introduced into Parliament. And the journey time savings we’ve put on this slide for Your Lordships to see, and they’re shown without HS2, with HS2 Phase 1, and then with HS2 Phase 1 and the proposed scheme on the far right-hand side, that is i.e. with Phase 2A.

42. The proposed scheme would enable passengers to travel onto or from a wide range of destinations via HS2 services because Crewe is already a major hub on the rail network. And the proposed scheme would also relieve pressure on bottlenecks on the West Coast Mainline, at Colwich Junction, and around Stafford. Finally, north west England and Scotland would enjoy the benefits of HS2, at an earlier date. And on the current plans up to six trains per hour would run in each direction on HS2 from the date on which Phase 2A came into operation. The railway would be operational between five in the morning and midnight on Mondays to Saturdays. And between eight in the morning and midnight on Sundays. And services would either operate as 200-metre-long trains, accommodating up to 550 passengers, or 400-metre-long trains accommodating up to 1,100 passengers, depending upon demand and the time of day.

43. Trains would be so-called ‘conventional compatible’ trains, and that is to say they are able to run both on the high-speed network itself, but also to pass onto the West Coast Mainline. And, on the current plans, the trains would run at speeds of up to 360 kilometres per hour, which is the equivalent of 225 miles per hour.

44. The slide that’s now on the screen gives you a very broad overview of the route running northwards from the connection with Phase 1 to the location just south of Crewe. The area through which the proposed scheme runs is rural and mainly agricultural in character; the southern section of the route passes through the extensive flood plains of the River Trent and its tributaries. The central section passes to the north east of the historic landscape of Cannock Chase and on to the east of Stafford. And the route runs northwards between Stone and the M6 motorway, and through more rolling countryside

to the west of Newcastle-under-Lyme. And the route then passes into East Cheshire and on to the northern limit of the Phase 2A mainline just south of Crewe.

45. The main engineering features of the proposed scheme reflect the topography and we've just put a slide showing those main features. 49.6 kilometres of the route would be constructed in cutting or on embankment, with 28.3 kilometres being in cutting and 21.5 kilometres which are on embankment, and there would be 5.5 kilometres of viaducts, including the Kings Bromley and Trent Valley viaducts in the southern section shown on the screen, taking the railway across the Trent flood plain. There would also be two short bored tunnels, approximately 2.4 kilometres in length overall, and those are at Whitmore Heath and Madeley in South Staffordshire. Sorry, I should say North Staffordshire rather than South Staffordshire.

46. And the Bill provides for the construction of a rail maintenance depot known as the Stone Infrastructure Maintenance Base-Rail, which has sometimes been abbreviated to IMB-R, and that's on land situated between the HS2 line and the M6 near Stone, where a rail connection would be formed to the existing Norton Bridge to Stone Railway, which runs alongside the depot site. Electricity to power the proposed scheme would be transmitted from a connection with the National Grid at a location called Parkgate – you can see that at the right-hand side of the screen – and via new overhead lines to a transformer station at Newlands Lane near Colton. There are no new stations proposed in the proposed scheme and there would be some works at Crewe Station to allow HS2 trains to run smoothly onto the West Coast Mainline.

47. In order to carry out the civil engineering works to build the proposed scheme, it would be necessary, first of all, to transport very large quantities of good quality aggregate and other materials to the route as it's constructed. And that's known as 'the trace'. Second, there's a need to move such material along the trace. And, thirdly, there's a need to remove material excavated from both tunnels and cuttings, which either would not be needed, or would be unsuitable for use for the proposed scheme. And under the traffic management arrangements developed in consultation with the Highway Authorities, such materials may be moved by lorry along the strategic and primary road network in Staffordshire and East Cheshire, of which the M6, the A34 and A500 are examples. And we've given you a slide showing the overall picture of the construction traffic routes.

48. The Promoter has introduced two principal measures in order to reduce the need to transport construction materials and excavated loads along these local roads. The first measure is to provide a series of construction haul routes along the trace itself within the lands authorised for use for construction purposes under the Bill. That is within what's known as the combined construction boundary, again sometimes abbreviated to CCB.

49. These construction haul routes would connect to a series of transfer nodes along the trace, which would enable construction loads to be transported by lorry directly from the strategic or the primary road network to the trace. The most extensive transfer node would be located next to the site of the Stone IMB-R. We've just given you an extract of the construction plan for this Stone railhead on your screen now. Because that site is adjacent to the M6 motorway, your Lordships may be able to see, the roadway is being shown with an arrow. The motorway runs alongside.

50. THE CHAIR: Along the right hand side out of the picture.

51. MR STRACHAN QC (DfT): There is a label, yes, indeed. Because that site is adjacent to the M6 motorway, the Bill is able to provide for the creation of new slip roads on and off the motorway, enabling lorries to transfer their loads directly from the motorway onto the trace and vice-versa. The presence of the Norton Bridge to Stone railway, which is, on the picture, the line being pointed out on the screen to you now, also enables the Bill to authorise the creation of a construction railhead at that site, through which track and rail system equipment would be imported to fit out the proposed scheme.

52. The second measure is the inclusion within the Bill of the power to create and work borrow pits at six locations along and adjacent to the Phase 2A route. Those locations are shown on the screen now. This power would enable the Promoter to win many of the high-quality aggregates needed for the civil engineering works whilst limiting the volume of construction traffic on local roads. The aggregates won from the borrow pits would be transported directly onto the trace via internal site haul roads. The borrow pits would then be progressively backfilled with material excavated during construction of the railway which was surplus to requirements. Much of that excavating material would be transported directly from the trace to the borrow pits for that purpose.

53. THE CHAIR: Have you been able to establish whether the borrow pits will give you the quality of material that you need?

54. MR STRACHAN QC (DfT): My Lord, generally speaking, yes. There has been some further work done in relation to the borrow pits. The initial work was at a relatively high level. There was a subsequent report on borrow pits which was to enable us to get better quality information as to how much of the borrow pits would be required. As a result of which, and I'll come to this shortly, we were able in some cases to reduce the amount of the borrow pit area that was required for the scheme.

55. The land required for the six borrow pits is for the most part currently in agricultural use but it is, nevertheless, land that has been identified by the local mineral planning authorities as part of their forward planning for mineral extraction. So the borrow pits would be worked over a maximum period of four years including their excavation and backfilling, to be followed by their restoration in accordance with the scheme approved by the local authority. There is a borrow pits restoration strategy which forms part of the environmental statement; this establishes the principles for the restoration of those sites including that the expectation that they be restored to a condition suitable for the resumption of agriculture with effective long-term management of drainage and flood prevention.

56. In April 2019, just picking up on your Lordship's question a moment ago, in fulfilment of an assurance given to the National Farmers' Union, the Promoter published a review of the estimated yield of aggregates from the six borrow pits based on preliminary ground investigation surveys. We have put the front page of the document on screen, it's rather longer than that, but just to indicate which document it is. The review set out in great detail the works proposed to be served from each borrow pit, the quantities of material required and the nature and quantity of materials available within each of the borrow pit areas. On that basis, as I've indicated, we've been able to identify opportunities for reducing the extent of the excavation likely to be required at a number of them and to offer assurances to a number of affected landowners.

57. A further measure introduced by amendment into the Bill before the House of Commons' Select Committee was the identification of areas for the local placement of excavated material that is surplus to construction requirements. These are areas that have actually already been earmarked under the Bill for construction activities such as worksites or material stockpiles.

58. So if they are used for the placement of excavated material prior to their restoration, it would further reduce the need to transport surplus excavated material away from the trace onto the highway network. There is an example of a local placement area as it will appear in the environmental statement maps shown on your screen now. It has a particular notation. It's not very clear on the screen at the moment but it's circled in red and it's a brown stippled area.

59. As the proposed scheme would run through rural areas where the existing use of land is primarily for arable and livestock farming, it is farmers and growers who would be most likely to be directly affected by the acquisition of land and rights required for its construction. Construction of a new railway line, in the modern world, embraces not only the permanent way itself but also the ancillary lands and works necessary both to mitigate and compensate for its environmental impacts. This does result in significant permanent and temporary disturbance to farm holdings that are situated along and adjacent to the line of route.

60. The Promoter has sought to minimise the impact of the scheme on agricultural holdings both in designing the proposed scheme, planning the location of environmental mitigation and compensation works and engaging with affected farmers and growers and their representative body, the National Farmers' Union. That engagement has continued throughout the Bill process.

61. As with the Phase 1 scheme, the Promoter has published a specific guidance document for agricultural landowners affected by the proposed scheme. That's the Guide for Farmers and Growers, the front cover of which is now shown on the screen. That sets out the policies currently proposed by HS2 Ltd on agricultural property matters. It provides a framework for managing the effects of the proposed scheme through detailed design, construction and the operational phases of the railway in relation to the individual landholding.

62. Also following the approach adopted on the Phase 1 scheme, the Promoter's given a series of assurances to the National Farmers' Union as to how the powers of the Bill would be implemented, if enacted, in respect of agricultural landholdings. These are divided into two parts.

63. Firstly, there are assurances to the NFU, if I can use that abbreviation, itself

concerning matters of general applicability to agricultural landholdings. Those assurances include for example, an assurance to establish an agricultural liaison service, assurances regarding the payment of compensation and assurances as to how the Secretary of State would exercise powers of compulsory acquisition as opposed to temporary possession of land.

64. The second part of that is a series of assurances which can be provided to individual landowners depending on their particular circumstances. Those assurances include, by way of example, assurances as to notices of entry and taking of possession, land acquisition, drainage and agricultural soils. One such assurance, by way of example, is that to which paragraph 2.1.5 of the guide refers, which we have put up on the screen.

65. In summary, the Promoter has agreed that through engagement with affected farmers and growers, during the detailed design stage of the proposed scheme, he will seek to accommodate reasonable proposals to modify that design in order to further the efficient management of the farm holding in question following completion of the proposed scheme and will seek to minimise the loss of best and most versatile agricultural land.

66. If I may, I'll now provide a short overview of the route of the proposed scheme highlighting the key features. The names and numbers on the slide in front of your Lordships refer to the five community areas into which the proposed scheme has been divided for the purposes of environmental impact assessment. I'll return to the main features in each of those community areas in a moment but I just wanted to highlight the main changes made as well to the proposed scheme through additional provisions including changes resulting from petitions or recommendations of the Select Committee in the House of Commons.

67. Turning first to community area one, which is the Fradley to Colton area, the proposed scheme joins Phase 1 at Fradley to the northeast of Lichfield. The proposed route continues northwards across the River Trent floodplain over a series of viaducts and embankments before passing in cutting south of Blithbury returning to embankment to pass between the villages of Stockwell Heath and Colton. As your Lordships may see on the screen, the colours green, orange and pink represent the different types of cutting, embankment or viaduct.

68. The proposed route moves from Stockwell Heath and Colton into cutting, then onto embankment and crosses the Moreton Brook viaduct, before continuing into community area two. Key features in this community area include the King's Bromley viaduct, which carries the proposed scheme over the Bourne Brook and the A515 Lichfield Road. Then the River Trent viaduct, which carries the proposed scheme over the A513 Rugeley Road and the River Trent. Following assurances given to Staffordshire County Council and Lichfield Borough Council, amendments to the design of the proposed scheme were approved under Additional Provision 2, whose effect was to lower the height of those viaducts by up to three metres.

69. THE CHAIR: When it says in the two pictures we see 'up to 14 metres high' is that because as the viaduct proceeds along its length there's a variation in height from ground level? The 14 metres or 13.7 metres is the maximum height.

70. MR STRACHAN QC (DfT): That's precisely so my Lord, yes. The viaduct will have a natural inclination before then descending. The 'up to' height represents that maximum at any point along the viaduct.

71. Additional Provision 2 also amended the electricity supply arrangements for the proposed scheme. The Bill now authorises a new twin electricity pylon lines to power the railway from the connection to the national grid at Parkgate on the B5234, north of the route, to a main autotransformer feeder station on the route at Newlands Lane near Colton. The grey areas represent the lands taken or used to provide the pylon. The pylon lines run within the grey areas rather than representing the full extent.

72. LORD HORAM: Can I ask a question?

73. THE CHAIR: Yes.

74. LORD HORAM: The pylons will be the normal standard pylons we see everywhere in the country will they?

75. MR STRACHAN QC (DfT): Yes.

76. LORD HORAM: Nothing special about them?

77. MR STRACHAN QC (DfT): Nothing special except that there are different sizes

of pylons depending on the voltage of the lines. We can certainly give you some more information as to precisely which ones they are but broadly speaking, my Lord, you are right.

78. LORD HORAM: Standard.

79. MR STRACHAN QC (DfT): Yes. Standard pylons within the range. We can give you some information on exactly what they are likely to look like if that would assist.

80. LORD HORAM: Does that have any implications for the use for the land? I don't know what happens when a pylon is plonked down on an agricultural farm or land.

81. MR STRACHAN QC (DfT): My Lord, under the conductors themselves, which is the name given for the lines, they are called conductors, there is normally the ability to continue agricultural practices under them. The footprints of the pylons themselves obviously take up an area. The location of those are matters for further detailed design work.

82. LORD HORAM: But otherwise farming can continue in the normal way after they are in place.

83. MR STRACHAN QC (DfT): That is certainly the idea. Yes, indeed.

84. LORD HORAM: Thank you.

85. THE CHAIR: Are you having to take down trees to make room for them?

86. MR STRACHAN QC (DfT): My Lord, yes, in certain locations there may be the need for some tree work, which has been identified. The precise location of the pylons and consequently any tree works, is a matter for the detailed design stage. Certainly in the other place when we looked at some petitions that there were in respect of Additional Provision 2, that was something which was looked at in more detail. If it helps we can probably provide some of that background information as to where affected tree works were anticipated. Broadly speaking, that was part of the assessment in introducing the measures for the pylons.

87. LORD HORAM: It's not possible to put the electricity underground?

88. MR STRACHAN QC (DfT): My Lord in theory, it is. I think at least one of the petitions raised that issue in the other place but it is extremely expensive to put conductors underground. One of the things that was looked at in making the decision not to go underground was the balance between the cost of doing so and indeed the maintenance implications, if maintenance is required once they are underground as compared with the impacts, visual and environmental, of having them above the ground. The conclusion reached was that the balance favoured the provision of the pylons above ground. My Lords, if it is of interest we will provide you with some more detail from those proceedings that occurred where there is more information about that decision.

89. Additional Provision 2 also made provision for an alteration to the connection between HS2 Phase 1 scheme and the West Coast Mainline at Handsacre. HS2 trains would now pass via the Handsacre link, initially onto the West Coast Mainline slow lines rather than the fast lines, which is a change that significantly reduces the need for disruptive works to the West Coast Mainline and also achieves substantial cost savings. That, my Lord, is shown for you in schematic form on the screen now. The original scheme is the one on the top where HS2 was to come onto the fast lines, which are in the centre. The change in Additional Provision 2, is to introduce the trains onto the slow lines, which are on the outside, which, as indicated, minimises the disruption and is a cheaper option.

90. LORD LIDDLE: How much loss of speed and time is there as a result of that change in the journeys that you've quoted?

91. MR STRACHAN QC (DfT): I will need to check the answer to that. I do not have that information immediately to hand. I believe that there is not a material loss.

92. LORD LIDDLE: No significant loss?

93. MR STRACHAN QC (DfT): Yes, no significant loss but I will ask Mr Smart to help you with that, who is the chief engineer who will be able to give you more accurate information.

94. LORD LIDDLE: Fine.

95. LORD SNAPE: Do you know what the differential speed is between trains on the

respective lines? I know these are nomenclature not necessarily reflected in speed but is the slow line speed limit less than the fast line speed limit?

96. MR STRACHAN QC (DfT): My Lord, again I'm afraid I don't know the immediate answer to that question. It is certainly something we can find out for you. Certainly the slow lines are ones which carry more of the freight traffic than the faster passenger services on the West Coast Mainline but I will make sure we find out that information for you. I am sorry I don't have it at my fingertips.

97. LORD SNAPE: I understand. Could you also find out what provision is being made to return the trains presumably to the fast line at some part of the line further north from the junction?

98. MR STRACHAN QC (DfT): My Lord, certainly, yes. That is part of the proposal. I am getting a nod from Mr Smart so it may be convenient if he picks up those points for your Lordship's committee tomorrow when he comes, if that is convenient.

99. Just finishing then on community area one, there are four borrow pits proposed in that area. They're at Crawley Lane to the south at Ashby Sitch, which is number one. Number two is adjacent to the realigned, A515 Lichfield Road. Number three is adjacent to the realigned Shaw Lane. Number four is closer towards Blithbury.

100. Turning to community area two, which is Colwich to Yartlet. The proposed scheme enters community area two on embankment, just west of Mayfield Children's Home, which occupies the Grade Two listed Moreton House before the line then moves into cutting. Additional land has been included in the Bill for the relocation of the Mayfield Children's Home to a site adjacent to the Rugeley School and further away from the line of the proposed scheme. We have just shown on plan the original location, top left of Mayfield Children's Home. The bottom right is the proposed new site.

101. The proposed scheme, if we go back to the plan, reverts back to embankment after that before passing over the A515 Lichfield Road. It then passes over the existing Macclesfield to Colwich line, the Trent and Mersey canal and the River Trent on the Great Haywood viaduct. The proposed scheme then returns to embankment until it passes through Ingestre Park Golf Club, where it enters a deep cutting.

102. The Bill limits have been extended under Additional Provision 2, to provide the land needed to enable the reconfiguration of that golf club so that it may continue in the future to operate from its current location, where it provides a community facility. We have on the screen for you a picture of the envisaged Great Haywood viaduct from a photomontage in the environmental statement. The next slide shows you Ingestre Park Golf Club with the additional land that was included in Additional Provision 2 with the red hatching.

103. LORD LIDDLE: Is there a road running, yes, I can see Ingestre Park Road.

104. MR STRACHAN QC (DfT): Exactly, my Lord, yes. I believe the Committee might have visited that location. That road runs alongside, yes, exactly.

105. LORD HORAM: The viaduct is on stilts, judging from the picture.

106. MR STRACHAN QC (DfT): Yes.

107. LORD HORAM: Normally one thinks of a railway viaduct as a mound of earth so that you cannot see below the railway lines.

108. MR STRACHAN QC (DfT): Generally speaking, the language that we've used would simply be that of an embankment to describe a solid structure beneath the railway.

109. LORD HORAM: Yes.

110. MR STRACHAN QC (DfT): The design of a viaducts is a matter for further detail. These are illustrative designs. You may have seen elsewhere that the finished design of how a viaduct will look in terms of its appearance is a matter for future approvals.

111. LORD HORAM: Oh it is?

112. MR STRACHAN QC (DfT): Yes.

113. LORD HORAM: So this may not show exactly what it is like?

114. MR STRACHAN QC (DfT): That's right. This is intended for illustrative purposes at this stage.

115. LORD HORAM: Right.

116. MR STRACHAN QC (DfT): If I could go back to the route, the proposed scheme then runs through the limits of the Staffordshire County Showground in an area of the showground primarily used for carparking and camping. The railway is in cutting at that point. Additional land has been included within the Bill limits under Additional Provision 2 to provide for replacement carparking for the showground in the event that the showground is unable to secure replacement carparking by agreement.

117. The proposed scheme then passes through Hopton where it enters a cutting for approximately 300 metres. Again, we've given you the location of Hopton on the screen. The cutting you can see with the yellow marked notation in the centre of the screen. The proposed scheme then continues on embankment as it passes Marston before moving into a shallow cutting past Yartlet before continuing in cutting into community area three.

118. Community area three is Stone to Swynnerton. The scheme enters community area three in cutting, continuing on embankment and then back into cutting north of the M6 Stafford motorway services southbound, which are a bit further south. The proposed scheme crosses over the Norton Bridge to Stone railway, which is being shown and the Filly Brook on viaduct before passing onto embankment to pass under a realigned Yarnfield Lane. The proposed scheme then passes, or crosses, the M6 on a viaduct whose length has been extended under Additional Provision 2 in order to avoid both the need for a pier in the central reservation of the M6 and to avoid the realignment of the southbound carriageway.

119. The proposed scheme then remains on embankment until passing northeast of Swynnerton where it moves into a series of cuttings and embankments into community area four. Just going back to the Stone infrastructure maintenance base, that would occupy land, as I've indicated, between the HS2 mainline and the M6 north of the Norton Bridge to Stone railway. Reception tracks would connect the HS2 mainline to that facility and the Norton Bridge to Stone railway.

120. Site access to and from the Stone IMB-R would be provided by a new southbound slip road off the M6 as we've indicated as well as via a realigned Yarnfield Lane. We have got an extract from the fly-through of the scheme just to illustrate the way in which the Stone IMB-R is located between the M6 and the railway. This is, just to be clear, looking from the north to the south.

121. LORD HORAM: Chairman?

122. THE CHAIR: Yes.

123. LORD HORAM: Has there been any estimate made of the additional traffic on the M6?

124. MR STRACHAN QC (DfT): My Lord, yes. The traffic assessments involve calculations of additional traffic including construction traffic arising on the M6 as a result of the introduction of the temporary slip roads to service the IMB-R during construction. That is all part of the assessment work in the transport assessment. At an appropriate junction we can provide you with some details of the numbers.

125. LORD HORAM: Is it significant or you cannot say offhand?

126. MR STRACHAN QC (DfT): I would have to refresh my memory of the effects, generally speaking, as I was indicating earlier, it's a deliberate choice to use the slip roads off the M6 as a result of that assessment because it's considered it is the most efficient way to enable construction traffic to service the construction of the railway whilst avoiding other local roads. The impact on the M6 has been addressed and considered to be acceptable so far as the Promoter is concerned. Certainly in due course we can give the Committee the numbers, or identify where the numbers are and precisely what those numbers are.

127. LORD HORAM: Thank you.

128. THE CHAIR: If you are doing that can you indicate where the construction traffic is coming from or going to? How much of the M6 is actually being affected by it?

129. MR STRACHAN QC (DfT): My Lord, yes. Generally speaking, the traffic assessment calculates the number of vehicles going on and off to the M6 at some point. It doesn't necessarily tell you the ultimate destination of the construction traffic but there are certain assumptions made within the environmental statement about that. We will flag those up to your Lordship.

130. THE CHAIR: Thank you.

131. MR STRACHAN QC (DfT): The facility itself that you are looking at would

operate as a base for the maintenance activities to support the railway infrastructure during the operation of the proposed scheme, as well as, of course, the railhead during construction, and your Lordships will know that alternative locations for these facilities were appraised during the development of the proposed scheme, and more detail on that's set out in one of the information papers F3, and the merits of alternatives, including a site at Aldersey Rough, were debated before the House of Commons Select Committee.

132. Turning to community area 4, which is Whitmore Heath and Madeley, the proposed scheme enters community area 4 on embankment, then crosses the Meece Brook Valley on viaduct, and the proposed scheme then passes on to embankment and into cutting, before entering the Whitmore Heath Tunnel, passing under the A53 Newcastle road and Whitmore Heath itself. And we've just shown a plan indicating that on the screen now. The Whitmore Tunnel is 1.1 kilometres in length, with 150 metre porous portals at both ends, and under Additional Provision 2, the southern tunnel portal, which is on the right-hand side of the screen, was extended eastwards by approximately 180 metres, so removing the need to realign or reconstruct an overbridge over the A53. An Additional Provision 2 amendment also reduced the loss of ancient woodland from Whitmore Wood from 6 hectares to 5.5 hectares.

133. THE CHAIR: What does the word 'porous' indicate?

134. MR STRACHAN QC (DfT): Porous, my Lord, indicates that there are apertures in the entrance to the tunnel which are to allow air pressure to exit with the train's passing. One purpose of which is to avoid the potential for, I think, what's called sonic boom, my Lord.

135. THE CHAIR: Yes, because this is high speed going through a tunnel.

136. MR STRACHAN QC (DfT): Indeed, and, again, Mr Smart can assist you with more detail about that, if it helps. Exiting the Whitmore Tunnel, if we can go back to the slide, the proposed scheme passes into cutting before crossing the River Lea valley, the West Coast Main Line, which is in that area, and the out of use Stoke to Market Drayton Railway on the River Lea viaduct. And from the River Lea viaduct, the route then passes on to embankment and into cutting before entering the Madeley Tunnel at Bar Hill Wood. The Madeley Tunnel is a bored tunnel of 673 metres in length, with 150 metres porous portals at both ends, and again we've got a slide of that on the screen.

137. And the proposed scheme then moves on to embankment after that, as it continues into community area 5, and there is one borrow pit in that community area which is now shown located to the west of Netherset Hey Farm. And then, finally, the community area 5, South Cheshire. The scheme enters community area 5 on viaduct, then passes onto embankment and into cutting, up to the point at which the railway divides. And the HS2 main line continues north to a point just south of Crewe, which will form the proposed future connection to the new HS2 network in the north. But the Bill also authorises the works needed for HS2 trains to run into Crewe station, via spurs, which would connect the proposed scheme to the West Coast Main Line, enabling HS2 trains to run onto destinations in the north west and Scotland before the rest of HS2 became operational.

138. The Bill authorises the works at Crewe station required to accommodate the running of HS2 services during that intervening period, and the Bill has been amended under Additional Provision 2 for HS2 trains to run onto the West Coast Main Line slow lines, rather like I indicated for Handsacre, and this amendment helps to enable the Government's vision for a new Crewe Hub that would provide enhanced onward connection. And there's one borrow pit in community area 5 located to the north of Checkley Lane.

139. My Lords, your Lordship referred to the Second Reading of the Bill in this House last September, and following that, a Select Committee in this House was nominated, but shortly after that nomination motion, Parliament was dissolved without the Bill being carried over. And as a result, that Committee never had the opportunity to sit and hear petitions, and a number of your Lordships were on that initial Committee and we'd like to apologise for the inconvenience caused by the shifting dates of those sessions.

140. But as the Bill was not carried over before dissolution, it was the subject of the revival motions in both Houses earlier this month, and that process is often used for private bills and was last used for a hybrid bill in 1974. But following the success of those motions, the Bill was reintroduced in the House of Commons and it passed through all of its previous stages in both Houses as a formality, as would be the case for a bill which had been carried over, and a new nomination to nominate your Lordships' Committee was then passed, so allowing your Lordships to hear petitioners. We should acknowledge that due to these external circumstances, these petitioners had been extremely patient with the promoter. Their petitions were submitted last August.

141. A petitioner against a bill must, if challenged, prove that he or she has standing to petition according to the established rules and orders of the House. The promoter has challenged the right of one of the 35 petitioners to be heard on their petition against the Bill, and that petition has subsequently been withdrawn.

142. THE CHAIR: So that means we can assume that those that remain all have standing?

143. MR STRACHAN QC (DfT): Indeed, my Lord. Certainly, so far as the promoter is concerned there are no other challenges being made to the standing of those petitioners. The House of Commons Select Committee, as your Lordship indicated, sat for 51 days, 302 petitions were deposited either against the Bill or against the two sets of additional provisions promoted in the House of Commons. There were 187 against the Bill itself and 115 against the additional provisions, and the Select Committee heard 145 petitions during its sittings, and it published three special reports, and the Committee also announced a series of directions and recommendations during the course of those sittings. And as I've mentioned, substantial changes were made to the Bill as a result of petitions and the Committee's directions.

144. Many of those who have petitioned against the Bill in your Lordships' house have also petitioned against the Bill, or the additional provisions, in the House of Commons, and where the petitioners raised points in this House, which were also raised before the House of Commons Select Committee, and that Committee dealt with their petition, we shall draw that to your Lordships' attention.

145. We also draw attention to the established principle that this Committee may amend the Bill, but that any amendment whose effect would be to create new or different effects on private interests, and so give rise to a right to petition, namely an Additional Provision, would have to return to the House of Commons for consideration of that amendment. And the general practice is therefore that the Select Committee in the Second House will not require an Additional Provision to the Bill. And your predecessor Committee gave a detailed ruling, during the course of its consideration of the Phase 1 Bill, and concluding by way of summary that, and I quote from the report 'For the House to give an instruction for an Additional Provision to be included in the Bill would be contrary to well settled practice, practice based on principles of fairness'.

146. So, my Lord, where the promoter believes that a petitioner, who's to be heard by the Committee, seeks an amendment which would require an Additional Provision to the Bill, or where the petitioner acknowledges that such changes would require an Additional Provision, but suggests that such changes could be effected by some other means outside of the Bill process, such as through the promotion of a Transport and Works Act Order, the promoter will draw that matter to the attention of the Committee in response to the petition. And one such change raised in two petitions is the proposal to relocate the railhead and the IMB-R, the two combined, which are located as I've indicated at Stone. Another is the proposal to introduce a bored tunnel at Hopton instead of the cutting proposed in the Bill.

147. THE CHAIR: If those points are proceeded with, I take it we are required to deliver a ruling?

148. MR STRACHAN QC (DfT): My Lord, yes.

149. THE CHAIR: To dispose of the point?

150. MR STRACHAN QC (DfT): That certainly was the practice that was adopted on the last occasion in this House in relation to Phase 1, where those sorts of petitions, or petitions of that kind, were raising what would necessitate an Additional Provision, and that was the practice adopted by your predecessor Committee in relation to Phase 1.

151. THE CHAIR: Yes, thank you.

152. MR STRACHAN QC (DfT): There's one other important point we'd like to note at the outset. Where the promoter believes that a petitioner, who is to be heard by the Committee, will raise issues which traverse the principle of the Bill your Lordship spoke of earlier, or otherwise go beyond the proper reasonable scope of a petition against a hybrid bill, we will draw that matter to the attention of the Committee in response to the petition.

153. In that way we hope to assist your Lordships' Committee to direct petitioners to focus their cases before you on those matters that in accordance with the established rules and usage of the House, your Committee will wish to consider and to include in its special report.

154. Could I turn briefly to the Bill itself? The powers sought through the Bill, the regime of regulatory and environmental controls, the land compensation arrangements, the policies relating to environmental mitigation and land acquisition, and the supporting documentation, are essentially consistent with those for the Phase 1 scheme, and they include the following nine areas. First of all, works powers, which are the powers to undertake and maintain scheduled works, that is the principal civil engineering railway and highway works, and then other ancillary works such as environmental mitigation works. And in the usual way, the Bill and the Parliamentary plans prescribe limits of deviation, within which the scheduled works must be carried out, in order to allow an appropriate degree of flexibility for the detailed design of the project. And the Bill also prescribes limits of land to be acquired or used whose purpose is to accommodate ancillary works such as environmental mitigation, and together the land within those, to use the abbreviations, LOD and LLAU, but those two principles, constitute the Bill limits.

155. Secondly, there are highway powers, and those are powers relating to access onto highways, interference with highways, and the construction and maintenance of highways, and those powers are subject to the provisions of Schedule 4 to the Bill, which set out the requirements to notify or seek approval from the relevant highway authority.

156. Thirdly, there are land powers. Those include powers to purchase compulsorily the land and rights within the Bill limits that are required for Phase 2A purposes, and powers to enter, occupy and use land within the Bill limits temporarily for the purposes of the proposed scheme, subject to the payment of compensation and restoration of land on completion of the works. And the exercise of powers of compulsory purchase of land or rights is subject to the payment of compensation under the Compensation Code which apply to the Bill, and Schedule 15 of the Bill sets out the compensation arrangements that apply where land is used temporarily.

157. Fourthly, the Bill includes provision for planning permission. Clause 17 of the Bill grants deemed planning permission for the development authorised by the Bill, and for a development that's not comprised in a scheduled work, deemed planning permission is granted, provided that, first of all, it's been assessed in the environmental statement, or an additional provision environmental statement, or supplementary environmental statement, or secondly it's not likely to have significant effects on the environment, or thirdly it's exempt development under the environmental impact assessment regulations.

And in this way development authorised by the Bill is limited to that which has been subject to environmental impact assessment in accordance with the objectives of the Environmental Impact Assessment Directive.

158. Fifthly, there are planning approvals required for the details in relation to the planning permission. The nominated undertaker is required to obtain, from local planning authorities, approval of detailed design elements of the proposed scheme, and of certain construction matters, through the conditions imposed on the deemed planning permission set out in Schedule 17 to the Bill. And I gave an example earlier of the viaducts' detailed design as an example. This schedule includes also approval of construction traffic routes where a site or working area would be served by more than 24 large goods vehicles per day.

159. Sixthly, there's the disapplication of existing legislation, and that includes legislation regarding listed building controls, ancient monuments, burial grounds, trees and a range of other matters. Clauses 21 to 33 provide for the bespoke tailor-made regime that the Bill creates for the regulation of the construction and operation of the railway, which is appropriate to a project that's been specifically authorised by an Act of Parliament. And that follows the approach successfully followed for both the Channel Tunnel Rail Link and Crossrail.

160. Not all existing regulatory controls are disapplied and substituted in that way. Importantly, for example, the construction site licensing regime under Sections 60 and 61 of the Control of Pollution Act of 1974 will apply to the proposed scheme.

161. Seventhly, there are powers in relation to environmental covenants. Clause 48 empowers the Secretary of State to enforce environmental covenants entered into for the purposes of protecting and maintaining landscaping, and other works, carried out in order to mitigate the effects of the proposed scheme. And essentially that power facilitates the retention or return of land, not required for the operational railway, but which is needed for environmental mitigation, and it means that the positive obligation to maintain that mitigation can be made to run with the land, so the obligation will bind future owners or successors in titles of that affected land.

162. Eighthly, the Bill powers mean nominated undertakers are entitled to exercise the powers granted under the Bill to construct and operate the proposed railway free from

liability to claims in nuisance. The Bill creates statutory immunity but the nominated undertaker is under a duty of care to take all necessary steps to ensure that the works to construct the proposed scheme are carried out with reasonable care and skill.

163. And, ninthly, there are the protective provisions for statutory undertakers. And in order to ensure that the interests of statutory undertakers enjoy proper protection during the implementation of the proposed scheme, Schedule 32 to the Bill describes the process that must be followed before works are carried out which affect those interests.

164. The nominated undertaker is explained in Clause 41 of the Bill. The nominated undertaker is the person or body to be appointed by the Secretary of State which will be responsible for undertaking and delivering the proposed scheme. There may be more than one such undertaker.

165. The design of the proposed scheme to date has provided the level of detail needed for the purpose of the Bill and the requirements of environmental impact assessment. The level of detailed design required in order to enable the proposed scheme to be constructed and operated will not be completed until after Royal Assent. But as I've indicated, Schedule 17 creates the planning regime which will regulate that process, and its essential purpose is that although planning permission for the proposed scheme is granted by Parliament, local planning authorities will be able to ensure that the design of permanent elements fits into the local environment.

166. The environmental statement, my Lord, as you know as required by standing orders of this House accompanied the Bill, and the environmental statement provides a detailed description of the proposed scheme and its likely environmental effects, beneficial and adverse, direct, indirect and cumulative, under the range of measures that are proposed for the purposes of mitigating its adverse effects. It considers in very considerable detail all of those matters that are required under the terms of the House of Lords Standing Order 27A.

167. THE CHAIR: Does it take account of the requirements of EU law?

168. MR STRACHAN QC (DfT): Indeed, my Lord, they are reflecting the requirements in the Directive, the Environmental Impact Assessment Directive, but because we're dealing with a Bill that passes through Parliament, those requirements are now embodied

in the Standing Orders of this House and indeed the House of Commons.

169. And during the course of the parliamentary process, the original environmental statement has been supplemented by two Additional Provision environmental statements and two supplementary environmental statements. And an Additional Provision environmental statement assesses the environmental effects of the amendments under an additional provision, and a supplementary environmental statement assesses the environmental effects of other changes to the proposed scheme that have come forward during the passage of the Bill without the need for an Additional Provision.

170. My Lords, you can see there's a yellow and a purple notation that you'll see on the volumes themselves in terms of the spine, which indicate whether it was an original or a supplementary or Additional Provision ES.

171. Taken as a whole, those documents constitute the promoter's assessment of the likely environmental effects of the proposed scheme. There is a non-technical summary for each of the environmental statements and that provides a convenient introduction to the proposed scheme and its main environmental effects. And the Committee's likely to be referred mainly to the five community area reports which make up Volume 2 of the environmental statement, which sets out the likely environmental effects of the proposed scheme, in more detail, in respect of each of the five community areas that I've taken your Lordships briefly through earlier. And there are corresponding map books for each of those areas.

172. My Lords, I mentioned briefly information papers. Those are papers available on the HS2 website. They are thematic papers intended to explain the position of the promoter on various issues, including the promoter's policies and commitments for particular aspects of the proposed scheme. This volume (I am holding) is a hard copy form of the information papers which are available online.

173. And just to give you an example, information paper E9 within this volume, sets out the promoter's design commitments for the control of airborne noise arising from the operation of the proposed scheme. Information paper C3 sets out the promoter's policy on land acquisition. And they're all arranged under a series of broad topics. On occasions, we shall refer the Committee to the information papers as containing the gist of a response to particular petitioning issues.

174. There are also petition response documents and petition assurance letters and exhibits. The promoter's petition response documents, often abbreviated to PRDs, are specific responses to individual petitions. They're issued four weeks in advance of a petition of scheduled appearance before the Committee. I say at least four weeks, some of them have already been issued, and I think most, if not all, have already been now issued. A fortnight or so before the scheduled appearance, the promoter will also send a petition assurance letter, and the purpose of that is to summarise the effects of assurances already offered to the petitioner and the case that the promoter will make at the hearing to the outstanding issues raised in that petition. We'll also produce exhibits in response to petitions which will provide the basis for evidence in the event that the promoter's called upon to respond, and we also refer as necessary to the environmental statement.

175. If I could just touch on the topic of compulsory purchase and land compensation? The Bill, if enacted, will confer upon the Secretary of State, powers to purchase compulsorily any of the land within the Bill limits which may be required for the purposes of the proposed scheme. That includes the power to acquire rights of way and other rights over land to which the Bill relates, as well as airspace and subsoil. Where a petitioner, whose land is included within Bill limits, questions before you the need to acquire or to use that land for the purposes of the proposed scheme, it is for the promoter to demonstrate that the land is required for those purposes. And depending on the circumstances, it may also be necessary for the promoter to demonstrate there's not an alternative means of achieving the purposes for which the petitioner's land has been included in the Bill limits, which would avoid the need to acquire or to use that land.

176. Following the enactment of the Bill, the Secretary of State may not ultimately need to acquire compulsorily the full extent of the land within the Bill limits, and in paragraph 3.3 of information paper C3, on land acquisition, the Secretary of State has stated that in any individual case the exercise of those powers will operate on the basis that the Secretary of State will acquire no greater amount of land than appears to him to be reasonably required following the detailed design of the scheme.

177. In particular, Schedule 15 to the Bill, which authorises the nominated undertaker to enter onto and to occupy land within Bill limits temporarily, offers the option of temporary possession rather than outright acquisition for where one is dealing with construction. And the Secretary of State has made clear that in the case of land required

only for use as a construction site, where the landowner wishes, and upon the Secretary of State being satisfied that he is able to construct the proposed scheme in a timely and economic manner, in reliance only upon the powers of temporary possession and use of land under Schedule 15 of the Bill, he will be prepared to offer a commitment not to exercise the powers of compulsory purchase under Clause 4 of the Bill in respect of that land.

178. THE CHAIR: And the significance of that is that, am I right, that ownership of the land does not pass from the landowner?

179. MR STRACHAN QC (DfT): My Lord, that's right. Indeed, this temporary possession only, rather than full outright compulsory acquisition of the land, is available as an alternative where those conditions are otherwise met.

180. THE CHAIR: Yes.

181. MR STRACHAN QC (DfT): And further information about how the Secretary of State intends to exercise the powers, in respect of those different situations, can be found in the Farmer and Growers Guide and in the assurances given to the National Farmers' Union that I referred to earlier.

182. The Secretary of State has also safeguarded land likely to be required to construct and operate the railway by issuing safeguarding directions, and the directions broadly reflect the current land requirements set out in the Bill. The current version of the directions for the proposed scheme were issued on 27 September 2017. The purpose of the safeguarding directions is explained in information paper C4, Safeguarding and Statutory Blight. It is to protect land likely to be needed for the construction and operation of the proposed scheme from potentially conflicting development. It's important to note that the safeguarding directions also serve a valuable role for owners of property falling within the safeguarded area. That's because they trigger the statutory arrangements that allow qualifying property owners to serve a blight notice on the Secretary of State. Following the publication of initial safeguarding directions for the proposed scheme, that was earlier on 30 November 2015, owner occupiers of residential properties, small business premises, and agricultural premises, situated within the safeguarded area have been able to require the Secretary of State to acquire their land and receive land compensation on the same basis as for compulsory purchase. That is the effect of the

statutory blight notice regime.

183. The Bill is, as I've already mentioned, subject to the provisions of the land Compensation Code, which is a convenient label for the statutory compensation regime laid down in the various Acts and the accompanying body of case law. These are summarised in information paper C8, Compensation Code for Compulsory Purchase. The Code seeks to provide fair compensation on the basis of the principle of equivalence. Broadly stated, that principle says that a person, whose land is subject to compulsory acquisition, gets monetary compensation that is no less but not more than the loss which he or she has suffered as a result. And depending on the particular circumstances in each case, compensation may be claimed for the following. First of all, the unblighted open market value of the land acquired, valued on the assumption that it's to be sold in a world free from the existence or effects of the scheme itself.

184. Secondly, where only part of a holding is acquired, any depreciation in the value of the land retained by the landowner to cover the effects of what are known as severance and other injury to the value of that retained land.

185. Thirdly, disturbance compensation, namely costs and losses incurred as a result of the occupier having to move from the land and relocate elsewhere, such as removal costs, stamp duty and estate agent fees.

186. Fourthly, statutory loss payments, for example home loss payments to residential occupiers who are displaced from their homes as a result of the proposed schemes. Fifthly, reasonable professional fees incurred in negotiating or securing that compensation and, lastly, conveyancing costs - the legal fee a person will pay to the conveyancer for their range of conveyancing services.

187. I emphasise that the Bill doesn't propose any substantial amendment to the Compensation Code principles: in other words, a person whose land is compulsorily purchased under the Bill for the purposes of the proposed scheme will be entitled to claim and receive no more and no less in land compensation than he would have been paid had the land been acquired under a conventional compulsory purchase order. And we will, of course, return to the provisions of the Compensation Code to the extent necessary where individual petitioners raise relevant issues.

188. There is also a package of non-statutory property compensation measures in operation for the purpose of alleviating the impact of what's known as 'generalised blight' resulting from the proposed Scheme, and we had on the screen a moment ago just the front sheet of that guide, but there's a schematic slide on screen now of, broadly speaking, what these schemes are. These non-statutory property compensation schemes operate on the basis of the same eligibility criteria that govern the operation of the statutory blight notice regime, i.e. residential owner/occupation, owner/occupation of a small business premises or owner/occupation of an agricultural holding. Full guidance on the operation of those non-statutory property compensation schemes and the associated qualifying criteria is already publicly available on the gov.uk website. The Secretary of State has also an established policy of considering, on a case by case basis, applications to purchase, in cases which raise special circumstances or concern atypical properties.

189. I return then just to explain briefly how the Promoter has sought and will continue to seek to mitigate adverse environmental effects as effectively as it reasonably can. In summary, the Promoter's approach has been to follow the mitigation hierarchy. That is, first, to avoid adverse environmental effects through design of the railway and the trains; secondly to include measures in the project to reduce or mitigate adverse effects whether at the railway, sometimes referred to as 'at source' or at the point of impact, sometimes referred to as, 'At the receptor', and; thirdly, to provide compensatory measures to remedy the residual adverse effects.

190. How the Promoter has applied that approach along the route is explained in the non-technical summary to the environmental statement and, of course, in much more detail in the environmental statement itself, and we shall draw attention to those relevant parts as necessary. As I've said, the Promoter does not regard the process of mitigating the adverse environmental impacts of the proposed scheme as complete. On the contrary, the Promoter is confident that the process of detailed design development, under the auspices of the Bill and the other statutory and non-statutory environmental controls – to which I'll just refer shortly in a moment – will provide further opportunities to continue to refine and improve the environmental performance of the proposed scheme.

191. The means of controlling the environmental impacts of the proposed scheme are explained in information paper E1. There are three distinct components that, taken together, provide effective control over those impacts, both during construction and

operation. Those are first of all the requirements laid down by the Bill itself for the approval of the detailed design and construction arrangements – and I’ve already touched on those – much more detail can be seen in Section 3 of information paper E1, and compliance with these approvals will be secured by local authorities through their statutory enforcement powers.

192. Secondly, there are arrangements laid down by existing general legislation, for example the Control of Pollution Act 1974 that remains applicable to the proposed scheme, alongside the Bill, and again compliance with these approvals will be secured by local authorities through their statutory enforcement powers.

193. And thirdly, policy commitments and undertakings, given by the Promoter, which take effect alongside the provisions of the Bill, of which the environmental minimum requirements are the principal component, and compliance with these requirements will be secured through contractual obligations binding both the nominated undertaker and its contractors.

194. THE CHAIR: Examples of that have already been entered into, is that right?

195. MR STRACHAN QC (DfT): Indeed, and I’ll just explain that if I may briefly, my Lord, as to the nature of some of those commitments and undertakings and where they’re to be found on a register. The full definition of environmental minimum requirements is to be found in paragraph 3.1.1 of the draft environmental minimum requirements. These EMRs, as they’re sometimes shortened to, establish a series of controls in relation to the environmental impacts of design, construction and operation of the scheme, with which the nominated undertaking of contractors will be contractually obliged to comply and, as their title indicates, they are, and are intended to be, minimum requirements. The nominated undertaker is not constrained to set the environmental performance of the proposed scheme no higher than the EMRs: he is bound to ensure that its performance is at least compliant with the EMRs, and those EMRs are comprised in the following form of documents: first of all, memoranda and agreements on planning, heritage and related matters developed during the passage of the Bill in consultation with local authorities and other statutory bodies, such as Historic England, Natural England and the Environment Agency, specifically in the Planning Memorandum and the Heritage Memorandum.

196. Secondly, undertakings and assurances given to local authorities, statutory bodies,

private entities and individuals recorded in the HS2 Register of Assurances and Undertakings. Thirdly, the general assurance to use reasonable endeavours to adopt mitigation measures that will further reduce any environmental impacts caused by the scheme, insofar as these mitigation measures do not add unreasonable cost to the proposed scheme or unreasonable delays to the construction programme. Fourthly, the code of construction practice and the local environment management plans and, lastly, the environmental memorandum. I should just briefly explain the content and purpose of the code of construction practice since it's central to the control regime, and you can see, for more detail, Information Paper D3 that the Code sets out objectives and measures to protect the environment and limit disturbance from construction activities as far as reasonably practicable. It addresses all the environmental topics related to the construction of the proposed Scheme, for example working hours, traffic management, noise and vibration, air quality, waste management, recycling, ecology, archaeology and ground settlement.

197. Code of construction practices are tried and tested tools for managing the construction of major projects, and they have been used successfully since the construction of the Jubilee Line extension in the early 1990s.

198. LORD HORAM: What happens, may I ask, Chairman, if it appears that the constructors are departing from the broad outline of what they've agreed to? I mean, what is the mechanism for saying, 'You're going off limit'?

199. MR STRACHAN QC (DfT): Well, my Lord, I'm just about to touch on precisely that.

200. LORD HORAM: Oh, you are.

201. MR STRACHAN QC (DfT): And if I do not answer your Lordship's question as fully as you would like I will come back to it, but there are a number of mechanisms that relate to the implementation of the code of construction practice and your Lordship may have seen also there is a Construction Commissioner, for example, that can deal with complaints about failure to follow the Code – or issues arising through construction. I can't remember the exact information paper number, but there is an information paper which deals with the Construction Commissioner. But, my Lord, the Code will require the nominated undertaker, and its contractors, to comply with the measures set out in it,

as well as all the applicable environmental legislation. The code – the provisions of the code of construction practice – will be written into HS2 construction contracts, and the code's been developed in consultation with affected local authorities and it will reflect local standards and conditions that are agreed with local authorities. Measures are going to be put in place to monitor this effectiveness, and it will play a key role in supporting community relations during the construction process.

202. THE CHAIR: Now the document you're showing us is marked as a draft...

203. MR STRACHAN QC (DfT): My Lord, that's simply because this process, until Royal Assent, allows the ability to comment on the content of the code of construction practice, but it will become final upon the completion of this process.

204. THE CHAIR: And who is in a position to offer comments for adjustment of the code?

205. MR STRACHAN QC (DfT): My Lord, certainly through the petitioning process there have been issues raised about the code of construction practice and, as I understand it, through the engagement process with local authorities throughout this process issues raised about the content of the code of construction practice have been raised through that engagement.

206. THE CHAIR: And it would be open to us, if so minded, to make recommendations about the draft, is that right?

207. MR STRACHAN QC (DfT): My Lord, yes.

208. THE CHAIR: Thank you.

209. LORD LIDDLE: Presumably these codes were developed for the first stage Bill. Have they changed? Are these drafts – do they represent a significant change from what Parliament approved in the First Stage?

210. MR STRACHAN QC (DfT): My Lord, I will check whether there have been any major changes reflected in the drafts as originally proposed. There certainly have been changes or comments made in respect of construction approaches, which have resulted in changes. Whether they are changes to the code of construction practice, or the delivery

of commitments and undertakings and assurances to affected petitioners, I would need to check. But I will undertake to come back to your Lordship on that.

211. The EMRs include specific policy commitments given by the Promoter in order to mitigate the impact of the project on property owners, and they include policies for the mitigation of noise impacts and maintenance of landscaped areas. The EMRs also, as I've indicated, include the undertakings and assurances that the Promoter may give during the passage of the Bill. Again, the nominated undertaker and his contractors will be contractually bound to give effect to any such undertakings and assurances, and the Register that I've referred to has been compiled during the proceedings before the House of Commons Select Committee and will be updated and finalised at Royal Assent, and that's an indication on screen of where one can find the register.

212. On behalf of the Secretary of State, on 19 March 2018, Mr Mould gave to the House of Commons Select Committee an undertaking that insofar as the environmental minimum requirements are not directly enforceable against any person appointed as the nominated undertaker, the Secretary of State will take such steps as he considers reasonable and necessary to secure compliance with those requirements, and that undertaking is recorded on this register, and that undertaking applies also, in any case, where a statutory undertaker is carrying out development for, or in connection with the proposed Scheme in reliance on the planning permission enjoyed in consequence of Clause 43 in Schedule 31 of the Bill. The Secretary of State has undertaken to take such steps as he considers are reasonable and necessary to secure compliance with such of the environmental minimum requirements as he considers relate to that development and are not directly enforceable against that undertaking.

213. Those arrangements for the control of environmental impacts of the proposed scheme, comprising a series of bespoke statutory and non-statutory controls together with the applicable controls in existing environmental legislation are by no means unprecedented. Essentially, the same approach was followed in the case of the Channel Tunnel Rail Link project and in the case of Crossrail and, we say, in both cases to good effect. They are well established and effective bases on which to proceed with this Bill. Before concluding I just turn to the European Convention on Human Rights. On behalf of the Government, the Secretary of State has confirmed that, in his view, the provisions of the Bill are compatible with the European Convention on Human Rights. That remains

the Promoter's position, as summarised in the information paper B5. The public benefits of the Bill are sufficient to outweigh its impact on the private and proprietary rights of those affected by it, and it's considered that the public interest in acquiring land to build and operate the proposed scheme outweighs the interests of the owners and occupiers affected. No sensible way can be found of building the proposed scheme without acquiring that land, and the measures proposed in the Bill are proportionate when considered in the context of the right to claim compensation for compulsory purchase and the panoply of environmental controls and mitigation measure to which I've referred.

214. And so my Lord, in conclusion, I commend the Bill to your Lordship's Committee.

215. THE CHAIR: Thank you very much indeed. Well, I think we're on the point of adjourning for the day, but looking forward to tomorrow. I hope that first thing we can settle what we're going to do on Thursday, about noise.

216. MR STRACHAN QC (DfT): Yes, my Lord.

217. THE CHAIR: And we'll look – I think just looking a stage ahead, I refer back to what I said at the beginning about the position - about the petitioners, and I hope we can reach a view, on Wednesday, as to the way forward having regard to their interests and the need to protect them, as far as we can.

218. MR STRACHAN QC (DfT): Certainly that is understood my Lord, yes. I've also got a short shopping list of various items that we shall give you some further information upon, I hope tomorrow, where questions were raised which I couldn't immediately answer.

219. THE CHAIR: Yes, good. Thank you very much. Well, for that – on that note we'll adjourn today and look forward very much to see you and Ms Lean....

220. MR STRACHAN QC (DfT): Ms Lean, tomorrow.

221. THE CHAIR: Tomorrow. At 10.30 a.m. tomorrow morning.

222. MR STRACHAN QC (DfT): Thank you very much, my Lord.

223. THE CHAIR: Thank you.