

MINUTES OF ORAL EVIDENCE

taken before the

HIGH SPEED RAIL BILL COMMITTEE

on the

HIGH SPEED RAIL (WEST MIDLANDS – CREWE) BILL

Tuesday, 17 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:

Timothy Mould QC, Lead Counsel, Department for Transport

Jacqueline Lean, Counsel, Department for Transport

Peter Miller, Environment and Town Planning Director, HS2 Ltd

Colin Smith, Acquisitions and Petitions Manager, HS2 Ltd

IN PUBLIC SESSION

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(At 1.31 p.m.)

296. THE CHAIR: Good afternoon. I should explain for those who are following us on television but there was a breakdown on the system at about half past 12. We simply had to adjourn the proceedings in order to enable the problem to be sorted out. It has now been sorted out but we are starting half an hour earlier to catch up on time, which I hope is not too inconvenient to you and all the other people present in this room. I think it's over to you, to make whatever points you would like before you introduce your witness.

297. MS LEAN (DfT): I am grateful, my Lord. It was just one matter arising out of the questions around the M6 and the smart motorways programme. Just by way of a brief, I think factual statement of position. In 2019, the Department commissioned an evidence stock take to gather the facts on the safety of smart motorways and make recommendations. The stock take is expected to conclude shortly. Highways England will need to deliver its recommendations and assess what they mean for the delivery of further enhancement projects involving smart motorways but *Road Investment Strategy 2* published earlier this month includes in progress smart motorway works between junctions 13 and 15 of the M6. Just to note that the area we were discussing this morning falls within that part of the M6. I hope that just covers off what the Department's current position is re smart motorway upgrades and this section of the M6 that we were discussing this morning.

298. THE CHAIR: Thank you very much.

299. MS LEAN (DfT): My Lord, moving onto the promoter's next witness. This is Mr Peter Miller, who is the environment and town planning director for HS2 Ltd. He is the promoter's expert witness on environmental matters. It was also a role he performed on this Bill's progress through the Committee in the other House. He performed that role on both Committee stages of the Phase One Act. Mr Miller today is going to cover the environmental legal framework that is encompassed within the Bill, outside the Bill and generally give an introduction to some of the documents and types of exhibits that we will be using during the course of our evidence and touch on a few matters of general policy and approach on the part of the project. Without further ado if I could hand over to Mr Miller.

300. MR MILLER: Thank you. Good afternoon.

301. THE CHAIR: Yes, when you are ready.

Evidence of Mr Miller

302. MR MILLER: Ms Lean has gone through what I'm going to cover today. I'm going to use this presentation to navigate you through quite a lot of information. I've got quite a few slides. Bearing in mind the amount of time that we have I'm going to canter through those and give you an idea of where you can find more information with the information that you've seen to date from HS2. Mr Strachan yesterday highlighted the legal framework for the controls for certain matters that come through this hybrid Bill. There are three pillars to the controls. The first is the controls that are set within the Bill. I will talk a little bit about the scope of works but you can find out a little bit more about those and get reference to those in schedules 1 and 2 of the Bill itself. There are planning conditions at schedule 17. I'm going to elaborate on those, together with bringing to use requirements, restoration requirements and the sort of things that will involve other local authorities and other people who will have a say in the detailed design beyond these proceedings.

303. I'll highlight protective provisions. You've already heard from Mr Smart about highways approvals but there are provisions within the Bill under schedule 4 which take account of those certain matters. There are controls outside of the Bill. I will refer to the environmental minimum requirements. These documents, there are essential commitments that the promoter has made before both Houses on this particular project which satisfy the future controls of environmental matters beyond these proceedings. They include the general principles which I will touch upon, the Code of Construction Practice that you started to hear about. There are various provisions in place for working with local planning authorities, heritage organisations, environmental organisations that form part of those minimum requirements.

304. I will also touch upon the undertakings and assurances. These are particular matters that are entered into by way of agreement with third parties. I'll illustrate where you can find more information about that. To date a number of undertakings and assurances have been entered into through these proceedings to satisfy petitioners.

305. THE CHAIR: I beg your pardon. Where are these information papers to be found? They will be presented to us in due course, will they?

306. MR MILLER: Yes.

307. THE CHAIR: We don't need to see them just now, just to know what they are.

308. MR MILLER: What I will do today is I will highlight some of the information papers that I think are particularly relevant that you would go to in the first instance. On this particular slide, if you look at your screen, you can see in the top right-hand corner I reference IP E1. That's a particular information paper that I would draw your attention to as a Committee to understand further and beyond what I am going to say, what the environmental controls are all about on High Speed Two. So hopefully through this presentation you'll have a quick reference to key information that you can then go to at your leisure or we will refer to in due course when we meet petitioners who come forward in these proceedings.

309. Mr Strachan highlighted the fact that there was existing legislation that is not disapplied by the Bill before you. In particular that includes the Control of Pollution Act from an environmental perspective. I will talk a little bit later about the section 61 process for the control of construction sites. In particular, what happens in respect of noise which has been a particular concern for many petitioners through these Bill proceedings and earlier Bill proceedings on Phase One.

310. The Bill contains a number of documents, not only the Bill documents which describes everything but there are a number of Bill plans and Bill sections. This is a sample, or an example, of a Bill Plan. It happens to be at the top end of Staffordshire and on the border with South Cheshire. What it is showing in very simplistic terms is a description of the railway and how it works with the various bits and pieces of land that we will affect, either permanently or temporarily, by building HS2. In the middle you can see a centre line, a very thin line there. That is a centre line of the railway itself. That describes the railway. You probably can't see that on this screen but in there, I assure you, is a dotted line. That is a tunnel. That is the end of the Madeley tunnel and the tunnel portal site there. Then we have a railway which is described by that centre line which is essentially on a surface route, either in cutting or an embankment or even flat on the ground. It will pass over the Checkley Brook here, which is on a viaduct

structure. You can see just beyond that centre line there is a dotted line on either side. That's a limit of deviation. That's a lateral limit of deviation within which that railway must sit in order to take advantage of the approval that this Bill, or ultimately this Act, will give.

311. We spoke this morning a little bit about the pink areas of land. There are bits and pieces of land that we need to take either for construction purposes or for the mitigation and compensation measures that are required under a Bill such as this. These areas here are what we call limits of land to be acquired or used. They will be variously described for construction purposes or the mitigation purpose. In each one of these parcels of land there is a small reference number. That relates to the provisions within the Bill document itself and the Book of Reference. Each one of those numbers relates to a particular land interest that will be affected by the proposals. Then, through the book of reference in the Bill we're able to identify who that land belongs to and quite often you will see that those people who we are affecting by way of their land, will come forward as petitioners.

312. LORD GODDARD OF STOCKPORT: Could you just help me? What's the total width then, roughly, between of the band where the railway will be? Would that be a mile a side, half a mile a side?

313. MR MILLER: No. The railway formation itself, the two tracks, if you imagine it just on a flat surface, it's probably about 14-16 metres wide. If you then add in a cutting, it will depend on how deep the cutting is. The top of the cutting will be much wider away from that railway formation. Indeed, if it was on an embankment, depending on how high the embankment is, the top of the bank will be much further out. The Bill plans do not particularly describe that but I'm going to come on to a couple of plans now. If I move on hopefully I can illustrate your –

314. LORD LIDDLE: There's lots of different coloured shading. Are you going to explain that?

315. MR MILLER: I'm sorry?

316. LORD LIDDLE: Different coloured shading. Are you going to explain?

317. MR MILLER: Yes, I am. I'm going to take you through that. Mr Smart referred to a CT-05 map. This is a particular map that you can find in volume 2 of the Environmental Statement map books. What it's describing is the temporary situation of the building of HS2. So it's showing the construction state. It's a worst case scenario, so it's the worst case footprint that we can think of for building HS2. It has a number of competent parts. The orange areas of land are the site compounds, actual physical facilities that will store kit and equipment for building and the materials to build.

318. LORD LIDDLE: And are they secure?

319. MR MILLER: They are secure, yes. They have quite secure fencing alongside them. They have things like expensive pieces, diggers and that sort of thing. They contain things like fuel storage and that sort of thing. So you have to look after them.

320. LORD LIDDLE: Yes.

321. MR MILLER: A bit later on in the process we'll have separate compounds for the rail systems. Once the main civil engineering works like cuttings and embankments are constructed, the railway formation is then constructed. So all the tracks, the overhead electrification that sort of thing, will be serviced out of different construction sites. Those are shown with an orange and a hatching. We mentioned this morning that there are sites for the deposition of soils. Some of those will be used temporarily. Some of those will be used for sustainable placement and will be permanently change the height of the land alongside the railway. There are two areas in pink. There's a darker pink, I don't know if you can pick that up; and there's a lighter pink. These show the different areas that are going to be used for woodland planting and mitigation. That's an area like this that I'm showing with the mouse. Then areas for predominantly for construction alongside the railway where you would expect the main works to be taking place.

322. I'm going to move on to the next slide. This is what we call a CT-06 plan. You can find that in the same map book in volume 2 of the Environmental Statements. What this is showing is a picture of the end state of the railway. You can see that having moved on from the very simple centre line of the Bill plan, you can start to see how that, in plan view, that bird's eye view of the route, how the railway might come about in this location. Here you can see dotted lines here, that's the Madeley tunnel. This is the tunnel portal here. There is a cutting dug out of the ground in this location where the

tunnel portal will be. You heard about a porous portal which will be in this location here to help dissipate the noise of the trains as they pass through the tunnels. Then, variously, the railway will be serviced by other pieces of equipment. There will be electrical transformers to enable the power for the electric trains. There will be various other pieces of kit and equipment, I can't read that myself, in there but servicing the tunnel portal.

323. Along the centre line here you can see the formation of the railway in grey. There will be various bridges and various culverts either over or under the railway. Then viaduct structures here as I mentioned before, Checkley Brook. Then there's a lot of mitigation and compensation. There is some woodland planting. Unfortunately we take some ancient woodland in this location but we replace that with woodlands. Our approach is to try and join up existing woodlands in different locations to try and improve the biodiversity because of the railway coming along. We provide mitigation to screen some of the structures and screen the railway itself. So there is a landscape and visual aspect that we are accounting for in the mitigation and compensation design.

324. Where we have viaducts going over waterways we think about the flood plains, what effect we have in those areas and we provide flood compensation measures. I think you heard, for those of you who went out on the trip, one of our engineers talking about balancing ponds. Those are features that are in place to regulate the water which will come off the railway or there may be some intervention because we're putting up a barrier against the general flow of the water regime in the landscape. Then, finally, there will be some areas of wetland and various ponds to help support various species that we effect along the line of the route. Can we move on to the next plan?

325. LORD SNAPE: Before you do, forgive me for interrupting. Chairman, this is a very complex map in front of us. Firstly, I cannot read any of it. Is there anything we can do?

326. MR MILLER: Yes, I don't know if we could zoom out.

327. THE CHAIR: Yes, I was assuming that when we come onto the petitioners you were going to produce things that are much more readable.

328. MR MILLER: I'm going to show you another drawing that we will –

329. THE CHAIR: Right.

330. MR MILLER: As I move on to the next slide.

331. MS LEAN (DfT): If it assists, my Lord, we will obviously provide you with hard copies of the exhibits as well as those on screen. We intend to provide the CT-05 and CT-06 plans in A3 so they'll be much larger scale on the paper copy of what you're being shown on the screen in front of you.

332. THE CHAIR: That would be very helpful. Certainly the hard copies we have will need to be readable by us. That's a bit of a challenge, I'm afraid.

333. MR MILLER: This next slide hopefully goes some way to address your concerns. When we were going through the proceedings in the other place we looked at the number of farm holdings affected by the railway. In fact, you do zoom in on these particular petitioners' land interests. So you do zoom in to those maps which otherwise are covering quite a big area. In this particular instance, we've set out a more detailed explanation of the environmental mitigation, what's going on on the ground here and provided a table of why the mitigation is in place in the locations that are chosen on this plan. Hopefully you will see this on a slightly zoomed in scale as we get to the petitioners. Hopefully that will help you navigate the case in hand. That will come in due course.

334. Turning on to planning conditions, Mr Strachan spoke about the planning regime under the Bill. That is covered by the information paper E1 but I'll point out that there's an information paper, B2, that you might be interested in, which talks in a little bit more depth than I will go into today, about the planning regime of the Bill and what is to come beyond these proceedings. The Bill does provide deemed planning permission. The way I look at that is that the scheme design that I've shown you on those CT-05, CT-06 drawings is essentially an outline scheme design for our purposes through these proceedings. There is a lot more detail to come. Schedule 17 is the place I would point out, the key conditions and matters going forward that will be subject to local planning authority approval. This is something which came through the Channel Tunnel Rail Link Bill. It's familiar territory under the Crossrail Bill and is now adopted through HS2's Bill's proceedings and indeed the Act on Phase One.

335. The planning regime is limited in a way because we're not talking with local authorities about the deemed planning approval aspects because that's already done here. But there are detailed matters that we will be looking into. I thought, if we can, we might just bring up an extract of the Bill itself. If I show you paragraph two. I'm not going to go through all of the Bill but if I take you to paragraph 2(5) in here and then (a), you will see there are bullet points there of one, two and three. You can see that the design or external appearance of the building works ought to be modified to preserve environmental or local amenity. That sets up the next steps for environmental protection. It also sets up next steps for road safety measures as you can see there and maintaining free flow of traffic, which clearly you're interested in and the preservation of archaeological and historic interest sites and nature conservation value where we are able to reasonably make modifications through the detailed design.

336. THE CHAIR: Can I stop you there? For that system to work the planning authority has to be a qualifying authority.

337. MR MILLER: Indeed, yes.

338. THE CHAIR: What is the trigger for that? And will every planning authority throughout the line of route be a qualifying planning authority?

339. MR MILLER: I understand that to become a qualifying authority I think you have to apply and it's through a statutory instrument. I will lean in this direction; I believe that's the case. And so the planning qualifying authority will be accepted or I think they will say, 'We simply don't want to become a qualifying authority', at that point. In my experience on Phase One all of the local authorities have become qualifying authorities because they enjoy slightly greater powers under the planning regime of the Bill and, ultimately, the Act and so it's in their interests to have these powers available to them. And I think that is further elaborated on in information paper B2.

340. LORD LIDDLE: In the areas the line passes through, do we still have two-tier local government? And, if so, are we talking about the county council or the district council being the planning authority?

341. MR MILLER: There are particular measures for the county authority because they tend to have the local highways sort of powers but in the vast majority of cases I

believe it's the district and borough councils that this will most apply. So I will come on a little later to talk about it but we have already set up a planning forum where all of the relevant local authorities are present, county authorities and district authorities, and the terms of their activity going beyond the Bill proceedings have already been discussed on Phase 2A of the scheme. And, as far as I'm aware, there is a great deal of interest in becoming qualifying authorities in this case for the route between Lichfield and Crewe.

342. MS LEAN (DfT): If I can just assist with the legal framework, specification of qualifying authorities is dealt with in part 2 of schedule 17 to the Bill and paragraph 13 essentially provides that on a day after the Act is passed the Secretary of State must by regulation specify every planning authority, which is, I'm paraphrasing, has given sufficient undertakings. Essentially the undertakings –the way the qualifying authority becomes a qualifying authority is to sign the Planning Memorandum, which contains a number of undertakings about how requests will be dealt with.

343. And in terms of that last point about unitary or dual-tier authorities, the Planning Memorandum itself, which I know Mr Miller will talk about in due course, deals in part 5 with which matters are the responsibility of county councils, which are the responsibility of district councils where you have that two tier and otherwise what the situation is for the unitary authorities.

344. THE CHAIR: Can I be sure I've noted this correctly? It's schedule 13 part 2 –

345. MS LEAN (DfT): Schedule 17 –

346. THE CHAIR: 17.

347. MS LEAN (DfT): Part 2 specifically paragraph 13.

348. THE CHAIR: Thank you.

349. MS LEAN (DfT): And otherwise it's part 5 of the draft Planning Memorandum, which is part of the draft environmental minimum requirements, which is a single volume, which I'm sure we can make available to you. It also contains the draft Code of Construction Practice and the draft Heritage Memorandum, which Mr Miller will talk about in due course.

350. THE CHAIR: Thank you.

351. MR MILLER: If we go back to the slides, if we can move on. So here I talk about the Planning Memorandum, which is under the Environmental Minimum Requirements. So those planning authorities that have become qualifying authorities will benefit fully from the planning regime in the Bill and will be able to exert certain controls reasonably when they're dealing with applications that come forward for detailed consideration under schedule 17.

352. The Planning Memorandum is set up. It's an agreement about a way of working. So it is a joint agreement with the nominated undertaker, so HS2 Ltd in these circumstances. Mr Strachan mentioned yesterday that there may be other nominated undertakers, in which case these provisions will apply if, indeed, those nominated undertakers have to get planning approval for certain matters.

353. So we will be working closely with the qualifying authorities. It's in our interests to do so. As we develop detailed plans for the scheme we will be engaging with local authorities, engaging the local people on certain matters and bring those designs to an approval state and enable the building of the railway to take place.

354. I mentioned planning forum. There are various planning forum notes which come along with that forum. Those in more detail describe business, particularly what information is going to be made available and when under paragraphs 2 and 3. We've seen paragraph 2 in schedule 17. And there are also bringing into use requirements; a further and future check about the environmental mitigation that has been provided and has actually incorporated in the scheme design physically on the ground and I will talk about that in a minute.

355. If we can move on. By way of illustration, I've included a visualisation on the right-hand side of this slide and the bottom right-hand side of this slide is an elevation of a viaduct. That viaduct happens to be crossing the Colne Valley to the west of London. It was subject to a schedule 17 planning process and a variety of options were put forward to the local planning authority. This is a viaduct of a length of 3.2 kilometres. It's described as a key design feature under Phase One, there are key design features under this Bill, and that requires particular consideration by the local planning authority and engagement with local people before those plans are settled. And so here the visual

amenity crossing over the Colne Valley lakes is of particular importance, getting the massing of the concrete structure is important and getting the structural form into a shape which was agreeable locally was very important through this process. And, by way of illustration, you can think of these things to come beyond these proceedings.

356. If we can move on.

357. LORD LIDDLE: If there's a disagreement, do you have a right of appeal to the Secretary of State?

358. MR MILLER: We obviously try and avoid a disagreement by having as much early activity with the local planning authority as possible. So here, on that particular occasion, I understand that there was a disagreement about some of the options that were put forward but there are good reasons for doing some of the things that we need to do within a structural design for holding up a railway with lots of passengers on lots of trains passing over the top of it. So there are some structural issues. And then there are the aesthetic issues to be taken into account. And so there is a bit of a balance and if you've been involved with other planning processes they do get worked through. And, as I said in my presentation here, the key to this is to get the pre-application work done effectively and as early on as part of the detailed design process as possible.

359. If there is recourse – yes, I think, ultimately, it would have to go back up to the Secretary of State if there was an impasse.

360. MS LEAN (DfT): If it assists, again in schedule 17 part 3 of the Bill paragraphs 22 to 25 make provision for appeals by the nominated undertaker if they are aggrieved by a decision of the planning authority on request for approval.

361. LORD LIDDLE: Thank you.

362. MR MILLER: I think we can probably move on with the slides. I'm going to try and canter through the next few slides because the bullet points on the slides should give you a quick guide to what's happening in each of the paragraphs under schedule 17. I'll pick out some highlights.

363. The first one is that there are some class approvals for certain construction arrangements. They are listed here. The Secretary of State will consult with all the

local planning authorities along the line of the route on those matters and will aim to settle those matters as a class approval through that process. And then that will mean that all of these matters are commonly understood and common plans for how we're dealing with work screening, artificial lighting and so forth can be dealt with effectively almost as a job lot going forward and we save time in our schedule and save time with planning authorities who can concentrate on other matters.

364. If we move on. There are three residential accommodation sites allowed for in the Bill. These are sites where workers may stay overnight to enable the construction of the railway, in which case these facilities will always require site-specific approval from the local planning authority to make sure we get that right when those people are entering the local community and become part of the local community for the duration of construction.

365. LORD SNAPE: Can I just ask on that one? How many people are we talking about here of the workers who'd live on site?

366. MR MILLER: I can only imagine that at its peak it would probably be round about 100, maybe a couple of hundred on one of these construction camps. We can probably check that for you through the Environmental Statement. We can give you an update. It's becoming less and less of a thing on construction sites. People do tend to sort of come in and, as Mr Smart said earlier on today, people tend to sort of live close to the construction work, albeit temporarily, and then arrangements tend to be for staff to be bussed into those sites and then get on with the construction, having lived away. But I think it's important I point out that there are provisions within the Bill that will enable site accommodation to operate.

367. Road transport. You heard from Mr Smart about large group of vehicle movements. I'm not going to dwell on that.

368. If we move on. Borrow pits. These were mentioned this morning. Did you want to bring up – you asked a question this morning about how would these borrow pits be excavated. I think Mr Smart identified one way of restoring those sites potentially back to possibly even a lake but, if we can bring it up, I was going to show you an extract from the Environmental Statement. In large parts those borrow pits will be restored back to their original use, so back to agricultural land. But during their operation the

plans for their operation will have to be approved and the arrangements for noise, dust, vibration, screening, that sort of thing, in much the same way as we have to get approval for those types of measures for the construction of the railway or, indeed, other people have to get those sorts of things approved for quarrying types of operations. That will all be included as part of the plans.

369. In the Environmental Statement here is a diagram, a sequence of the ground being cut out. So we will take out the topsoil and the subsoil layers. We will store those locally and that will be equivalent to the brown areas that I've shown you on the plans. So we will retain those soils for use for restoration later on. Then we get down to that sort of very light brown area, which is the material that the engineers want to win from the ground, the gravels and the sands. They will then dig that out and then they will replace that material with material that is being taken out of HS2 elsewhere, which is unsuitable for the railway, to fill back up that hole. And then, ultimately, that hole will be covered over with the soils and top soils and regraded back to agricultural land.

370. So, hopefully, that gives you a sort of visual reference to how that will work. And, depending on the borrow pit site, they're varying in area. We also know that they vary in depth of the material that can be won. Mr Smart indicated we're doing some further work on that. If we find that we've got a greater depth of good material we may be able to shrink down the area of land that we will be using temporarily.

371. I think we can move back to the slides. So the restoration will be agreed with the local planning authority in much the same way as a quarry operator would deal with the restoration of a quarrying site. Similarly, construction sites will be restored back to their previous use.

372. If we can move on to the next slide.

373. THE CHAIR: Does a member of the public have an opportunity to make representations to the planning authority in this process? Or is it entirely a discussion between the promoter and the authority?

374. MR MILLER: I think with the restoration of the land, particularly if the existing landowner is still in situ, if you will, then that landowner will be consulted first about the restoration of that land. I will talk a little bit about the Farmers and Growers Guide

later on, particularly measures that we have in place for managing a portfolio with farmers. But, in those circumstances, we will be talking with the landowner and whoever farms the land before we actually get the final approval from the local planning authority. And we're expecting, in those circumstances where it's restored to agricultural land, that that will be non-controversial. We think that will just run, be accepted.

375. I mentioned bringing into use – if you take yourselves to paragraph 9 in schedule 17 in the Bill there are various approvals that have to be got much later on in the process and after the construction has finished. This is broadly to satisfy the local planning authorities that the promises that have been made by the nominated undertaker for the mitigation, compensation works, planting, noise barriers, the effectiveness of noise barriers in particular, have all come good in the design and before we get approvals to operate the trains over the tracks. I will return to the point that this idea of progressive engagement is absolutely vital. So getting on with good engagement with local planning authorities, those who are going to approve these works, to satisfy them that the end product is going to come good as early as possible as part and parcel of this process.

376. I think we can move on. We have to, as nominated undertaker, provide a schedule of when all these schedule 17 arrangements are going to come about. We have a service level agreement, or we will have a service level agreement in place with local planning authorities and we will pay for their time in pre-application and through the processing of the applications for approval of each of the schedule 17 arrangements. And so it's very important for us to give a very clear indication of what is planned, what is forthcoming, so that local planning authorities can plan their time and they can understand how these works are actually going to come about on site.

377. I think we can move on. The temporary possession of land. I showed you the dark pink areas on the construction plans and quite a lot of that land will not be required for the railway purpose. And so schemes of restoration or, indeed, the hand-back of mitigation works like planting, possibly some earthworks, that may be agreeable for local landowners. And so the idea is that where we can, and where we can avoid taking land, permanently acquiring land, that there are provisions under the Bill that enable us to, in effect, borrow the land and then return it back to its former condition.

378. So I think we can move on. There are a variety of protective provisions. We all enjoy various utilities in the country. There are various features of the landscape that need protecting and I think we're all aware of flooding issues at the moment around the country. And so the Bill, through protective provisions, takes account of these sorts of matters and so we have to be very clear, if I take the middle one as an example, how we affect the drainage, storage, flows of water and that sort of thing and that we agree those arrangements with the Environment Agency, local drainage authorities, local flood authorities as well to make sure that we're doing the right thing locally as the railway comes along. So there a number of protective provisions for the water and similarly for the highways to make sure that they enable the free flow of traffic.

379. So if we can move forward. I just spoke about the Environmental Minimum Requirements' General Principles. That's contained within volume 5 of the Environmental Statement, that draft. The reason why it's draft is that it is a changing world out there and there are a number of things that have been taken into account. And I think the question yesterday was why is this still in draft because we've got one on Phase One? There are certain matters that have been adjusted through time and one, in particular, is where we've just supplied the building regulations for demolitions and it has been identified that there is a gap in this application that we've had to put back something with the Code of Construction Practice to make sure that the plans for demolition are properly accounted for by local planning authorities. So the Code of Construction Practice has dealt with that matter in particular. There are a couple of other adjustments that have been made to the Code of Construction Practice and it has moved on in time from Phase One.

380. MS LEAN (DfT): Mr Miller, just picking up there and specific questions that were raised yesterday, that change you were just talking about, about inserting provisions to deal with the building regulations disapplication, is that a change that's been made after this Bill has been deposited before Parliament? Or is that a change that was made between Phase One and 2A?

381. MR MILLER: It's between Phase One and Phase 2A.¹ Sorry, when you go to the environmental minimum requirements there are general principles. The nominated undertaker, HS2 Ltd and its contractors are contractually bound to deliver the environmental minimum requirements and I think, as Mr Strachan alluded to yesterday, these are very important commitments because they work on the basis of the speed design and the environmental effects that are reported in the Environmental Statement. So there's a link between what's before you here through these proceedings and how we're going to control the environmental effects of the scheme going forward. So the environmental effects of the scheme reported in the Environmental Statement should not be exceeded. There are provisos around that that were mentioned yesterday. But we should also be using reasonable endeavours, and this is the point about moving from an outline design to a detailed design, to take the opportunity to adopt further mitigation measures that will further reduce the adverse effects that are currently reported in the environmental statement. And the Environmental Statement takes quite a precautionary approach around the environmental effects of the scheme and we're fully expecting that the effects that have been reported will be further reduced in due course.

382. THE CHAIR: Can you explain the first bullet point on that slide a little more fully? The contractors are contractually bound to the promoter, are they?

383. MR MILLER: They are. So the nominated undertaker has to ensure that the environmental minimum requirements have been satisfied. The nominated undertaker isn't the builder of the railway itself. So we, as an organisation, have to contract with fairly large construction industry builders, the likes of Balfour Beatty and Kier and those sorts of organisations that you've probably heard of in the press. So those contractors will actually do the works out on site and it's us – in a way we're the ultimate regulator in this process to ensure that they deliver on these commitments because the contractual arrangement that we have with Government through our development agreement is basically a seamless process. We are contracted by Government to actually deliver the

¹ Correction supplied by HS2 Ltd after the meeting: the changes to the draft Code of Construction Practice in respect of disapplication of building regulations were made after the deposit of the Bill. The other adjustments, referred to in paragraph 379, were made between Phase One and deposit of the Bill.

product and that product has got to be delivered in a certain way and that certain way for environmental protection is set out in the environmental minimum requirements.

384. THE CHAIR: Thank you.

385. MR MILLER: I think we can move on. We talked about the Code of Construction Practice. We touched on that at length. I think that one of the things I wanted to highlight was the fact that we have a local environmental management plan, which will come out of the Code of Construction Practice, that there is a systematic way of working that is controlled under standards and regulations. That's built into the contractual process. It relates back to the environmental minimum requirements and ensures that all of those obligations are carried out effectively.

386. I should perhaps mention, because I've mentioned it several times now, the section 61 process under the Control of Pollution Act, that point where we don't just disapply the – sorry, Control of Pollution Act. Under section 61 of that Act we will seek prior consent for the construction works and, in particular, how we are going to go about managing those works to reduce the amount of noise that comes from the site. So we will be employing what's called best practical means and broadly what that means is the best available technology for plant, machinery, the ways of doing things to try and protect people to best effect when the works are actually happening outside their front door. And that section 61 process is part of the local planning consent process and we will have to produce information to satisfy the local planning authorities that the best practical means that will be employed is satisfactory from their perspective and we will not start any construction works until that section 61 consent is in place and has been agreed with the local planning authority. That's not to say that things might go wrong on site and sometimes they go wrong but there are measures for dealing with that as well. So if it suddenly got noisy then we're monitoring out on site, we can talk to the local planning authority and we can resolve matters when we're actually out there building. But the section 61 consent is there for controlling those measures.

387. MS LEAN (DfT): Just picking from that last point, Mr Miller, I think a query was raised yesterday around compliance with the EMRs and what happens if there seems there isn't compliance with the EMRs. Is that something you're able to assist with?

388. MR MILLER: Yes. So, in the first instance, it's the contractor's responsibility to

provide redress for anything that might be going wrong on site. So they're contractually obliged to look into those sorts of matters and resolve those matters wherever they can. If there are matters which escalate for whatever reason and there may be disagreement between the contractors and possibly the local planning authority, environmental health officers, for example, then those matters can be escalated to HS2. HS2 has to act and will have to instruct its instructors to either stop doing the noisy works or do things in a different way. Failing even that, those measures could actually be called in via the Secretary of State. That's really a point of last resort, I would suggest, but that is the sequence of dealing with things which become problematic on site.

389. MS LEAN (DfT): Mr Miller, I think you've talked about information paper E1. I hope I'll be forgiven for leading this, there's more information at paragraph 2.8 of information paper E1 which talks about situations where it's felt a contractor undertaking works authorised by the Bill is not meeting the requirements of the EMRs and the last bullet point, Mr Miller, is the one point you didn't raise, talks about being able to report it to Parliament in the absolute last case scenario.

390. MR MILLER: We really don't expect to be going there and that is the ultimate recourse. Yes, I think that might be a career-limiting moment if we found ourselves in that situation.

391. MS LEAN (DfT): Mr Miller, just finally in this context, Mr Strachan referred yesterday, I believe, to the Construction Commissioner. Are you able to just assist with that?

392. MR MILLER: Yes. The Construction Commissioner is in place to help, in some ways understand better what may be becoming problematic out on site and then during construction. So there is a further point of escalation and mediation with I think it's Sir Mark Worthington has been appointed on Phase One, I don't know if he's going to do Phase 2A, but there is a further point where mediation can take place with an independent person acting on behalf of the Secretary of State.

393. MS LEAN (DfT): I think, Mr Miller, again we have an information paper dedicated to the Construction Commissioner. It's Information Paper D4 just for the Committee's note.

394. MR MILLER: Thank you. Okay. I think we can move on.

395. THE CHAIR: The slide you have as D3 on the screen before us doesn't actually match the paper in the file. Were you aware of that?

396. MR MILLER: Oh, I'm sorry, I don't. We'll correct that and make sure that we've written to you and –

397. THE CHAIR: There's rather more information given in my copy of D3 about the general requirements and site-specific requirements which don't seem to appear on the document that you have on the screen.

398. MR MILLER: Right. Okay.

399. THE CHAIR: But it's self-explanatory. It's fairly obvious the site-specific things include protection of trees, dealing with invasive species and things of that kind.

400. MR MILLER: Yes, indeed. I think if we can move on to –

401. THE CHAIR: That's it. That's the one. Yes.

402. MR MILLER: Right, yes. Forgive me and thank you for pushing the slides along as well. That's really useful. So yes, indeed, there are site-specific measures and things like dust and air quality are clearly important matters that are controlled through the Code of Construction Practice. You will probably have seen various lorries moving around town in your local area. They tend to have a netting to cover them so that avoids dust from vehicles. We control air quality by policies that we have in place to include what's called Euro VI lorries as part of our scheme so that we have the best engine technology to avoid diesel fumes and that sort of things entering the atmosphere. And, indeed, we're encouraging low-emission vehicles, electric vehicles, all the way across the project. And you're right. There are other measures in here that deal with more local matters that are of particular concern to local communities and I've mentioned best practical means for noise and vibration and workforce travel plans have come up through the proceedings today.

403. MS LEAN (DfT): I think you've already taken us through the Planning Memorandum so are we able to skip over this one to heritage and environmental?

404. MR MILLER: Yes. So under the Heritage Memorandum, in a same way to the Planning Memorandum, we talk to the local planning authorities and Historic England and have an agreement with them about how we're going to work for the protection and recording of heritage assets that we affect, whether that's archaeology or excavations and the things that we find and we archive those or, indeed, if we do have to take down listed buildings how we end up recording those so that we can gather as much knowledge from our actions as possible before those features are ultimately lost or, indeed, given up to archives, as I say.

405. And then, similarly, we have an Environmental Memorandum. This help us set up what we call the National Environment Forum and includes the statutory agencies, which, indeed, also include Historic England, but the Environment Agency and Natural England, who we work very closely with. We have service level agreements with each of those organisations so that they can advise us very directly. It's a very big enterprise HS2 and we touch the environment in a number of different ways, whether that's the water environment, woodlands, that sort of thing or, indeed, the historic environment. Getting that right and getting good practice in that is all set up through this process and it enables us to speak about policy matters with other government departments. And, indeed, more recently we've included the Forestry Commission as part of those plans. So all of this is geared up to getting best practice in for environmental protection.

406. So, moving forward, the last thing on environmental minimum requirements I wanted to mention was the undertakings and assurances. I've highlighted those by way of individual agreements that have been entered into, largely with petitioners who have come forward as part of these proceedings. And there is, indeed, a published register of undertakings and assurances. You won't be able to read that extract because I can't read that extract either but on the website, we've the reference there, that register records the details of those agreements that have been entered into to date and they have satisfied individuals and organisations about how we're going to do business with them going forward. And, in a lot of instances, that's offering a lot of protection and reassurance that we are going to do the right thing.

407. MS LEAN (DfT): Just for the Committee's note, where we have offered assurances to a petitioner previously or where there are assurances that have been offered, for example, to a county council that are relevant to an issue that a petitioner

raises we will make sure that copies of the relevant assurances in a legible letter form as opposed to an extract – we won't be giving you an extract from a spreadsheet. We'll make sure you have copies of the relevant assurances included in your exhibit packs as each petitioner comes through.

408. THE CHAIR: Yes. That would be very helpful. I hadn't realised that assurances would be given to the county council as well as to individual petitioners but that is the system, is it? You can give assurances to either side or both, possibly.

409. MS LEAN (DfT): To both, my Lord. There are sort of general assurances or assurances of a general application. So certain commitments that are set out in information papers are recorded on the register of assurances and undertakings essentially as a commitment that's been given generally. There are assurances that are given to certain representative bodies, such as county councils or National Farmers Union, which are of wider application and go beyond one individual. And then there are the assurances that are given to individual petitioners as well. So they could be given to a number of different bodies of different types.

410. THE CHAIR: Can you explain the process if the Committee were to take the view that another assurance was required to deal with a particular problem? If we say that an assurance should be given what happens then?

411. MS LEAN (DfT): My Lord, the promoter will always take on board certainly any indications or views expressed by the Committee during hearings because we're very conscious this will ultimately result in a report from yourselves making recommendations on the Bill. And, obviously, where it's possible for the promoter to address concerns through an assurance or through an undertaking then it will endeavour to do so.

412. THE CHAIR: I suppose it's possible you might volunteer to meet a problem by undertaking to give an assurance.

413. MS LEAN (DfT): Indeed, my Lord. And I hope I'm not going too far by saying that since petitions have been deposited with the House, that process has been ongoing so assurances have been offered and given since petitions have been deposited with a view to addressing things that have been raised and, in some instances, if it's not

possible to go perhaps as far as a petitioner is asking for or to deal with the matter in a way they request, to see whether an assurance or an undertaking can be offered that either achieves the same result or goes some way to try to address that. So yes, that is something that we try to be proactive about trying to address matters that we can through offering assurances and undertakings rather than having to wait to be directed to do them by your Lordship's Committee.

414. THE CHAIR: Good. Thank you.

415. MS LEAN (DfT): And, Mr Miller, I think you've covered off existing legislation so would this be a convenient moment to move on to the principles of environmental design?

416. MR MILLER: Yes, I can move on to the next one. Mr Strachan yesterday highlighted a very simple diagram of the mitigation hierarchy. I just wanted to highlight the detail that does sit behind that and there are a couple of more steps to it. Very early on in the process when we were looking at route optioneering, for example, we included environmental matters in our considerations for locating the route and we have endeavoured to avoid environmental features along the way. That's not straightforward by putting a long railway across the countryside. We then subsequently reduced the effects of the scheme that's before you and that is indicated by the mitigation and compensation in the environmental statement. There are measures in there too about abating things like noise coming from the operation of the trains, noise barriers and so forth. And then I've talked a little bit about restoration. So there's some repair that comes along with all of this. And, indeed, it may be that going forward in the detailed design we can find other opportunities for making improvements in the natural environment within our scheme design. And then there are measures for compensating for the losses. Those include things like compensation for ancient woodland losses and, indeed, and I'll come on to it, we have a number of funds associated with HS2 that will enable further woodland to be provided and further support for local communities along the line of the route and to have some say in what happens to their local patch.

417. Through the design you saw the plan view, the birds-eye view, very early on in this presentation. This is a slice through the railway, so a section through the railway, and you can see the two-track railway to the right-hand side of the diagram. And if you

follow the numbers and work your way out in this particular example we show that you can screen the railway by building up excavated material and possibly from cuttings elsewhere along the line of the route. You could possibly put in a noise barrier to screen noise. But earthworks and noise barriers both effective for reducing the effects of operational railway noise. You can see that there's an opportunity for putting in a boundary fence at point 7. And then when you look across that whole green section you can see that, although we might have taken the land for construction or environment purposes, quite a lot of that land becomes available to go back to the original landowners. And, indeed, if you look at point 1 on the plan and then think about the cross-section described by 5, you'll see that the railway formation itself can be really quite small but our effect on the landscape in some ways can be quite big. And, hopefully, you'll have seen how that comes about in the plans that I showed you a little earlier on. But it is true that there are plans in place so that we can screen the railway. So that vertical dimension is vital in the consideration of the design. That's important for people where they live and it's important for thinking about how we integrate the railway with the existing landscape.

418. So I think we can move on. Of course, a lot of people will say that we are creating a barrier and in some ways the railway does provide a barrier but in other ways it still offers up the ability along the line of the route, in particular for species that enjoy the countryside. We have almost six kilometres of the route which is on viaducts in this Bill. The viaduct will pass over the ground on a structure that will provide opportunities for species and, indeed, people if they're using roads that we're crossing over or people who are using canals and that sort of thing, to get beneath the railway. There's a small amount of tunnel that we have seen earlier on today and, again, that offers opportunities for species to pass over the railway. Indeed, there are bridges along the way. We have some green bridges, which incorporate grass and shrubs and things like that. They all provide pathways for species where we know that they are crossing in certain ways across the landscape that we're going to interrupt.

419. LORD HORAM: Are these pathways – how usual is it to have green bridges?

420. MR MILLER: They were incorporated on High Speed One down in Kent. I think there were three of them in the Gravesend area. I think that was probably the first time they were being incorporated in a railway in the country. They're more frequently used

in Europe over roads, over motorways predominantly.

421. THE CHAIR: Are they open to the public? Can the human species walk over them?

422. MR MILLER: Yes. We tried to put them in with a dual use. So where it's commensurate with a footpath then we'll try and green that up so that you have a footpath and a greenway for the species to pass across. So yes, we do try and double up if we can. There is an example – no, we haven't got it – the National Trust have one down in Kent which is used for a road, a pathway and for helping species cross over a new road in –

423. LORD HORAM: Between the two parts of the National Trust property.

424. MR MILLER: Yes, it does, yes. So it provides that link, albeit that there's a brand new road for the local community which has been put through their land. So these features are becoming more and more frequent in this country.

425. There are a number of underpasses and there are a number of smaller culverts and a number of those have been designed where we know that there are pathways for bats, pathways for otters, otters range over an area of 10 kilometres or more, so we don't want to disrupt those pathways for those sorts of species and, indeed, water voles have cropped up on this particular part of the route and we've been able to accommodate all of those species in one way or another. So we haven't limited permeability for key species in the country and, indeed, we're trying to encourage that as part of a broader range of mitigation measures as well as putting things lineally along the length of the railway.

426. THE CHAIR: Can you just explain how this works during the construction phase? I think the pictures we've been given on this slide show the position after completion and I fully understand that but obviously there's an interruption of passage while the works are going on. Is it possible to maintain permeability during construction?

427. MR MILLER: Yes. I think my answer to that is that the construction will not be taking place in all locations at any one time. So you heard from Mr Smart about the

tunnelling activities. Those are of long duration, so they will get started earlier and they'll finish late in the programme. So in those areas we won't be able to accommodate the permeability for species but that doesn't mean that those species can't get around those construction works. So, in a way, it's a function of how the works actually come about. The permanent situation does provide the best opportunity and I think that during construction, once we put the fence lines up, there will be some restrictions on the transit of things like deer, like badgers so they won't be accommodated across the treads. When it comes to things like badgers, we will look at their setts very carefully along the line of the route and, as part of the licensing arrangements, we will have to exclude them from their setts and, in a way, move them on. So they will be pushed out temporarily to different areas. They'll have to move on if their setts are in the way of the railway or, indeed, the construction.

428. So there are a number of things that are being deployed to protect those species in the best way that we can and I can't guarantee that we'll ultimately get the full permeability of the railway. But I do think that the main answer for that is the way that the works come about because we won't be affecting all locations at all times.

429. Okay. If we move on.

430. MS LEAN (DfT): On the slides you talked a little about connectivity when we looked at the slides right at the beginning.

431. MR MILLER: Yes. I think I won't dwell on this, then, but I wanted to highlight the fact that here is a particular area of ancient woodland. You'll hear about this from the Woodland Trust. It's the area – it's a woodland that we affect most on Phase 2A of the scheme. It consists of an ancient woodland and it also includes a plantation of ancient woodland as well. So either the wood itself has been around since 1600 or, indeed, the woodland has been managed and is recognised to have been on the earlier plans as managed woodland since that time. There are a couple of things that are going on on this plan. Firstly, just to the right of that woodland, this is Whitmore Wood I'm talking about, this area of land here is identified for soils translocation from this woodland. So where we affect the woodland we'll move the soils over into this patch here. The idea of that is to retain as much biodiversity as possible from the ancient woodland and try and recreate the characteristics of the soils from that ancient

woodland. We accept that we can't replace the ancient woodland, because once we have taken it down it's gone, but we'll try and do our best with the soils as a medium to help promote the biodiversity. And then, further, we will do some enhancement in the woodland itself. And then you can see all of these different other woodland here, which stretch out and link up with these green areas and those are existing either remnants of ancient woodland or, indeed, Hey Sprink here is a fairly big ancient woodland that's nearby. And the idea is that we create a lot of connectivity by linking woodlands with new woodland and provide different opportunities from that that was originally part of this woodland down here where the railway's going to go but provide for different opportunities for species going forward as part of our plans. So we're doing the best we can to provide compensation.

432. I think we can move on. We may get onto a visual amenity through these proceedings and in the map books in volume 2 you will see that there are a number of photomontages and in this instance, this is a view from Cromwell Close in Hopton, and it's a summer view. The top view, this sort of exploded view of the photograph, shows the existing view from that particular viewpoint. And then if you look, and hopefully it will be quite difficult to see because we think we've done a good job of screening, you'll see two markers: Hopton South cutting and Hopton North cutting. And you'll see some grey sort of patches in the middle just in here and that is the tops of the cuttings of the railway formation, where the railway will pass. And I think it just passes on a surface route just down in this location here. So the aim here is to show that the railway can be accommodated within the landscape. And, actually, thinking about the landscape form itself is very important with a linear feature because you have sort of a rolling landscape that we're passing through. It variously passes through cutting and banks, as I've shown on the plans, but that affords opportunities to dig the route down and put it into the ground where there are cuttings. And in here, where we're a little bit more on the surface, we're providing planting and so forth to actually screen the railway. And, of course, people have different views about what it actually looks like. This is a verified viewpoint and this follows the Landscape Institute's practice for doing this sort of thing. And no doubt we'll have views that come forward from different petitioners in the proceedings. But that information is available to you.

433. Ancient woodland I've mentioned but I just wanted to flip on to say the extent of

the response that we had for ancient woodland set out in the Environmental Statement. Overall on this route there's 9.8 hectares of ancient woodland affected. Not all ancient woodlands are taken so where we affect ancient woodland as part of those woodlands that are taken and I've just shown you the Whitmore Wood, which is the worst affected by way of area taken and, indeed, we're not taking all of that either. But in compensation within the scheme design, so within the boundaries of the scheme design that I showed you earlier, the railway and the limits of lands to be acquired are used for accommodating 78 hectares of new woodland planting in response to the ancient woodland losses.

434. I've mentioned the retention of the ancient woodland soils. We do that as part of best practice. I know other organisations have different views on that. I don't want to steal their thunder when they come in. And then we're also enhancing ancient woodlands along the way, along this railway.

435. We also have an additional woodland fund. So in the proceedings on Phase One we introduced a woodland fund to help further compensate for ancient woodland losses and on Phase 2A of the scheme that amounts to £2 million for additional tree planting. I have included on this slide how we're getting on with the woodland fund on Phase One and of the first £1.2 million that's been invested through the Forestry Commission, they're running the scheme of additional woodland planting through the woodland fund, they've managed to get farmers on side through that first £1.2 million to enable a further 103 hectares of new woodland and 63 hectares of intervention on plantation on ancient woodlands to take place. And we think there's going to be more and more to come. So there's a package of measure that we've entered into to help protect and compensate ancient woodland losses.

436. THE CHAIR: What enables a woodland to qualify as an ancient woodland?

437. MR MILLER: It's the fact that it appears on the earliest maps and they date back to 1600. So, basically, those woodlands which can be identified time and time again over that period of 400 or so years so those are deemed to be ancient.

438. THE CHAIR: So it's not the age of the trees. It's simply that the land itself has always been occupied at least since whatever it is, whatever the date is, by woodland.

439. MR MILLER: That's right. And then the plantation of ancient woodlands, some of you may be familiar with coppicing woodlands for taking timber out of woodlands for tools and fence posts and that sort of thing. Coppiced woodland or plantation ancient woodland quite often has been there for that period of time and, no doubt, has been there before maps were more readily available. So they're pretty well known. There's an ancient woodland register which is held by Natural England. The Woodland Trust challenges us on our plans because they have ideas about what they think ancient woodlands consist of and whether we've counted all of them in or not. And through the process of environment assessment on this project we've listened to what the Woodland Trust has said, they've come up with a list of additional woodlands that they believe are candidate ancient woodland, and we've, indeed, taken up the historic provenance of those plans that the Woodland Trust have put forward and we've tested that out with Natural England. And, indeed, some of those plans have actually then found their way onto the register and then we've taken them into account as ancient woodland through the assessment work. So, hopefully, in the practice of dealing with ancient woodlands we're being open and as effective as possible.

440. LORD LIDDLE: Do ancient woodlands have some sort of statutory protection which other woodlands don't? Just explain that to me.

441. MR MILLER: No, they don't. They really only have statutory protection if they've got some other local designation associated with them. I don't know if you –

442. MS LEAN (DfT): I think it's not statutory but there is specific provision made about ancient woodlands in the National Planning Policy Framework, for instance.

443. THE CHAIR: So it is recognised term of art in –

444. MS LEAN (DfT): It's a recognised 'designation', if I can put it like that.

445. LORD LIDDLE: But there's no sort of consent procedure which is required before you touch it, as it were.

446. MR MILLER: The planning framework sets out the guidance about how to handle ancient woodland.

447. LORD LIDDLE: Yes, I see.

448. MR MILLER: But sometimes you do see ancient woodlands associated with sites of special scientific interest status as well.

449. LORD LIDDLE: Right. That is a statutory thing.

450. MR MILLER: That is, and so there are sometimes where that's commensurate.

451. LORD LIDDLE: But that doesn't apply to any of the things we're likely to have before us.

452. MR MILLER: No.

453. MS LEAN (DfT): The only qualification I should have made is some areas of ancient woodland or trees within ancient woodlands might be subject to what are called tree preservation orders, TPOs, which is a separate regime under the Town and Country Planning Act 1990. So if they have sort of order on them then that tree or those groups of trees will be covered by the provisions from the Town and Country Planning Act.

454. LORD LIDDLE: Is that mainly an urban thing?

455. LORD HORAM: Yes, I think it is, isn't it.

456. LORD LIDDLE: Mainly urban, yes.

457. MR MILLER: Just the writing on this slide which is a sort of screenshot of the front page of the ancient woodland strategy, we have an ancient woodland strategy. Each one of the woodlands that we affect has a particular plan associated with it where there are donor sites for translocating ancient woodland soils. That's accounted for in those plans. So there's an individual plan for each ancient woodland that we affect and the donor sites that we have in support of compensation.

458. MS LEAN (DfT): I'm conscious of time and I'm conscious that slide 38 is illustrative about what we do. So unless there was something specific you want to speak to that you don't think we may cover when it comes up with petitioners –

459. MR MILLER: I think the only thing I would say on this slide is that the project is committed to site monitoring the effectiveness of the ancient woodland soils' translocation because there is a difference of view about the effectiveness of this and we

are carrying out studies and those studies will take us to 50 years from now. So there is a long-term commitment associated with this to try and get behind the science of ancient woodland soils' translocation.

460. THE CHAIR: It is a feature of some landscaping schemes that what you get up and down the country and lots of lots of plastic things with nothing inside them because the trees have died out. And a follow-up is very important to make sure that they actually take. You're undertaking to do that, are you, to monitor to be sure that they actually do –

461. MR MILLER: Yes, that's right. And it will progressively – as the trees gain maturity there will be less to do in the future apart from sort of maintenance around those trees. But making sure that those trees are nurtured well in their sort of formative years so they can actually create the right woodland, that's the key thing for the early monitoring and maintenance. So yes, we will be looking into that very carefully. That does come back to the point about how we control things and, obviously, as we put the trees in the ground or try to put the trees in the ground we'll come back to that bringing into use point where local planning authorities will be keen to make sure that, however those contracts have left the woodland planting and there might be saplings, that they have been looked after well and that they are, indeed, going to be looked after well going forward because they have a mitigating effect, either to the benefit of species as part of the biodiversity kind of plans or, indeed, they're going to ultimately provide the right screening for the visual amenity along the line of the route.

462. LORD LIDDLE: Have your plans been verified in any way by an academically independent environmentalist?

463. MR MILLER: Well, first of all, we have our own specialists and those specialists all come from and have associations with their recognised industry institutes. So that's our starting point. I've mentioned to you that we have the National Environment Forum. So we have direct contact with the Government's advisor Natural England and, indeed, the Environment Agency have an interest in the water environment. So we have a lot of expertise that we can call upon there. A lot of this is controlled through the licensing arrangements and you've seen that the control of the amenity through the schedule 17 arrangements the local authorities have a look-in at a point. So there's a lot

of control around this that goes beyond the HS2's plans to make sure that this all comes good.

464. And we do talk with the non-governmental organisations, like the Wildlife Trust and Woodland Trust, and they have a forum called the Ministerial Environment Round Table meeting where we, as HS2, meet with government departments and the minister to talk about these sorts of matters. So these environmental issues are taken very, very seriously on this large-scale project.

465. THE CHAIR: Now I know you're anxious to make progress, Ms Lean, but where are we now? We're just about finished, are we?

466. MS LEAN (DfT): That takes us to the end of ancient woodland, my Lord. Mr Miller, I was going to say I think slide 40 is a general statement of HS2's environmental policy and objective commitments. Could we leave that one there and move on to the two more substantive environmental issues, which we have a slide on, no net loss in biodiversity and the green corridor?

467. MR MILLER: My screen's gone down, by the way. Can you see your screens?

468. LORD LIDDLE: No, it's lost. No signal now, at least in my case. We've got it in front of us. We do have the papers so it's not absolutely essential.

469. MS LEAN (DfT): My screen's working.

470. MR MILLER: No, it's fine. We can continue. I'll just highlight a couple of key things from our policy. Firstly, our policy for biodiversity is to ensure that there's no net loss to biodiversity. Hopefully you've got a flavour from what I've just said to you about the extent of the response for ancient woodland that we take these matters very, very seriously. But we do have this commitment that the legacy of this project is that we will not cause any no net loss to biodiversity as a result of our plans. So that's what's included in the Bill scheme.

471. If I move on to the next slide, I talk about green – on your next paper slide you'll see that I talk about the green corridor. Do you have that?

472. THE CHAIR: Yes, we do.

473. MR MILLER: Okay. And in here this is, in a way, a summary of some of the things that I've said to you about encouraging connectivity, not just alongside the line of the route but also away from the route and connecting existing woodlands and that sort of thing that I showed you just now.

474. I mentioned also that we have a number of funds along the way and on this particular plan I'm showing that we have a particular fund in the Trent and Sow area that I believe you visited – I think you were near the café and the canal just the other day, and in that particular location we have a fund which is up to £1.5 million, which is to enable the further integration of the railway into the landscape from the perspective of the likes of National Trust and other interested organisations and landowners.

475. You can see, on this plan, that we've shown on a bird's eye view what the landscape plan might look like, and also where we think that the various funds might have a further and greater impact across the landscape. So I've talked to you about woodland funds, so that has a further influence, and I will talk to you shortly about the community and environment fund, which will enable local communities to have more of a say in what goes on locally.

476. I think I can move on. I just wanted to comment about climate change. First of all it's probably worth reminding you that ultimately this is an electrically powered railway, and government sees this railway as being a cornerstone for developing its plans to get towards a net zero outcome in 2050. I should say that we are doing some work to see whether we can get the railway to be even more efficient from day one, but it depends on how the power to the electricity grid delivers the power to the railway. So we will track improvements as the grid improves. But we have included climate change – factored, that into our scheme design, and that's come about in a number of ways. We protect the railway from extreme flooding events, we protect the wider environment from extreme events that are known about and peak river flows. I said earlier on, you know, that that's at the forefront of our minds at the moment with current flooding events that are taking place around the country. So it's something which is absolutely at the forefront of our minds, that we've got to get this right in the design and, indeed, even our planting plans and the provenance of seeds for planting take into account climate change following Forestry Commission guidance, and we will collect a certain degree, I think it was 2%, from lower latitudes to take into account changes in the heat

of the climate, to make sure that our planting plans are more resilient going forward.

477. I wanted to touch on engagement. We're back onto the slides, sorry. I wanted to mention the range of consultation. I've mentioned a few things through this presentation. But we do consult widely. We consulted on the scope and methodology of the environmental impact assessment itself, so that did take into account a wide range of views. So the assessment was consulted upon – there have been a variety of consultation events; we consulted on early drafts of the environmental impact assessment itself, before even depositing the Environmental Statement proper before this House, and there are various surgeries that take place, and bilateral meetings with individuals, petitioners, and you can see the scale of that activity along this part of the route.

478. Of course – we can move onto the next slide – consultation needs to deliver some results. We talked about undertakings and assurances that have been given, but there have been some physical changes. This one is an example: you can see in here, in our original plans we had a piece of woodland connecting these two different woodlands here. Local community didn't like that, they actually liked the gap in between the woodlands, and through subsequent debates in the other place – if you can move onto the next slide – we made adjustments so that the grey areas of land we made adjustments on. Move onto the next slide. And this is – on this slide, this is a kind of assurance in action really. I won't go into exactly what all these colours mean, but just suffice to say that the blue area – that was the woodland that I was pointing to just now, and also this area here, through an assurance with landowners in this location we've been able to make adjustments of moving that woodland planting down into this location and into this location, thereby avoiding the woodland coming up here. So that satisfies the local community, but it also means that we still fulfil our obligations for woodland planting in the vicinity. So this is how the engagement has come about, in practise. I think we can move on.

479. I'm not going to dwell on this, because I've showed you the slide from the Colne Valley earlier on, which gives you an idea of where we went to with the schedule 17 arrangements on Phase One with the viaduct in that location and hopefully you got a flavour of where that engagement pre-schedule 17 goes to and that is an essential part of the process for a key range of matters along the line of the route. If I can move along.

480. I mentioned the Farmers and Growers Guide. On Phase One we recognised that we needed to think about particular circumstances that the farmers and growers along the way have to face up to. Quite often their businesses are dealing with just-in-time production and deliveries. It's almost different on every farm you come across, depending on the type of operation, and so it was important that we had a bit of practice in place that enabled effective engagement with farmers and growers, enabled them to understand more about the detail of our plans, to do a portfolio of activities with them about how we could accommodate them temporarily, through the construction phase of the route – of the build, what the land restoration plans would look like for their land; and I mentioned the controls on that earlier on and, indeed, the compensation measures that, ultimately, Mr Colin Smith will talk about in the next presentation. So there's a Farmers and Growers Guide there, and there's an information paper that's referenced, and you can see a little bit more about how we operate with farmers along the way. And we've been developing this in conjunction with the National Farmers Union, so it's an important part of the process.

481. I mentioned funds. There are two specific funds along the line of the route, that we've entered into. I mentioned the Trent and Sow parklands as part of that green corridor plan that I showed you. So that's in the area near the Cannock Chase that you visited. That's up to £1.5 million. As I understand it, to date, that's also attracted in some leverage from the National Lottery Fund of an equivalent amount. So it shows that if we can get these funds in place, we can make quite a difference locally, and hopefully that will deliver wider benefit.

482. Cheshire East, there's an environmental and landscape enhancement fund of £850,000. That's to deal with a variety of matters, particularly to do with wetland ecology, which is a key feature in their patch. I mentioned the £2 million woodland fund. And then, lastly, I just want to pick up on the Community and Environment Fund, which is – and the Business and Local Economy Fund. These funds have broader reach for the local communities. There are terms that have to be entered into. But the idea here is that – and there are funds to enable people who are living locally to the line of the route to access how to do different things in their local area. Whether that's to further conserve nature conservation sites, or whether that is indeed to improve community facilities that they haven't been able to achieve to date, or support local

businesses and local economies in different ways, and there's £5 million available for that on Phase 2A.

483. I just wanted to highlight a couple of things from Phase One. That's a slightly larger fund, but there are a considerable number of projects that now have been put into effect. We're spending just over £5 million on those projects to date, and in the photographs just below there's a facility that we contributed £450,000 to. This is in Wendover Woods, and you'll see, from the right-hand photograph, that all of the surfaces are kind of smooth, very shallow ramps. This enables a wide range of different abilities in the communities to gain access to the countryside. The independent panel who looked at this felt this was a really great project. It's one of the bigger projects that we've entered into, and that's enabled an awful lot of access for older people to get out with their grandchildren, less firm people to get out and enjoy the countryside, enjoy country walks and that sort of thing. So this has been a really big success, and I think this is a scheme that we will be building on in due course.

484. And it leverages more than double the amount of money that we put in, from local communities, so it is a really popular fund. It's one of the most popular funds, as I understand it, in the country. And that concludes.

485. THE CHAIR: Good. Well I think that really concludes your presentation, doesn't it?

486. MR MILLER: Yes, it does, thank you.

487. THE CHAIR: Thank you very much indeed.

488. MR MILLER: Good. I think I'll hand over to Mr Smith.

489. THE CHAIR: Long session. So we'll break for five minutes and then resume with compensation.

Sitting suspended

On resuming –

490. MR MILLER: Thank you.

491. THE CHAIR: Well, Mr Mould, I think we're ready to proceed with the last presentation.

492. MR MOULD QC (DfT): Thank you very much indeed, my Lord. To my right sits Mr Colin Smith. Mr Smith is the acquisitions and petitions manager with the Land and Property Directorate of HS2 Ltd. He is a fellow of the Royal Institution of Chartered Surveyors and we shall call him, as we did in the other place, where the need arises, in order to give evidence on behalf of the promoter in relation to matters concerning property, compulsory purchase and land compensation. I ought to say that Mr Smith has experience not only of appearing in the other place on this Bill, but also appeared in both Houses in Select Committee on behalf of the promoter in relation to the London to West Midlands Bill, and he has the advantage I think, over other witnesses, that he also goes back to the days of the Crossrail Bill, where he appeared in a similar role on behalf of the promoter of that particular scheme, and I've no doubt that Lord Snape will remember him from those days.

493. LORD SNAPE: Every word.

494. MR MOULD QC (DfT): Yes. Having made that connection, I'll hand over to Mr Smith who has some slides to guide you through his presentation.

495. THE CHAIR: Yes. Very well, Mr Smith.

Evidence of Mr Smith

496. MR SMITH: Good afternoon, my Lords. This isn't the most interesting of topics, perhaps, but I will do my best to give you a concise introduction to land compensation, and the rules that surround it. Now, compensation is obviously of key interest to landowners affected by the Bill. But the actual amount of compensation payable to owners should not be issues that normally need come to select committees, and I will explain, in the main, how compensation is assessed, and the processes that go through and deal with compensation. So if we can move on now to the next slide.

497. This afternoon I'll cover three aspects. Firstly, the powers of the Bill, those contained in the Bill. I will then move on to the statutory compensation code. The compensation code is a name that reflects both the statutory rules and how those rules

are interpreted by the courts. So we generally refer to that as the compensation code. And then, that statutory compensation code applies to land within the safeguarding area for HS2 Phase 2A. Thirdly, I will deal with more generalised blight, and the non-statutory package of High Speed Two that applies to land generally outside of the safeguarded area, in the wider arena, if you like. Particularly in rural areas. So I'll begin on powers and policy, if we can go onto the next one.

498. The land required for HS2 Phase 2A is acquired in the name of the Secretary of State. So he is, if you like, the acquiring authority, which is the usual name for the body who contains compulsory powers. The Bill seeks powers to acquire land under compulsory purchase within limits identified in the Bill. These limits of deviation are generally referred to, and allow flexibility to amend plans on engagement with owners and as the design process begins: and I should emphasise that the powers that are in this Bill, and in other railway bills, the plans are at an initial stage – they are not at a detailed design stage. So there is room for manoeuvre and development of plans, within those limits. Provided –

499. MR MOULD QC (DfT): Just to be clear, that the limits you refer to there, through the phrase 'Act limits', is a defined term of the Bill, isn't it?

500. MR SMITH: Yes, it is.

501. MR MOULD QC (DfT): You'll find it in section 60 of the Bill, and the definition of that term makes clear that it embraces all that land shown on the Parliamentary plans that is required for the construction and operation of the railway. Both extending to limits of deviation, where they are set out on the plans, but also to lands that are to be acquired and used for the purpose of construction of the railway. So, my Lord, a point I think you raised during the course of an earlier session, that the Bill limits, or the Act limits, as they will become, do embrace the totality of the lands that I've just described, and to which Mr Smith as referred.

502. MR SMITH: And obviously, if those plans are amended or – they would have to not give rise to any significant environmental impact. So we are looking for the land required for a construction operation and maintenance of the new railway. The Bill incorporates the general law on compulsory purchase, and the processes that go with it. The assessment of land compensation, with some minor tweaks to allow for the nature

of the works. If I say minor tweaks, things like acquisition of subsoil, or covenants for the protection of the railway, these are issues which won't necessarily apply on other acquisitions – on other projects – in a similar way. If we can move on.

503. The HS2 land acquisition policy is set out in information paper C3, and I'll summarise the key aspects. On the extent of land the Secretary of State is seeking powers to acquire land and construct a new railway and the Bill generally includes full land acquisition powers, for the land that is required for that purpose, within the limits. However, in any individual case the exercise of these 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 proposed scheme. And in assessing whether it's practicable to acquire a smaller amount of land than is within Bill limits, he will need to consider whether that will compromise the ability to secure the timely and economic construction and operation of the scheme. So obviously, if you're going to look to acquire less land, can I build it at the same rate and at the same cost? And these are practical issues, but generally speaking that is where he stands on that. And in relation to powers, the Bill, as already said, contains powers to possess land temporarily under schedule 15, as well as permanent acquisition powers. So, if we can go on.

504. Temporary powers of possession for use of land are used generally where land is required for a short-term duration only. So normally up to three to five years maximum. The types of examples for this sort of activity would be where one is diverting a utility works and, you know, a construction site is needed say for a year, and then it's gone. So the permanent rights obviously would be acquired but the temporary use of that land would be for a short term. The next issue is that the cost of possession will be no greater than the overall cost of acquisition. And that allows for the proceeds from sale of land later on. So in other words, if the Secretary of State is going to agree to temporary use, which he does quite widely, he's got to just be assured firstly that the burden – the financial burden on the Secretary of State – is not greater through using those powers. It's as simple as that. And generally speaking, this can be used where the proposals do not materially change the nature of the land, such as demolishing a building. Obviously, the provisions of schedule 15 have restoration provisions, and one doesn't want to get into expensive restoration and, in those cases, one would normally

acquire a property, and that the use of the land is for temporary purposes only. So it would not be for elements of permanent railway infrastructure. That land would be acquired and be part of land in the ownership of the Secretary of State.

505. And, just to finish, compensation obviously for owners where temporary possession is taken would be assessed on the basis of any loss. So it's the loss that owner suffers from the possession of the land in order to undertake the works. And that is the basis of compensation. So it's quite a wide provision.

506. THE CHAIR: And that's set out in schedule 15; is that right?

507. MR SMITH: It is set out in schedule 15. I'm not sure of the sub-section, but I'm sure we can –

508. THE CHAIR: Well we can look that up.

509. MR SMITH: It is in schedule 15, yes, definitely.

510. LORD SNAPE: Can I just ask then, Mr Smith, is that compensation based on each individual case, or is there a formula, a percentage perhaps of the land value, or is each case treated on its merits?

511. MR SMITH: Each case is treated on its merits – must be different – and this is true of most properties. The rule is the same; it's any loss. But how that is dealt with will depend upon what use is made of the land and, therefore, what loss may occur due to that use. There is no exact formula for that, I'm afraid.

512. LORD SNAPE: It sounds like a recipe for disagreement, to be honest. I mean, it's...

513. MR SMITH: I don't think so. I mean, if we occupy a field, because this scheme goes mainly through rural areas, a farmer will be able to demonstrate what returns he was able to make from that, and he can demonstrate that through his records, and that evidence can be used to demonstrate, for the period of our occupation, what loss he has suffered, and I think it should be a straightforward process. It has to be evidenced, obviously. It can't be just my hunch.

514. THE CHAIR: It's a common law approach to an assessment of damages. There's

no formula.

515. MR SMITH: It's the same.

516. THE CHAIR: And the aim is to achieve no more, but certainly no less than the loss incurred.

517. MR SMITH: I think you've got it exactly right. It's meant to be equivalence in terms of the owner should be of a no better or no worse position as a result of our possession.

518. THE CHAIR: But of course the evidence is the key. How much evidence can be brought to bear on one side or the other.

519. MR SMITH: Yes. Normally businesses would have that evidence.

520. MR MOULD QC (DfT): Indeed, and my Lord, the theory is being followed in relation to cases, this kind of right, which is a feature, for example, of orders made under the Transport Works Act in relation to railway schemes, is that the right to compensation is in substitution for the landowner being deprived of the right to claim damages for trespass. Because plainly what is being authorised is a trespass to land, and so one expects that the measure of loss would be assessed on the basis of conventional principles for the assessment of tortious damages for the tort of trespass to land.

521. THE CHAIR: Yes.

522. MR MOULD QC (DfT): There is relatively little learning on these particular statutory rights. I believe that the Lands Tribunal has had to deal with one or two cases in recent years. But that is the theory. The consensus amongst lawyers who deal in this field is that that is the theory, the jurisprudential theory that underlies the statutory right that you find in schedule 15 to this Act.

523. LORD HORAM: It always seems extremely mean to me, I must say.

524. LORD SNAPE: It's the landowners usually come to that conclusion as well, don't they?

525. LORD HORAM: Sorry?

526. LORD SNAPE: The landowner usually comes to that same conclusion.

527. LORD HORAM: Whoever it may be, it always seems to me we ought to be more generous than we appear to have been historically.

528. MR MOULD QC (DfT): Well the theory rests on the notion that you are restored to the position that you were, had the interference not taken place. And the Latin tag, *restitutio ad integrum*, the idea is that you should not be able to make a profit out of the interference, so that you're put back to where you would have been, had you not had your land possessed against your will, but you shouldn't be able to profit from that unhappy accident, as it were.

529. LORD SNAPE: We don't have any petitioners on this particular point anyway, in as far as I'm aware.

530. MR MOULD QC (DfT): I think that's right. Although of course we can't be entirely sure as to how things might develop when we come to hear from petitioners. But that at least, rightly or wrongly, is the way the law sees the matter as things stand.

531. THE CHAIR: If it were to arise, would we have a function in determining the amount of the compensation?

532. MR MOULD QC (DfT): No. But in principle, if you were of the view, in the light of the evidence that you had heard, that a given petitioner merited greater protection than that which was ordinarily offered under the terms of the statute, or indeed under the general law of compensation, then obviously it would be open to the Committee to reach that conclusion and to make an appropriate direction. If you were minded to take that course, clearly we would be seeking to encourage you to look carefully before you raised that course, as you would, because we would ordinarily argue that the general law of compensation was adequate in this case just as it is in any other case of public works. But if you were minded to take that course then the approach that we would take, as we've taken in other cases, is we would invite you to allow us the opportunity to consider given appropriate assurances, so as to relieve you of the need to direct any particular clause being inserted in the Bill, for example.

533. THE CHAIR: Yes.

534. LORD HORAM: But there are a few cases of compensation arising on this Bill.

535. MR MOULD QC (DfT): There are some, but I think none that arise directly out of this particular provision. The cases that you are likely – that you will hear – relate to rather different points about, for example, whether the measure of compensation for land that is acquired permanently from a farmer, whether that land should be compensated on a special basis to reflect what the farmer, in some cases, considers to be the particular loss that they suffer, which they say would not be properly compensated under the general provisions. And there is also an issue in relation to a golf course, which may be raised before you, as to whether compensation for the acquisition of lands from that course ought to be measured on the basis of a special regime, which Mr Smith will explain to you in a moment, that is to say equivalent reinstatement, rather than on the basis of the general rule of an assessment of compensation for the land taken, by reference to its open market value.

536. So there are some issues of the kind that Mr Smith is going to explain to you, which arise, but nothing I think that relates directly to the particular provision that you are being asked – we’ve just been touching on in the last few moments.

537. THE CHAIR: Yes. Well perhaps we should move on. Thank you very much.

538. MR SMITH: Very quickly, this is an illustrative plan only. But it shows the different uses that can all be incorporated within – assuming it may be one ownership – different requirements in one ownership, and this is the purple land being the operational railway, the blue area denotes different types of environmental mitigation, which Mr Miller has outlined to you. The green area could be earthworks – certain landscaped earthworks or false cuttings that could be returned to agriculture, and the yellow could represent contractors work sites, where they are not materially changed in character, and the red lines denotes a utility diversion which, in itself, will require a small working area of its own, and I’m just outlining this because these are quite a varied nature of work which has to take place along this railway. Just to give you some idea. Next slide please.

539. Right. The land disposal policy. Sometimes where land is compulsorily acquired and we look to – we can design the scheme within those areas of land, you know, lesser area, then surplus land arises and how is that dealt with. And the answer is that this

scheme, High Speed Two, adopts the government guidelines that are set out in a 2019 circular, from the Ministry of Housing Communities and Local Government. It's commonly known as the Crichel Down rules, and the rules here are broadly as set out on this slide: that the land acquired under compulsory purchase that's surplus will be offered in the first place back to the former owner, at its open market value. These schemes are obviously limited to where the character of the land has not been materially changed, and it's – I mean, if it was a farm, it was used for a farm building and it's now some other use, ancient woodland or something, the farmer may not want that returned to him. The policy also includes a number of exceptions, where the Secretary of State considers the land should be retained in the public interest, and these are all set out. And just a slide here to say that the Phase 2A Bill is dealing predominantly with works in rural areas. The National Farmers Union has not petitioned the Phase 2A Bill in this House, but did so in the first house. Nevertheless, this sets out quite a number of areas where we have reached agreement, just for your information: Changes have been made on Phase 2A firstly in terms of land acquisition. It promotes early acquisition of land in the railway corridor and a reduced emphasis on temporary occupation. This is different from the general requirements of the NFU and the Country Landowners Association on Phase One, where they played a high emphasis on HS2 taking temporary occupation, or temporary possession, and in practice they believe that they want a greater emphasis on early acquisition on Phase 2A. We went along with the Phase One. We will go along with the requirements in Phase 2A.

540. Also, there is an enhanced period, extended period for temporary possession, from 28 days to three months with an additional written notification, in the quarter preceding that notice, to say the notice is arising. So there is a rather complex arrangement where, effectively, up to six months' notice where a temporary possession is going to be taken.

541. THE CHAIR: I think there are some petitioners who've raised the problem about the length of notice; am I right?

542. MR SMITH: Yes. The length of notice, my Lord, used to be 28 days.

543. THE CHAIR: Yes.

544. MR SMITH: That was extended to three months, and then there's – what I'm saying is there's another quarter – the quarter prior to that – HS2 is now obliged to say

that they will be serving formal notice to take temporary possession in the next quarter. So it's more than three months. It could be up to six months.

545. THE CHAIR: Right.

546. MR SMITH: We are working to incorporate that into our processes. Into HS2 processes. You can see other issues that are covered. They're listed out there, but many topics are set out in assurances already offered to the NFU, and these may include relocation of farm buildings, drainage, water supply, restoration of land and borrow pits, which are particularly of interest to Phase 2A where we have borrow pits.

547. These are all incorporated into the farmers and growers guide, the purpose of which is to explain, in more plain language, the various HS2 policies and assurances affecting agricultural land, and that is made available to farmers and growers online. And it's regularly updated.

548. Right, well that covers some policy areas. I'll now move on to the statutory compensation code. The first point I'd make is it's an owner of an interest in land or what is known as a claimant, needs to submit a claim for compensation, setting out details of his interest in land, and the compensation he believes is payable. They are usually formulated by appointed agents acting for owners of land, and those fees are payable by the acquiring authority.

549. What I'm going to cover is compensation for land acquired, then in disturbance compensation, and then compensation where part of a property only is acquired, and compensation where no land is acquired. Now, on the last one there are absolutely no petitions on the last basis so, in order to save time, I'll just ignore that for the purposes of this Committee, but there are provisions.

550. So if we look firstly to the assessment of land compensation. There are generally six statutory rules governing the assessment of compensation, but Rule 2 is one of the main key rules, and that sets out how land compensation is assessed. And it's assessed by reference to the open market value of the land. Assuming a willing seller, and that the HS2 scheme has been cancelled, thus ignoring any blighting effect that there usually may be, because of the existence of the scheme, on the property. The further assumptions that we make are that a willing seller would market the land so as to

achieve the best price, and that could include, where there's a larger area of land, lotting of various parts of that land for sale.

551. Where land could be developed for alternative uses, and it's allocated in the development plan for alternative uses, then those can be assumed and taken account of in the price. Where what's known as a section 17 certificate is applied for, and it's a certificate of alternative appropriate development to a local planning authority, which is, effectively, a certificate saying, 'In the absence of High Speed Two, this is what you could have used the land for'; you could have developed or used the land. It's not a planning application, but it's all but it, in the absence, obviously, of the freedom to do so. So it's saying, in the absence of the scheme, you could have developed this land in this particular manner. And if that –

552. THE CHAIR: Does the owner of the interest have to demonstrate that he actually took steps to seek permission for the enhanced value, or is it just simply that he can open it up as a new issue on the acquisition?

553. MR SMITH: He doesn't have to show past evidence prior to HS2 coming along.

554. THE CHAIR: Right.

555. MR SMITH: He can wait for the land to be affected and safeguarded for the scheme and then apply for a certificate. He doesn't have to have a previous history.

556. THE CHAIR: Right.

557. MR SMITH: It's basically what the land could have been used for, absent of HS2.

558. THE CHAIR: Yes.

559. MR SMITH: And in some cases land is allocated in development plans, but for longer term development, maybe in 10-20 years, and in those cases, again, hope value – what we call hope value for development, i.e. there's some additional payment above the value of the land in its existing use – again this is commonly known in the market – and that is applied when assessing the value of land for compulsory purchase.

560. Just going to the bottom, there is one exception to the rule, and that is on rule 5, which is known as equivalent reinstatement. There are a limited number of

circumstances where land is used for a purpose for which there's no general demand or market, such as, say, a church or something of this nature. In these unusual cases the value of land may be assessed upon the reasonable cost of equivalent reinstatement, where that reinstatement is bona fide intentioned. I mention that because there is one case coming to you that has this as an aspect of the petition.

561. MR MOULD QC (DfT): That's the golf club, isn't it, that I mentioned earlier?

562. MR SMITH: Yes, it is, yes.

563. MR MOULD QC (DfT): Yes.

564. MR SMITH: That is more the exception to the rule. Normally land is assessed on rule 2, but I can be assessed as I say, in a limited number of circumstances, where the provisions of rule 5 apply.

565. So that is – open market value is the key method of assessing compensation for land acquired, subject to those assumptions I've gone through. We now look at where part of land only is acquired. And where this applies, obviously quite widely through Phase 2A, particularly in farms, and obviously the value of the land actually acquired we follow the open market value that I've already said and outlined. But it is common for a linear scheme, such as HS2, passing through agricultural holdings where the railway may sever, say, part of a farm that was – and there could have been previously direct access from the farm, to a parcel of land, which is then cut off by the new scheme. And that's referred to as severance. Also, there's a different aspect, where acquisition of part gives rise to further depreciation if, for example, a nice rectangular field, easy to farm, is cut in two and it's now triangular in shape and less easy to do so. I give these as – these are examples. And again, there may be a depreciation over and above the value of the land actually acquired.

566. So these depreciations in value, due to either severance or injurious affection, can be added to the value of the land taken, and its additional heads of claim that can be brought by owners affected. Now, I should add that HS2 works can, obviously, mitigate these. Particularly, for example, all the way down the line on severance there are many underpasses and bridges that can be built to continue the link between a farm and the land that is retained and not acquired for HS2. So that would be a way of mitigating the

impact of severance, and also, in terms of injurious affection, say to homes or farmhouses, then planting and screening can also reduce that injurious affection. So there are ways to reduce the impact at source, wherever possible, and where that can help businesses continue in operation.

567. Where there's small areas of land, isolated from main holdings, which are uneconomic to farm, then the promoter can be required to acquire those, and you will see in the slide they may be isolated areas of land less than half an acre remaining, which is frankly just common sense, I think, to tie that up if it's no longer got any use.

568. On the next slide we come to where part only is acquired, but the remainder of a holding is rendered materially less useful or valuable to a significant degree, the acquiring authority may be required to purchase the whole property, under compulsory purchase terms that I've already gone through. So we still assess the value of land in the same manner. And this, for example, could be the acquisition of part of a smallholding which may result in the business being unable to operate as a viable unit, because there's insufficient land left. But it may be greater than the half an acre I referred to. In those circumstances, the promoter can be required to purchase the whole property and pay statutory compensation as outlined. I just put a note there to say this doesn't apply where we're in deep tunnel, 30 metres below the ground. I'm not sure that applies in this particular case. It could do. Generally speaking, where you're in deep tunnel, the provisions are more for protection of buildings above, but the impact on the land above, where we're, as I say, 30 feet or below, which is known as sub-soil, is usually so slight that the material detriment provisions do not apply.

569. Now we come onto the next heading, and this is rule 6: disturbance compensation principles. So this now moves on from land, and this is compensation, over and above the value of land, which is not directly linked to land value. In other words, it could be other losses that occur. And the main principles are that the loss must be a direct and reasonable consequence of the acquisition, and not too remote. For example, this could include the reasonable fees and cost of an owner purchasing an alternative property, having had his previous property acquired under compulsory powers. The cost of acquiring new premises are normally not included in disturbance compensation, because these would – the assumption is value for money is obtained for that property. So if you own a house for £100,000 – that would be a cheap house today – and you buy another

one for £100,000, you are assumed to have value for money that is the market value. But you would be allowed to pay – to receive the costs of moving and other various costs such as stamp duty land tax that is connected with that. So I just thought I'd outline that.

570. LORD LIDDLE: Is your age a factor in compensation?

571. MR SMITH: It can be. It can be where a business no longer wants to continue because it is impacted by the scheme, and I believe if you're over 65 then an owner can require the business to be extinguished, rather than move, because he's looking forward to retirement. I can't remember the exact provision, but they are there.

572. MR MOULD QC (DfT): It is a provision in the Compensation Act 1973. Yes.

573. MR SMITH: On this slide there are examples of heads of claim, which can include loss of crops on agricultural land, costs of seeking alternative premises, adapting alternative premises, temporary and permanent loss of profits, and then, if we go the other way, if we acquire a whole business, close down of the business, redundancy costs, legal and surveying fees and stamp duty. So these are general heads of claim that can apply to disturbance compensation. Of course, as I say, disturbance compensation can arise whether you acquire the whole or part of a property. So it is in addition to the compensation that is payable for land.

574. Now another area of compensation is statutory loss payments. I believe these were introduced by government in acknowledgement that the land or property, when acquired compulsorily, is not necessarily at the time chosen by the owners. So it's an extra payment because the property is acquired compulsorily, and there are home loss payments, which can be claimed by occupiers or owners, that are set out with a maximum of £64,000 or a minimum of £6,400. And they are payable to residential occupiers who have – who qualify to be paid. I think it's a six month – no, one year prior to the compulsory acquisition, I'm sorry. So there has to be a residency period, if you like.

575. There's a basic loss payment for non-residential properties, and again, the owner has to be in ownership of the interest one year prior to the compulsory acquisition, and again, this is a different amount but a maximum of £75,000 and a minimum of £7,500.

And there is an occupier's loss payment which has a maximum of £25,000 and a minimum of £2,500. Normally payable to occupiers, which includes, in this particular case as we go through many farms, agricultural tenants as well and agricultural land.

576. THE CHAIR: These percentages are set out in the Act, I take it.

577. MR SMITH: They're all set out in the Act. Yes. Yes, my Lord. Yes. They are an additional payment. Just some quick rules now that go with the payment. When is compensation assessed. What is known as the valuation date is either the date that the property is vested in the acquiring authority – and vesting is the manner in which land interests are transferred to local authorities possessing compulsory powers – or the date an acquiring authority takes possession of the property, following what's called a notice to treat, which doesn't actually vest the land but is a notice saying it will acquire the land, or, if earlier, it's the date the parties reach agreement. We can always reach agreement in advance of compulsory purchase. So it's the earliest of those dates.

578. An advance payment of compensation can be claimed following Royal Assent to the Bill, by owners within the safeguarding limit. The claim should contain sufficient information upon which an advance payment can be based and 90% of the agreed compensation must be made within two months of the claim, or when full information is received. Failing agreement, the promoter will pay 90% of his estimate of the advance payment, so it will be 90% of his estimates of compensation payable. Statutory interest is also payable from the valuation date of unpaid compensation. It is currently at the rate of 0.5% below base and, following the recent reduction in interest rates, I don't think that's going to be an awful lot of money, but we have very low interest rates in these unusual times.

579. There are cases, of course, where HS2 has agreed to pay compensation in advance of royal assent, particularly where buildings have to be relocated and moved. That often requires time and so an early agreement is obviously sensible in those cases.

580. Just to go on – entitlement to compensation – it is owners and occupiers of land interests, i.e. freeholders and leaseholders. HS2 has recently produced a new information paper, C15, on the compensation guide for short-term residential tenants, which was an issue that was raised in the other place in the Committee.

581. There was an assertion in the last Committee that tenants who are dispossessed on compulsory acquisition of the property or, if just simply displaced by compulsory purchase, there was an assertion that these tenants receive no compensation and all I can say is – to quote Donald Trump – that is fake news. It is not correct. Tenants receive compensation for the market value of their tenancy. They have disturbance payments, just as I have outlined, which could include removal costs. They are entitled to home-loss payments, as I have just stated. The minimum payment is £6,400.

582. Looking at the question more broadly, residential tenants, generally, are more mobile. They can move more quickly and cheaply than owner-occupiers, obviously, and they sometimes move in advance of compulsory purchase. If they do that, then obviously they do so of their own free will. They will not receive compensation because they're not displaced, but the fact is the provisions are there and cover them. The question of whether a tenancy has any value will depend on the nature of the tenancy, but most residential tenancies, and certainly assured shorthold tenancies, are generally not assignable and therefore they do not have any value. In these cases there will be no value for the tenancy itself, but, of course, they will receive the disturbance and the home-loss payments as I have outlined. That really covers that.

583. THE CHAIR: I don't think we have any petitioners in that category actually.

584. MR SMITH: We don't, but it was a point that was raised, my Lord, and I just wanted to make it quite clear that the promoter wants to make it clear that that allegation – that there is no compensation payable to tenants – is wrong.

585. Just moving onto the disputes process, where we have disputes in compensation, they can be simply quantum or they can be the legal interpretation of the compensation code where people like Mr Mould will get involved very often in looking at those cases. Where a dispute arises, it can be independently assessed in two stages. The first stage is what we call alternative dispute resolution, which can include mediation, early neutral evaluation or expert determination and it can be a speedier and cheaper way of resolution to a dispute. The Lands Chamber recommends that that policy is adopted. The choice of which alternative dispute resolution you choose really depends very much on the nature of the dispute. It is not a one-size-fits-all, so the nature of the dispute will fit the ADR.

586. If the dispute cannot be settled at the first stage in alternative dispute resolution, it then is referred to the Upper Tribunal Lands Chamber and they have a panel of expert surveyors and barristers who will determine the compensation. It is a court and they are looking at and they are experts in land compensation assessment and law. The actual compensation payable by an acquiring authority is independently assessed by – in the end – the Lands Chamber.

587. Blight notices give an owner the opportunity of an early sale to an acquiring authority where his property is due to be purchased in advance of Royal Assent, if necessary. A qualifying owner can actually serve a blight notice and he has to be a residential owner-occupier with a freehold of three years unexpired on a lease. Similarly, a business owner with a freehold or a three-year lease unexpired and a rateable value of less than £36,000 or an owner-occupier of an agricultural unit. I would say that the rateable value at £36,000 was of concern when we were in London, but I believe the Government was looking to protect smaller businesses. That is the reason for the rateable value limit.

588. The Secretary of State may accept the blight notice or may actually counter it on a number of grounds and these could include, for example, that the owner does not have a qualifying interest, that no part of the land is within the safeguarding corridor or that the promoter only acquires a small part of the holding and does not require any more. Usually, the owner may go back and object to the counter notice and then refer it to the Upper Tribunal Lands Chamber again who will determine the issue if that comes to a dispute. If the notice is accepted, however, then the compensation is assessed in accordance with the code, as I have outlined to you previously, so all the various points that I have raised previously apply. You may get certain cases come before you, where blight notices have been served, so that is how they arise.

589. On my last area, I am going to just very briefly outline to you the HS2 non-statutory property schemes. If we look as to why they have been introduced, the outside of the safeguarded area, where statutory blight applies, there can be generalised blight from the HS2 proposals, particularly in residential areas. This would affect the general property market, not just in the narrow area required for the railway, but the wider area beyond. Hence, the non-statutory schemes were introduced, so that the blighting impact on the property market could be adjusted because owner-occupiers, in

certain cases, would be at risk of not being able to sell their homes at a reasonable price except significantly reduced due to the generalised blight arising from the scheme and the fact that a railway was coming along. It has been introduced to regularize the property market.

590. The non-statutory schemes apply outside of the safeguarding areas, so these don't have any general law that applies to them.² This is a separate scheme. On this slide you can see those general schemes – express purchase, voluntary purchase. There are a number of these. Today I am going to deal with need-to-sell, atypical, rent-back and homeowner payments. All of these do apply, but these are the ones, which I think may be before you on the limited number of petitions that there are. If you do have any interest in this scheme widely, it's on the internet and, obviously, all of them are explained.

591. This is an illustration of how they work. If you can imagine, on this slide, the blue area in the centre of the slide is the safeguarded area for the railway in which the land compensation code applies and I've gone through. Outside of that, we initially have the rural support zone, which are properties closest to the centre line of the railway and therefore probably most affected by it. There are provisions that owners of qualifying interests there can apply for their property simply to be acquired because they are in the rural support zone. That's it. It is as simple as that right.

592. THE CHAIR: Do they have a right to insist on that?

593. MR SMITH: They have, provided they're qualifying owners and they had no prior knowledge of the scheme when they bought the property, but we have none of those. Outside of that, there is a homeowner payment scheme, which I shall refer to, and there is also a need-to-sell scheme. The need-to-sell scheme is more widely applicable and it has no boundaries or distances from the centre line of the railway that restrict it. That gives you an overview. I have, in the centre there, a tunnel and these

² Correction supplied by HS2 Ltd after the meeting: all schemes with the exception of the Express Purchase Scheme apply outside of safeguarded areas. The Express Purchase scheme follows the rules that apply to statutory blight claims, with the relaxation of two of the statutory criteria.

schemes generally do not apply where there are tunnels beneath them because the railways are underground.

594. There are five criteria that are set out for the need-to-sell scheme. Firstly, in terms of eligibility, the property owner is required to fall within the same rules as applied to statutory blight and that was right at the end when I referred to a blight notice, where an owner has to be an owner-occupier or have three years less left on his tenancy. Provided those rules apply outside the safeguarding area, then there is an eligibility to apply for the need-to-sell scheme. The property need have no fixed location, but it needs to be substantially affected by HS2 construction or operation; efforts to sell must have been made without success or a price obtained, which is significantly lower than what is referred to as the unblighted property value; there is no prior knowledge of HS2 before purchase and the home was purchased prior to 28 January 2013 when the route was announced; lastly, that there is a compelling reason to sell and this can include – it is not limited to this, but it can include for example – health reasons need to move to a smaller property or a move of jobs to another part of the country where the owner just needs to sell up. There are many reasons, but those are two common reasons. Applications for purchase are assessed by an independent panel and, when the application is accepted, the promoter will purchase the property at the unblighted market value.

595. I next come on to atypical properties, where there are special circumstances arising. Despite this non-statutory package – which includes a variety of payments and a variety of circumstances where acquisition can be affected, even outside of the safeguarded area – special circumstances do arise and, where this occurs, the Secretary of State decides these applications on a case-by-case basis. There is no formal process because these all differ to such a great degree. They are atypical. Depending on the nature of those special circumstances, it may be appropriate to supplement non-statutory compensation schemes, so there may have to be adjustments made depending on those circumstances. As I say, these are dealt with on a case-by-case basis and there may be one or two cases that may be before you as petitioners.

596. Just quickly on the rent-back scheme, all homes purchased by the promoter can be considered for rent back to former owners. For example, an owner can continue to occupy the property as a tenant if he or she has not found a suitable alternative property.

However, in order to rent back, the promoter needs to ensure that the property complies with all relevant standards and, before actually agreeing to rent it back, has to assure himself that the cost of so doing would be at a reasonable level, bearing in mind the timescale there is until the property is required for HS2. If it isn't required for HS2 and is outside of the safeguarding area, then it is just a matter of cost, really, to see whether it makes sense. This has been widely used by the promoter and, indeed, rent-back has also been applied to agricultural land purchased in advance where it makes sense for the farmer to rent it back until it is required. If one agrees the compensation in advance, we can we can rent it back to the farmer – normally at market value – until it is required for the scheme. It is a way of working and it is a bit of flexibility that we need to keep businesses going or help keep them going.

597. I'll just now set out the mechanism for assessment of unblighted value and this is fairly straightforward. Both the HS2 Ltd and the property owner choose a registered valuer that is registered by the RICS. Two valuations are then carried out on behalf of both parties and if those valuations are within 10% of each other, then an average figure is taken of the two valuations to be the unblighted value of the property. Both are valued ignoring the impact of HS2. If, however, they are more than 10% apart, then the applicant may request a third valuation from a registered valuer and, in those circumstances, the actual final figure is taken from the average of the two closest valuations. It's fairly straightforward, really. If the two closest valuations are either the acquiring authority or the claimant's figure then that is that or it could be the other two valuations. Whichever one it is, that is that. It is a straightforward mechanism for assessment and easily understood. That is the mechanism for the assessment of unblighted value where we're buying property outside the safeguarded area.

598. Homeowner payments are an additional payment made to owners outside of – and these are, again, qualifying owners, obviously. Again, we refer to the same rules as applied to blight notices, that either an owner-occupier or with three years of a lease left remaining.

599. THE CHAIR: But this is a statutory scheme as well, I take it.

600. MR SMITH: No, these are all non-statutory, but the definition of an owner is – we are not reinventing the rule. The rules haven't been reinvented. They refer to blight

notices. There, there are payments that are set out on this slide where they're in different distances from the centre line of the railway. 120 to 180 metres, there is a payment of £22,500. 180 to 240 metres, there is a payment of £15,000 and, from 240 to 300 metres, there is a payment of £7,500. These are all payments that can be payable following Royal Assent to the Bill and they are really an additional payment to owners who have remained in situ rather than sold. These are additional payments that are made. Again, these are all available – if you wish to read them – online.

601. THE CHAIR: When were these amounts fixed? I'm wondering when the amounts were fixed. The value of money may be affected by current circumstances. Is there any way of adjusting them or they're fixed, are they?

602. MR SMITH: I believe they were fixed. Your question is when were they fixed.

603. THE CHAIR: Yes.

604. MR SMITH: I think so. They were fixed, my Lord, in 2015 or 2016, but I can't remember the exact date.

605. MR MOULD QC (DfT): Yes, these schemes were settled, effectively, in April 2014. That was when the Secretary of State published his decisions on this package of non-statutory policies. They were brought into force in the ensuing six to nine months, during which time, of course, the Phase One Bill was before the House of Commons and these numbers were fixed during that process. I will check this and, when you resume, if I am wrong, I will correct myself, but, as far as I can recall, there is no provision within the schemes for the amounts to be to be changed – for example, to be increased to account for the change in the value of money or in relation to prices. I will confirm the correctness of that and I will confirm it when you resume.

606. THE CHAIR: Yes, please do.

607. LORD HORAM: The one on the left – the purple one – could you just explain that to me again?

608. MR SMITH: Well, these are the words that were put forward. It says to allow homeowners in rural areas an early share of the benefits of the scheme.

609. LORD HORAM: What does that mean?

610. MR MOULD QC (DfT): It's probably for me, actually, that, because it's really a policy issue in relation to the Secretary of State's decision to introduce this scheme. The thinking was that HS2 was intended to be a transformative new infrastructure project, which would result in significant benefits to the nation and it was felt that those who had to bear the burden of realising those benefits would be people who would live close by the railway as it was being constructed; and that those who were close enough to be affected by the construction of the railway, but not so close as to justify being able to have their property acquired by the Secretary of State, they should receive some acknowledgement from public monies in the form of a payment of this kind, for the fact that they had endured a degree of disruption or were likely to have endured a degree of disruption during the course of construction of the railway. That is what underlies that. They endure rather more of the pain of realising the gain that comes from HS2 and therefore they should receive a direct payment to reflect the gain that was going to come to the public generally from the introduction of this transformative scheme.

611. LORD HORAM: That's a bit vague, isn't it?

612. MR MOULD QC (DfT): It is. It is, to some degree, arbitrary, is the point you're making. Then again, it is difficult to see – if one is going to seek to give some sort of acknowledgement in monetary terms of the fact that there are people who are relatively close to the construction works, who are, if you like having to take rather more of the hit – it is difficult to see how you can do that other than, to some degree, through a scheme that has an arbitrary quality to it.

613. LORD HORAM: Has there been any flesh put on those bones?

614. MR MOULD QC (DfT): Not so far, because, of course, as Mr Smith has outlined, these payments will not become payable until Royal Assent and, although, obviously Royal Assent was achieved for the Phase One Bill in early 2017, the process of actually starting to carry out the main construction works – which I suspect is likely to be the thing that might stimulate people to take advantage of this regime in earnest – that process is still yet to begin; because, as you know, there has been a certain amount of time that has elapsed since Royal Assent was given and the decision by the Prime Minister a few weeks ago to proceed –

615. LORD HORAM: That's potentially quite a big bill, isn't it?

616. MR MOULD QC (DfT): It is, yes, indeed. As the left-hand side of the screen shows, this regime does not extend to the urban parts of the HS2 scheme and so, to that degree, the cost is limited, but plainly, as one moves up a railway that proceeds in due course all the way to Manchester and Leeds, the aggregate number of claims, even within the rural areas affected by the railway, is likely to be quite substantial. This was actually the last of the package of the various non-statutory measures that Mr Smith has briefly outlined to you to be brought into the package. This was a recognition from Government at that time, having reflected on those measures that they already had in mind, that something more was needed and this was their response to that.

617. LORD HORAM: There is no methodology.

618. MR MOULD QC (DfT): Oh, there is to some degree. There were some fairly detailed reports prepared during the gestation of this policy, which, as I recall, were put out to public consultation. If you are interested in that and you would like us to identify those, so that you could have a look at them, I am sure we can make those available to you.

619. LORD HORAM: It would be useful to have some sort of quantitative element to all this as opposed to a general theory.

620. MR MOULD QC (DfT): Yes, whether there is any developed quantitative analysis, which has led to these figures, there will be something. It is a while since I looked at it, but it was relatively limited in its sophistication. It was felt that what was seen in the individual case has been relatively modest payments, that this was, as I say, a means of offsetting the likely disruption that people would feel, even where they couldn't justify and the Government couldn't justify the additional cost, for example, of acquiring their properties outright. Bear in mind also that there was a good deal of pressure, at that time, on Government from a number of people to introduce a more ambitious scheme of market support in the form of a property bond. The Government was very nervous about not only the cost of it, but also the degree to which that might affect the operation of the housing market in these areas and might actually have unintended consequences and increase the degree of blight that the railway – at that

stage – in its uncertain state, was likely to bring. That also presents some of the context for this. It was, to some degree, a compromise.

621. LORD HORAM: A fudge.

622. MR MOULD QC (DfT): A fudge is one way of putting it. A compromise is a more positively worded way of putting it. I characterise your comments that there is a clear arbitrary element to this and it would be idle to suggest that there isn't, but sometimes one needs to proceed on that basis for want of anything better.

623. LORD HORAM: The people will use it, at some stage.

624. MR MOULD QC (DfT): Indeed, and they already have. There has been some take-up of it, as I understand.

625. LORD HORAM: It would be useful to know a bit more detail about the cost and so forth.

626. MR MOULD QC (DfT): We can certainly do that for you and, insofar as we have the figures, I can – the one thing we do have is a little time.

627. THE CHAIR: Well, I think we should leave it there. You do ask any questions at the end of your presentation. Have we reached that point?

628. MR SMITH: I have reached that point and if anyone would like to ask any questions.

629. THE CHAIR: You've answered questions as we've gone along, so I think, really, unless anybody wants –

630. LORD SNAPE: Can I just ask one general one? I apologise for detaining you as well as the Committee, Mr Smith. The non-statutory property package appears to me to be eminently reasonable. You can get your own valuation and compare the two. How has it been received along the line of 2A, bearing in mind the controversy there was with the initial line from Euston to Birmingham where colleagues of mine in the House of Commons said they were besieged by residents in the Euston and Cobourg Street area in particular about what they consider to be the undervaluing of their properties? I ask you that because I know you were involved with the initial scheme.

631. MR SMITH: Yes, Sir. Basically, in terms of Phase 2A, the non-statutory scheme has evolved. It started off with an exceptional hardship policy, which was rather inflexible comparative to the need-to-sell policy and the impression I get – I have spoken to my colleagues who deal with these acquisitions – is that, in general, it's working quite well. I think it is supporting the market. It is far more than, frankly, has been offered on another scheme. Yes, this goes through rural areas and HS2 will affect them, but it is quite a big non-statutory scheme. It includes more than I have outlined here and so, in short, I think it has been reasonably well received. I would just qualify that by saying that owners do tend to have their own opinion about the value of their property, but all I can say is we have valuers registered acting for both parties and they should know what those properties – they are represented. They should know what the reasonable figures are and – whereas we can't please everyone – I think overall it has been a significant benefit to the local markets outside of the route of HS2.

632. LORD SNAPE: Would it be true to say it's more generous than, for example, the compensation offered at the time of the Channel Tunnel, HS1?

633. MR SMITH: I wasn't involved in HS1. I don't know what schemes were available to that, but I would think it is much more.

634. LORD SNAPE: Well, I got the impression that you felt this was fairly new.

635. MR SMITH: It is new. I hesitated on HS 1 because, from my own memory, there were different lines drawn and properties were acquired, the scheme moved to another line, and there was a lot property purchased, but there was no scheme like this. I think this is quite a generous scheme, frankly, in addition to the statutory compensation.

636. THE CHAIR: Well, thank you very much, Mr Smith, for your presentation. Mr Mould, I think you know that, for reasons that are entirely outwith our control, we're going to have to adjourn the remaining of these proceedings to a date in the future. I can't tell you when it's going to be. Obviously, we'll take every effort to consult you about finding a date once we know that we can actually resume hearings and we hope to be able to do it fairly quickly once we have that clearance. It looks as though, probably, two weeks would be enough to complete the process because a number of petitioners have withdrawn and we've, of course, had the teach-ins.

637. MR MOULD QC (DfT): I think that's right. I would be reasonably confident that we could complete business in a fortnight, yes.

638. THE CHAIR: Well, I think, obviously there will be great pressure on everybody's diaries, once we start reliving our lives, so two weeks would be relatively easy to fit in, than the original four, which we were looking at. In adjourning the proceedings, as I'm going to do, can I wish everybody a safe period during this time of anxiety? We look forward to meeting you all again at a future date.