

MINUTES OF ORAL EVIDENCE

taken before the

HIGH SPEED RAIL BILL COMMITTEE

on the

HIGH SPEED RAIL (WEST MIDLANDS – CREWE) BILL

Wednesday, 16 September 2020 (Morning)

In Committee Room 4a
(Hybrid Proceeding)

PRESENT:

Lord Hope of Craighead (Chair)
Lord Brabazon of Tara
Lord Goddard of Stockport
Lord Haselhurst
Lord Horam
Lord Liddle
Lord Snape

IN ATTENDANCE:

Timothy Mould QC, Lead Counsel, Department for Transport
Jacqueline Lean, Counsel, Department for Transport

WITNESSES:

Sharon Mawbey
William Murray and Adrian Murray

IN PUBLIC SESSION

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(At 10.45 a.m.)

1. THE CHAIR: Good morning, everybody. Welcome to this hybrid meeting of the Select Committee on the High Speed Rail (West Midlands – Crewe) Bill. We are meeting today in hybrid fashion. Some of us are present in a committee room in the House of Lords observing social distancing while others will be dialling in.
2. Today, besides myself, we have in the room Lord Brabazon, Lord Horam and Lord Liddle and we also have Tim Mould QC and Jacqueline Lean, counsel for HS2, and we have Sharon Mawbey for the petitioners.
3. It may be helpful if I were now to set out how this session will work. All of our remote participants are on the Zoom call and we can all see each other. You may need to switch to gallery view to do so. Remote participants will be muted at the start of the meeting. You can control your own muting but please remember to unmute before speaking. You may receive a prompt on the screen inviting you to do that.
4. As far as possible, we will follow a pre-determined order of speaking as set out in my brief which has been shared with all participants. Unless anticipated in the brief, you should wait to be called before speaking. If you wish to intervene at any point, please physically raise your hand so that it can be seen on screen. I will then call you to speak at an appropriate time. In order to allow for interventions, speakers should pause from time to time so that there will be an opportunity for me to call upon someone else to put a question or to speak and then I will invite the speaker to continue.
5. We aim to finish this first session by 12.15 p.m. but I'm aware that there have been delays so, if we overrun slightly, that will be understood. Participants should have the exhibit bundles open and available. For this session it is bundle A19, R80, R109 and P42. We will navigate the documents using the numbers in the bottom left-hand corner of each page.
6. We shall now begin with petition 34 in the name of Sharon and Martin Mawbey and I'd be grateful, Mr Mould, if you would open the proceedings for us.

Martin Mawbey and Sharon Mawbey

7. MR MOULD QC (DfT): Thank you very much, my Lord. If I could invite the

Committee to have P40(5) open which is a plan and on that plan you'll see a number of facilities associated with the construction of HS2 within the familiar pink shaded area which denotes the Bill limits. You will also see outlined in red, edged in red, a number of parcels of land and those parcels of land are all within the ownership and occupation of Mr and Mrs Mawbey.

8. Mr and Mrs Mawbey live at Lock Cottage, Hoo Mill Lane and you will see that there are a series of lines and arrows with numbers, 1A, 3B etc. Those are cross sections on the subsequent pages but there's a point at which all those lines meet within one of the parcels, the red outlined parcels, and the point at which they meet, that is Lock Cottage.

9. Mr and Mrs Mawbey are also the owners of a business known as Engineering & Canal Services and that business is based at the workshop at Hoo Mill Lane, which is the minor highway that you can see marked running broadly in a north-westerly alignment beneath the Macclesfield to Colwich railway line which is the line that's running across the page and is elevated; it's on embankment as it passes just to the south of the Trent and Mersey Canal and then, to the north of that, you can see the River Trent. So those are the basic geographical features.

10. Now the petitioner's property is, in part, within Bill limits as you can see from that plan. The westernmost portion of the larger parcel is within Bill limits. It's shaded pink and it's required principally to accommodate a section of site haul road that is shown with the familiar yellow notation you see passing through that parcel. Now, as you can see from the broader layout of HS2 construction facilities which are shaded in the ochre, the green, the brown notation, principally to the south of the railway line, this is an area of very considerable and prolonged construction activity in relation to the HS2 railway and you can see there is a provision for worker accommodation, there are various compounds, there's a concrete batching plant and a transfer node, all situated to the south of the railway line, but quite close in distance terms to the petitioner's property and there is this network of haul roads which in part passes over the petitioner's land and which is designed to serve construction of the HS2 railway both to the north and to the south of the petitioner's property.

11. I also draw attention to a utility which is shown passing on a diagonal from box

B3 on a south-westerly alignment through box C4 and then turning southwards into box D4. That's a gas pipeline which requires protection and it is in part in order to ensure that there is a sufficient separation distance between that pipeline on the HS2 haul roads that it's necessary to route the haul road through the petitioner's property. So, during construction, that part of the petitioner's property is required and the Bill powers allow for its acquisition or its use under the temporary possession schedule, schedule 15 which you've had drawn to your attention.

12. If you turn back a page to page 4, you'll see the position once construction of the railway has been completed and you can see, the operational phase, none of the petitioner's property is required. So the requirement for that part of the petitioner's land that I drew to your attention a moment ago ceases on completion of the construction phase. The haul road will be removed, the land reinstated and it's able to be returned to the petitioner. And it's with that in mind that the most recent discussions that have taken place with the petitioner, I think over the course of certainly a year, have focused on the premise that the Secretary of State does not acquire that land compulsorily but, rather, possesses it temporarily under schedule 15 and then returns it to the Mawbeys. So the Mawbeys remain the owners of the land throughout. They simply give up possession under the schedule for the duration of the works.

13. It's fair to acknowledge that that period of possession is likely to be prolonged because the works here are likely to last for upwards of six years. This is another of those areas that is a major centre of HS2 Phase 2A construction activity so all those facilities I showed you on the previous slide will be in operation for the duration of the construction of the project. But what we have been able to tell Mr and Mrs Mawbey fairly recently, I think in a letter of 9 September which you have at page P40(39), been able to assure the Mawbeys that possession will not be taken of their property before December 2022.

14. THE CHAIR: As I read that letter, it deals with advance payment of money as well.

15. MR MOULD QC (DfT): Yes, it does, it does. And so just coming to the nub of the issue, and then I'll obviously hand over to the petitioner, the nub of the issue is this, that if one works on the premise, as both parties have been in their discussions and

negotiations, that the Secretary of State will possess the land temporarily, albeit for that relatively lengthy period, return it to the Mawbeys, reinstate it following the end of the construction, the statute, particularly paragraph 4(4) of schedule 15 to the Bill, so schedule 15(4)(4), would confer upon Mr and Mrs Mawbey a statutory right to compensation for losses that they incur as a result of being dispossessed for that period of years and those losses would typically include a payment for the value of occupation or an occupation fee, which is often based on assessment of the rental value of the property but also would include such business losses and accommodation works that resulted to them from being dispossessed.

16. So if it was necessary for them to reorganise their business on the remaining part of their land so as to accommodate the loss of that portion, they would expect to recover that by way of compensation and if it were necessary for them, if they incurred losses as a result of the disturbance, being dispossessed of their land for that period, they would expect to be able to recover those losses by way of compensation.

17. THE CHAIR: Some of those amounts, of course, can't be identified until after the event but I mentioned advanced payment as I understood it to be a matter of concern to the Mawbeys that they should be provided with funds early on so that they can make alternative arrangements.

18. MR MOULD QC (DfT): Yes, that's precisely the point. And so the negotiations that have taken place have certainly in large part focused on making arrangements to enable them to have a sum of money in advance so that they are able to fund the reorganisation of their lands and the facilities within them to enable their business, to use the legal language, to mitigate their loss by spending that money wisely.

19. And the way things have currently been, the position things have currently reached so far as the promoter is concerned, is essentially to be gleaned from that letter of 9 September, which your Lordship has obviously read, and an offer to enter into a draft agreement, which is also in the papers, which provides for the payment of sums of money in two parts really: firstly, to meet the estimated cost of certain works to relocate facilities; and, secondly, an advance payment in relation to on account of the promoter's estimate of their likely business losses so far as they can be ascertained at this stage. And the intention is that they would be able to use that money for the purpose that your

Lordship has just mentioned.

20. The other thing I should mention about the draft agreement is that it provides for alternative dispute resolution, so it hasn't been possible to reach agreement between the petitioner and the promoter as to the value of those two components, so there's provision for alternative dispute resolution so that that can be referred to a third party such as an expert or an arbitrator for resolution in order to resolve that dispute.

21. Finally, HS2 has made clear to Mr and Mrs Mawbey that their reasonable costs of seeking professional advice in relation to those matters, they effectively form part of their compensation so they will be reimbursed and there is provision under HS2's arrangements for money to be paid out on account so that there are funds to take professional advice in relation to these matters.

22. So I think I should go no further than that but that is essentially where, so far as the promoter is concerned, that's where things are as we begin today's petition hearing.

23. THE CHAIR: Just one further point if you wouldn't mind. As far as I could tell from looking through the correspondence, the draft agreement didn't surface until 9 September which doesn't give the Mawbeys very much time to look at it, understand it and take professional advice. Am I right about that?

24. MR MOULD QC (DfT): I don't think that is right. There has been a draft agreement in circulation I think since at least a year ago. If you look at page 40(24), so P40(24), there's a letter of 17 October of last year and you'll see that in the third paragraph, the writer of that letter in the name of the then director of hybrid Bill delivery, referred to the tabling of a draft mitigation agreement on 17 April 2019. It may be that the terms have been revised to some degree but my understanding is that a form of agreement, whose substantial purpose was as I've just described, has been circulating for rather longer than since earlier this month, yes.

25. THE CHAIR: Right. Thank you very much. Ms Mawbey, over to you, please.

Submissions by Ms Mawbey

26. MS MAWBEY: Okay. I don't know whether you had a chance to look at my videos that I sent in beforehand.

27. THE CHAIR: Well, what I've got before me at the moment is your handwritten material which is in R80 and I think it's pages 3, 4 and 5 you're setting out your problems and page 6 and 7 you've set out, very helpfully, what you want to be done in response. Now, is that what you're asking us to look at or have I got to the wrong place?

28. MS MAWBEY: Well, basically what I was going to say was we've lived at the cottage for 24 years now. We bought the cottage and the land with the sole purpose of having the business there for canal boat moorers. As time went on, as we've got older, we expanded the moorings so that they would cover, essentially, our retirement if you like.

29. HS2 came about in 2016. We had a safeguarding letter stating that we shouldn't do anything with our land until we knew what the requirements were for our land. I've emailed HS2 then and I got a response in November 2017 stating that they didn't really know what the piece of land at the bottom of our field was for. We had our first meeting in September 2018. Again, it was just a case of it was safeguarded land so therefore it was just there to protect the utility diversion, or that's what we understood. Since then, a lot of our moorers have left because of the uncertainty of what is, isn't, when and where things are going to happen based on the build of the programme, the construction of the programme.

30. What has happened since then, obviously our moorers we've lost. We've tried to mitigate our losses in that we have moved the moorers that we could from the bottom moorings in that field at the bottom to our top mooring field so that as and when those spaces became vacant, our moorers who wished to stay could stay. Those that can't obviously have left, which has left us with a loss of income since probably about 2017.

31. And the next part of that was that we decided that we would use one of our fields as a Camping and Caravanning Club site to help us through those losses. We got official agreement from the Camping and Caravanning Club site to start that, based on doing certain screening, planting and things like that to start in April 2019 but, by that time, we still didn't know what was going to happen with the field at the bottom.

32. So we've now had to – because of the loss of that field which is where our polytunnel is, which we will have to move in to the top field which, if you want

graphical pictures, is on page P50 as we were on earlier, the top field is the kind of mis-shaped field and the bottom field where the HS2 is coming from, there is a polytunnel down there. There is also a paddock for our alpacas so we have now had to take that top piece of land which was to help cover our losses, to put our alpacas up there and move our polytunnel up there. So now we have no spare capacity up there.

33. We still have moorers on the bottom field where HS2 is coming through. We still have moorers within the basin but, as I say, as we've lost money over the years. Our land and buildings have deteriorated because we haven't had the funding to be able to keep those up and running as well as trying to cover the costs of our losses. So we've been doing such things as outdoor markets and anything that we can to bring in money to keep us going until we can get a plan, if you like, as to when HS2 are going to take our land, how long it was going to be, how much, so that we could tell our moorers so that we could – and the funding is so that those moorers that are left with us, we can move them to a place that isn't right next to the haul route, that is further away so that they enjoy what they have already which is a nice tranquil space to live in.

34. And basically, we've just been trying to live the last four years based on not knowing what's happening, when it's happening, how it's happening and like Mr Mould said, we had a letter recently stating, giving us an assurance that HS2 would not temporarily take our land until December 2022 which, for us, was a good thing because we could then say to our moorers, 'Well, we know when it's happening. We can now put in place' – with the funding that we will hopefully get – 'we can now put in place your new spaces so that you're all settled in'. We can take the paddocks down from the bottom field; we can take the polytunnel from the bottom field and rebuild it up in the top. It's all ourselves. We're not getting contractors in or anything. So we assume now that we will have up until 2022 with the funding for us to be able to do that.

35. This morning I've just had an email from HS2 telling me that that temporary land is likely to be in 2021, they're now likely to want part of that land. So we're still not –

36. THE CHAIR: Did they give a month? Did they say when in 2021?

37. MS MAWBEY: It's on my phone actually. It's an email. I think it was December 2021.

38. THE CHAIR: Yes. They're withdrawing – they're going back on what they said in the letter of 9 September.

39. MS MAWBEY: Yes.

40. MR MOULD QC (DfT): We can't do that. I'm sorry, I'm afraid I don't know anything about that. But, as far as I'm concerned, the position is there's been a commitment given in the letter of 9 September and that commitment requires HS2 not to go on to the petitioner's land until December 2022.

41. THE CHAIR: Well, it would be very disappointing if they're going to withdraw from the assurance in that letter.

42. MR MOULD QC (DfT): Well, I can say categorically before this Committee, the promoter is not able to withdraw that assurance.

43. THE CHAIR: And we give a direction to that effect.

44. MR MOULD QC (DfT): Yes.

45. THE CHAIR: I mean I think it would be, really, to give the Mawbeys the protection because I can quite see it's extremely frightening if you get an email of the kind you've been referring us to.

46. MS MAWBEY: Yes.

47. THE CHAIR: Then the whole cloud of uncertainty is raised again which obviously you don't want to have because you've got to deal with the moorers and tell them what's going on.

48. MR MOULD QC (DfT): My Lord, I'll find out what's happening and I'll make sure that I let the Committee know if there's anything.

49. THE CHAIR: Yes.

50. MR MOULD QC (DfT): That is genuinely news to me, I'm afraid.

51. THE CHAIR: Yes. I'm so sorry, Lord Horam?

52. LORD HORAM: Was the original date December 2022?
53. MS MAWBEY: No.
54. THE CHAIR: That's in the letter of 9 September, isn't it?
55. MS MAWBEY: Oh, right, yes.
56. LORD HORAM: Was it December 2022 we were talking about in the original letter?
57. MS MAWBEY: Yes, My Lord –
58. LORD HORAM: So we're now talking about – and that's at the very end of 2022 – we're now talking about 2021, is that correct?
59. MS MAWBEY: Yes, my Lord.
60. LORD HORAM: I mean you've lost at least 12 months.
61. MS MAWBEY: Would you like me to open up my email so I can read it to you?
62. LORD BRABAZON OF TARA: Yes please, yes.
63. THE CHAIR: Well, I think it would be very helpful for Mr Mould as well to see it because it's a matter of some concern.
64. MR MOULD QC (DfT): Ms Lean has taken urgent instructions and what we have been told is that the reference to the earlier date is not to the petitioner's land but rather to other land in the vicinity which will need to be occupied earlier. So the commitment given in the letter of 9 September on page 40 of our exhibits is unaffected and that commitment, not to enter the petitioner's land until December 2022, that –
65. THE CHAIR: December 2022?
66. MR MOULD QC (DfT): 2022, yes, that commitment is in place and that commitment will remain in place. I'm afraid there's no doubt about that. We've said what we're going to do and we'll have to stick to it, yes.
67. THE CHAIR: Yes, it's on page 40, paragraph 2, 'Date of entry' is the

crucial paragraph.

68. LORD HORAM: Page 40 of document 40?

69. THE CHAIR: Right, page 40 of P40. That's right. And paragraph 2 headed 'Date of entry'. Yes, Ms Mawbey?

70. MS MAWBEY: My Lord, may I read the text that I got at about 8.30 this morning?

71. THE CHAIR: Yes, please. And so Mr Mould needs to hear it along with Ms Lean.

72. MR MOULD QC (DfT): I think we have it in front of us.

73. THE CHAIR: You do? Right, yes, all right.

74. MS MAWBEY: It says 'HS2 may need to temporarily use the same part of the same land from December 2021 to temporarily establish a site for some other earlier works which are similar to minor utility works or environmental works'.

75. THE CHAIR: Yes, Mr Mould?

76. MR MOULD QC (DfT): I'm sorry, understandably, the petitioner has perhaps not read the previous sentence clearly because the paragraph in question reads, 'On the land required by the promoter to the east of the Macclesfield railway line, the promoter will likely start site clearance on some part of the Trent south embankment main compound and car park establishment in December 2022. Before December 2022, HS2 may need to temporarily use the same part of the same land from December 2021 to temporarily establish a site for some other earlier works which are similar to minor utility works or environmental works'.

77. So that is a reference to the land that I showed you on P40 page 3 which lies on the other side of the Macclesfield railway line to the petitioner's land. So it's completely consistent with the assurance given to the petitioner which relates to her land.

78. THE CHAIR: I've just opened up page 3. Can you just direct me again to where

it is?

79. MR MOULD QC (DfT): Yes, you can see that we have the Macclesfield to Colwich line which runs from D1 down to E5 and to the east of that line, the north point is shown in the top left-hand corner, to the east of that line there are a number of HS2 compounds and works facilities. The email that Mrs Mawbey received earlier this morning, and the paragraph that she read out in part and I read out in full, relates to those lands to the east. In other words, they relate to land other than her land.

80. THE CHAIR: And they're on the other side of the railway line.

81. MR MOULD QC (DfT): On the other side of the railway line, yes.

82. THE CHAIR: Yes. Now I wonder whether, so that we can all have this, you wouldn't mind forwarding the email to Mr Turner.

83. MR MOULD QC (DfT): Of course.

84. THE CHAIR: You have his email address.

85. MR MOULD QC (DfT): I'll make sure that's done as soon as possible.

86. THE CHAIR: Yes, I think so, and then we can see it. Thank you. Well, Mrs Mawbey, please continue.

87. MS MAWBEY: My Lord, it was a quite a shock when I received it, obviously I was just on the train coming down here, to receive that. I think I've probably got to the end of my statement then.

88. THE CHAIR: Right. Just be quite clear, I referred earlier to a list of items that you wanted to be dealt with. Would I be right in thinking that the draft agreement which you now have is aiming to cover these things in the package which is being offered?

89. MS MAWBEY: Yes, my Lord, in that as Mr Mould said earlier, this agreement has been going on since September last year.

90. THE CHAIR: Yes.

91. MS MAWBEY: I've emailed backwards and forwards and that original agreement had other things within it, for us to build a barn for our alpacas, to store hay, to buy a vehicle so that we can move the alpacas from one field to the other field and various other bits and pieces like that. That was not in the one that I received in July this year and, since July this year, we've been going backwards and forwards. I think the first time I went back with the new agreement was in May. I think I got a response in July and then another response for some information in August where I had a telephone call with the HS2 team and then obviously the draft agreement of 9 September.

92. THE CHAIR: Now, as far as the agreement is concerned, I think you were encouraged to take professional advice. Are you going to do that? And the offer is to provide you with the money to enable you to do that. Are you going ahead with that?

93. MS MAWBEY: Well, my Lord, we have been engaged with HS2 for four years now and from what I have seen, I can't see that where petitioners have engaged with professional advisers that they are much further along the road as we are now.

94. THE CHAIR: Yes.

95. MS MAWBEY: There are still people who have professional advisers that have outstanding agreements, payments, and for me, it's our property, it's our lives and I feel that I am best placed to explain and to – it's a very dramatic thing to say but fight for our cause, if you like.

96. THE CHAIR: Yes, yes.

97. MS MAWBEY: And to some extent, if I had somebody professionally working for us, they would take my information anyway so, to some extent, we're cutting out the middle man and saving the public purse as well.

98. THE CHAIR: Well, that's very noble of you but if you're content to do it yourself then there's nothing better than that I would have thought.

99. MS MAWBEY: Yes, my Lord.

100. THE CHAIR: Good. Well, thank you very much indeed. Mr Mould, do you have

anything that you need to say in the light of this? Obviously progressing the agreement to the point of signature is very important.

Response by Mr Mould

101. MR MOULD QC (DfT): Yes, it is and I would simply – I mean I very much respect what Mrs Mawbey has just said about professional advice but it is also true to say that we are in the field of land compensation essentially and, as I've explained, if all else fails, Mrs Mawbey will have a claim in due course, a statutory claim. And one of the things that professionals who operate in that field are able to do is they are able to understand, with the benefit of experience, what are the undoubted complexities of that field of law and practice and I'm sure, I don't need to ask Mr Smith to say anything to you, but I'm sure if I propose the proposition that sometimes those complexities are more efficiently addressed if two professionals acting for different parties are able to address them and discuss them with that level of knowledge and experience, it makes it easier to achieve an outcome. I think, Mr Smith, that's correct, isn't it? Yes. So I simply offer that thought.

102. Of course the other thing that your Lordship will know, and members of the Committee will appreciate, where effectively in taking up the offer of funding for a professional adviser, probably a surveyor I would have thought in the first instance who has experience of land compensation matters, Mrs Mawbey would effectively be in a position to have someone to champion her cause with the benefit of experience and I make it absolutely clear, that person, although the cost incurred in retaining that person would be reimbursed by HS2, it wouldn't in any way compromise their independence and they would owe their duty to her. So there is that thought as well and I just mention that because I'm sure that is something that is an important point that anybody who did advise her would have very much at the forefront of their mind.

103. The only other point is, it would be very helpful if we could move to agreement, broadly speaking, on the terms of the draft because it will then enable the promoter to make the payment on account that will allow Mrs Mawbey to start funding the works that she perfectly properly wants to carry out well before December 2022 when the actual impact, in terms of dispossession from her land, will take place.

104. THE CHAIR: Well, I'm sure Mrs Mawbey understands that, that obviously the

money can't come in until the agreement has been signed.

105. MS MAWBEEY: Of course, my Lord.

106. THE CHAIR: That's fairly straightforward. Well, I think in the light of what you've both said, there's nothing more we need do today. We've now got a copy of the email which we'll look at and I think it's fairly plain it isn't as alarming as you thought it was. But normally if we have assurances, we know that they're properly recorded and can be, if necessary, enforced but beyond that I don't think there's anything this Committee need do for you. We're very grateful that you came and explained the position to us and I hope today has been some help to you in moving things forward.

107. MS MAWBEEY: I hope so too, my Lord.

108. THE CHAIR: Do any members of the Committee have any points they would like to raise? Yes, Lord Snape?

109. LORD SNAPE: Can I just ask, Mrs Mawbey, about negotiations with HS2? I mean, are they conducted on a face to face basis? I mean, do you have a regular point of contact with HS2 or are they conducted through mail or email as you've seen this morning? I just wonder, there appears to be a basis of agreement, but why these things take so long and whether or not you feel that HS2 have a rather impersonal approach to people like yourselves.

110. MS MAWBEEY: My Lord, I have been engaged with HS2 personnel face to face. Obviously at the moment that's more difficult because of the situation that we are in. HS2 have come and visited our site and the team that are involved, the petition adviser team that I speak to, have always been very helpful and I can't say that they haven't been and I'm assuming that when I don't get answers, when it takes a while, it's more to do with there are more deeper workings, more, I guess, meetings, committees to go through to get an answer to bring back to me.

111. Ideally, it would have been really nice in the beginning to be able to have face-to-face meetings with people who could make decisions based on what they were actually physically seeing rather than the team that came to us and having to report back to people that perhaps haven't seen where we live and how we operate and the type of

place that we are now.

112. LORD SNAPE: Well, thank you, that's interesting. Thank you.

113. THE CHAIR: Lord Liddle?

114. LORD LIDDLE: I just wondered if the news you've got that the land to the east of the railway will be accessed and used earlier than you thought will prejudice your business more than you expected and in what ways.

115. MS MAWBEY: Yes, my Lord, again, because although it's not on our land, it's very close to where our moorers are and the moorers down there are residential moorers so at the moment they enjoy a nice peaceful life so they will be able to hear what's going on in that – although Mr Strachan says there is an embankment, you can hear what is going on in that field. Because if you had been given a copy of the YouTube videos that I submitted, you would have heard that there is absolutely no noise where we are at all. We have the trains on the Macclesfield railway line. There are two an hour. They take about 12 seconds to pass and it's about, say, 20 hours' worth. So you're talking about 10 minutes a day of noise that we have from that railway at the moment. We have no near neighbours. When work starts in that compound, we will be affected by the noise and the dust and the traffic.

116. LORD LIDDLE: Yes, I understand that.

117. THE CHAIR: Any other questions? Well, thank you both very much. At this point I'm going to adjourn proceedings and we'll sit again at a time not before 12 noon, not before 12 noon. We may be able to sit then but we'll have to wait and see how things are developing with our next petitioner. Thank you all very much indeed.

118. MS MAWBEY: Thank you, my Lord.

Sitting suspended.

On resuming –

119. THE CHAIR: Welcome back to this hybrid meeting of the Select Committee on the High Speed Rail (West Midlands – Crewe) Bill. We will now hear the petition by Mr William Murray, who is here with us in the committee room. Participants should

have the exhibit bundles open and available. For this session, that is bundle A22, R84, R111 and P41. We will navigate the documents using the numbers in the bottom left-hand corner of each page. We shall begin with petition 36 in the name of William Murray. Mr Mould, would you be good enough to open the proceedings for us?

William Murray

120. MR MOULD QC (DfT): My Lord, yes. If we could have open P41(3). We're in the settlement of Whitmore Heath in North Staffordshire. Mr Murray is the owner and occupier of a dwelling house known as Windermere on Birch Tree Lane, Whitmore Heath, and that property is shown outlined in red on the plan which is before you. You'll see that the property lies on plan lies to the south-west of the Whitmore Heath tunnel, which is the twin dashed line notation running along the centre of the page. That tunnel will be at a depth which varies between 30 and 40 metres below ground and the petitioner's property is about 85 metres on plan from the nearest tunnel, which is the down line tunnel, which at the point immediately to the north east. So in other words, if we were to draw a straight line from the mid-point of the petitioner's property and his house, which we can see the footprint on the page, directly perpendicular to the running tunnel, at that point the tunnel is predicted to be at about 44 metres in depth.

121. If we turn to the previous page, you see P41(2), the Committee can see the broad indication of the construction arrangements and the construction activities. The tunnel itself, of course, is being constructed entirely underground; it'll either be bored or constructed through the sprayed concrete lining technique; that'll be a matter for resolution during the detailed design. There is some work proposed to Snape Hall Road which is the minor highway that runs northwards from the Newcastle Road, from Common Lane, and you can see that at line 4 running across the page, box 4. Essentially, those works are required in order to widen Snape Hall Road to the west so as to enable it to accommodate a relatively limited quantity of HS2 construction traffic which needs to get north of Snape Hall Farm and to service construction to the north of the Whitmore Heath tunnel. Those works in isolation are in the nature of highway works so they are the sort of works one would ordinarily expect to see if a minor highway was subject to widening in the ordinary course of affairs.

122. The only other point I think I need to draw out in opening is that, as you see from

Mr Murray's own exhibits at page A22(1), Mr Murray has received an offer to purchase his property from the Secretary of State dated 18 June 2020. The terms are set out on that page. There's been a slight variation in relation to the sum showing towards the bottom of the page is the capped sum for removal costs; that's been increased, I think, very recently to £12,000, but other than that the terms speak for themselves. The other point I perhaps ought just to mention in opening is that there's a letter of 4 September, which you find at page 3 in his bundle, A22(3), and that letter was written in response to some queries that Mr Murray raised after he had received the offer letter of 18 June. And I draw attention to page 5 of this bundle. There's a heading, 'Alternative dispute resolution', and the second paragraph records that if it were not possible to reach agreement in relation to those matters under the terms of the offer letter, which required agreement between the parties, then the promoter's position is that, if the parties were agreed, those matters of dispute could be referred to an appropriate form of alternative dispute resolution.

123. THE CHAIR: Yes.

124. MR MOULD QC (DfT): That was said because, as you will appreciate, Mr Murray's property is not subject to compulsory purchase or temporary possession powers under the Bill, and so it is necessary, if there is to be recourse to some third party to resolve any disputes arising in relation to the offer letter, it would be necessary to make those arrangements by agreement; they wouldn't be covered by any statutory provision.

125. THE CHAIR: Are you able to put a timescale on, first of all, the works on Snape Hall Road and how long the construction traffic could be expected to be using it for?

126. MR MOULD QC (DfT): I am; I think that is dealt with in the slides. I think it's about nine months, or no more than nine months; that's P41(15). That's for the widening works. What I will check is your Lordship may also want to know the overall period during which the road will be used by the HS2 construction.

127. THE CHAIR: Yes, that's the second part of my question.

128. MR MOULD QC (DfT): Yes, if I may, I'll just take instructions on that although I may – yes, I see – I'll take instructions and I'll provide you with that information as

soon as possible.

129. THE CHAIR: Yes, thank you very much. Well Mr Murray, it's over to you now to present your case to us please.

Submissions by Mr William Murray

130. MR W MURRAY: Thank you. Is the microphone working? I've got two problems and that's one of the reasons my son, Adrian, is here with me today. I'm somewhat fragile; I think you've seen the medical evidence – open heart surgery two years ago.

131. THE CHAIR: I've taken the opportunity of looking at them.

132. MR W MURRAY: Thank you.

133. THE CHAIR: But I don't want to go into details about your condition. I mean, obviously, we're very sympathetic to your position.

134. MR W MURRAY: Thank you.

135. THE CHAIR: But we really have to examine the facts but you can take it that we're all extremely sympathetic to the position you face due to your state of health.

136. MR W MURRAY: Well, your Lordship, the situation I find myself in is summed up by the doctor; I have to get out because of High Speed Two.

137. THE CHAIR: Yes.

138. MR W MURRAY: I can cope with the heart problems; I can cope with the emphysema. I have done for the two years after the operation. I cannot cope with this construction going on around me. My driving licence is very fragile; it's renewed once a year. There was two months between the renewal date in June and them letting me have it in September, or end of August. That licence is going to disappear. It doesn't bother me in the present situation; I can walk into the village, I can get the bus, I can go to Shrewsbury. One way I can go to Newcastle-under-Lyme, the other; there's railway stations at both of them. When this starts, I've got serious problems and I believe the doctor when the doctor says, 'You must go'.

139. THE CHAIR: When you say, 'get out', you mean go out into the open air.

140. MR W MURRAY: No, I must leave.

141. THE CHAIR: Leave, I see.

142. MR W MURRAY: I must leave.

143. THE CHAIR: I see, yes.

144. MR W MURRAY: Now I walk, I wobble but I walk, to get three-quarters of a mile into the village; I cannot get up or down Birch Tree Lane, where I live. It's far and away too steep; there are some photographs I'll show you later on. Going down it is dangerous; coming up it is something else. I walk out through the body of the heath to get onto the bottom road; it works.

145. THE CHAIR: Yes.

146. MR W MURRAY: I walk out through the void that High Speed Two seem intent on denying the existence of and I walk into the village. Once this starts, I've had it. High Speed Two will not recognise that people are blighted; they have their own very narrow view of houses being blighted and it's based on a desktop exercise. I've not seen anybody taking levels or doing a ground survey; in seven years, nobody's been out there. It's all a desktop exercise. But aside from that, if I stay, I don't think I'll survive. And that to my mind is blight at its very, very worst. If High Speed Two wasn't proposed, I wouldn't have any problems; I love living where I live. Both my children are two bus rides away. I've got some lovely neighbours; they're going, some have died. The houses round me have had the blight letter issued to them. One's gone, one's about to go, the other two won't be long off. I've become a prisoner in my own home.

147. Now I have a different perspective. I'm not independent at all; I'm self-reliant. And there's a bit of embarrassment having to rely on my son propping me up today but I'm afraid I've got to. What awaits me is sheer hell and they will not recognise that their plans affect people; they will not have it under any circumstances. The medical evidence that you've seen, High Speed Two got some time ago; there was no response from them, none. The operation was two years ago. The surgeon said there's a 4% chance the operation will kill you – 1 in 25. Later on I was told that, had we waited till

Christmas, ‘You wouldn’t be here’. That was two years ago; I’m here, I’m very, very grateful. I was walking home from the post box in the village about a couple of weeks ago thinking, ‘If my house was up for sale now, and High Speed Two wasn’t proposed, I’d buy it’. I’ve been there 32 years; I brought my son up there; it’s me.

148. I have to go and there is only one reason I have to go, and it’s High Speed Two. And yes, there has been an offer – do you want me to look at the offer?

149. THE CHAIR: Well, I’ve got the document in front of me; it’s page 1 in A22.

150. MR W MURRAY: Yes. Do you want me to look now, Sir?

151. THE CHAIR: Well, yes, I think we are interested in what your position is about the offer.

152. MR W MURRAY: Now if I look at the offer, the first one was a bit hasty, the first letter was a bit hasty, and I realise that under present circumstances a lot of people are working from home. The query on removal expenses - it’s reimbursed on invoices – the query was on VAT. So it’s not £12,000; it’s £10,000 plus VAT and that is receipted so there’s nothing in that for me; that is paying the removal costs on a house I’m being forced to leave. The legal fees and everything else are reimbursed and those fees are fees that I will be reimbursed for because I’m being forced to leave my own house; that’s not money for me.

153. THE CHAIR: Can I just pause there to see if I’ve grasped this? As far as the compensation box is concerned, the bottom line says, ‘£10,000 capped removal costs’.

154. MR W MURRAY: Yes.

155. THE CHAIR: And you object to the word ‘capped’, I take it.

156. MR W MURRAY: No, no; I asked for clarification as to whether that was £10,000 plus VAT.

157. THE CHAIR: And the answer.

158. MR W MURRAY: And the answer was, ‘Yes, it is £10,000 plus VAT’.

159. THE CHAIR: Oh, plus VAT. So it accepts the VAT, right.

160. MR W MURRAY: Yes. That was the only query on that.

161. THE CHAIR: Yes, right.

162. MR W MURRAY: The query on professional fees was what professions? And I must praise Maya Williams-Orme for giving me guidance on that. The purchase price on the letter dated 18 June, there is no mention of the house in there; it is the land. The land's value at the moment is nothing, it's negligible. Now I think that was an oversight; I think that was clicking the wrong box on a computer.

163. THE CHAIR: I'm open to correction, Mr Mould, but I think the land takes account of the structures on it as well. I mean, is that not right?

164. MR MOULD QC (DfT): Yes.

165. THE CHAIR: I mean, that's the usual position that everything that is on the land is part of the subject matter for purchase.

166. MR W MURRAY: Well, your Lordship, I asked for clarification and I've been given the clarification I asked for.

167. THE CHAIR: Yes.

168. MR W MURRAY: I'm not being critical; I'm just explaining what it's in there.

169. THE CHAIR: Understood.

170. MR W MURRAY: Now if we look at this letter, the dated 4 September, if you look at A22(4), 'Purchase price', blighting impact is mentioned. Second line down where it says, 'Purchase price'. I go to the bottom of that paragraph, 'No indication of compulsory purchase'. I carry on with that sentence, 'unblighted'. The legal advice that I'm asked to seek, the professional advice, which is A22(5), third paragraph down, begins, 'April 2017'. Fifth line, beginning, 'Advising', 'Compulsory purchase and statutory compensation'. Essentially, that's where we're at. High Speed Two has an in-built terror of the word 'blight', despite that letter. I offered – I didn't offer – I put an idea to somebody from High Speed Two. The idea was what's on the table, what's there, plus the resettlement allowance that you would get on blight or compulsory purchase. But mindful of the fact that High Speed Two don't like the word 'blight', the

words I used were, ‘Where the householder’s health will be adversely affected by the construction of HS2 and where the householder’s home is seen to be adversely affected by the construction of HS2. And as second to that, this is particularly relevant to older people who may be living on their own’. And I called that a typical type 2.

171. That would give me the settle-in allowance that those around me are getting. It avoids High Speed Two stumbling over the word ‘blight’, and it does not set a precedent for Birch Tree Lane or Snape Hall Road; it is very, very precise. I think that’s an elegant solution to the situation that I find myself in. I’ve got grandchildren, I’m a great-grandad now; I want to live long enough to enjoy it and I fear I won’t because I’m being forced out of my own home.

172. THE CHAIR: I’m looking back at page 4 where you’re told what the purchase price would represent, and you’re told that the price of the property in its current condition, assuming there’s been no indication of a compulsory acquisition. So you would get the unblighted or unaffected market value.

173. MR W MURRAY: On the house, yes, sir.

174. THE CHAIR: So I understand that – for the property –

175. MR W MURRAY: Yes.

176. THE CHAIR: But I understand from what you’ve now been saying that you would like something else, which is really effectively a disturbance allowance.

177. MR W MURRAY: Yes.

178. THE CHAIR: Yes, because the blight will go. Once you move somewhere else, you won’t be blighted.

179. MR W MURRAY: Oh no, no. And that’s, your Lordship, why I proposed the form of words that I’ve just been through.

180. THE CHAIR: Yes.

181. MR W MURRAY: It gets HS2 away from their fear of blight and I think it’s justice. Now son and daughter – unfortunately, daughter can’t be here today, she works

in a care home and there's already been a Covid-19 scare in the care home, so quite rightly she's not here.

182. MR A MURRAY: She's staying within her bubble with her work colleagues.

183. MR W MURRAY: The bubble. She goes back and to, to work, with three other people until they've sorted this out – well last I talked to her. I've seen the mechanical side of what's happened to me. I am fiercely self-reliant; I think son has got a different perspective; daughter certainly has.

184. THE CHAIR: Could I pause there in case members of the Committee have questions they would like to put to you?

185. MR W MURRAY: Yes, please.

186. THE CHAIR: There is an opportunity if anybody would like to ask questions. No, I think we all understood very much what you've been saying so far. So if you just continue, please.

187. MR W MURRAY: Thank you, your Lordship. Son has a different perspective and his concern isn't the mechanical aftermath of the operation; it's the effect that High Speed Two's having on me following the operation. So if, briefly, I can ask my son, Adrian, to explain what he's seen.

188. THE CHAIR: Yes. Well, Adrian, if you'd just like to make your statement to us; we'll listen to you very carefully.

Submissions by Mr Adrian Murray

189. MR A MURRAY: There were two statements forwarded through; there was one from myself and one from my sister, which I assume you've seen.

190. THE CHAIR: No, that hasn't been circulated. So I think if you just assume that you can say what you would like to say, but those letters have not been circulated.

191. MR A MURRAY: Okay, would you like me to read the statements from my sister –

192. THE CHAIR: It's up to you, I think, if you would prefer to do so.

193. MR A MURRAY: I think I should to be honest with you. This is from my sister, Kate; this was dated 10 March this year. 'I'm writing to you with regards to my dad, Bill Murray, who I am very worried about, more so recently since HS2 has been confirmed. For my career, I've been in the medical health field for in excess of 20 years. I am now seeing my dad suffer from mental health problems caused by HS2. With working shifts, I can often go for weeks without seeing my dad, yet each time I do see him I see a difference in his mental health and well-being. He's suffering greatly due to HS2. If he doesn't move home, I'm terrified we will lose him. He is going downhill fast all because of the construction of HS2 and the fear of being alone, isolated, and eventually losing his home. The construction of HS2 hangs over him like a very dark cloud.

194. With me not being able to drive and the fact I work shifts, it is very rare that I get to see him at his home. I know from speaking to him that once construction starts on HS2 he will not be able to get safely off Whitmore Heath. This is a huge worry as when his neighbours move, he will be totally isolated and alone. He is fairly active currently as per his GP's instructions, but he does have to stop frequently to catch his breath. If he cannot stay active, he will die. He will no doubt lose his driving licence, if not this summer then very soon. If he cannot walk or drive, then he will be cut off from the world surrounded by a building site and HGVs and his future is very short. Yours faithfully, Kate Murray'.

195. And this was the one that I wrote on 11 March 2020, 'Bill Murray is my father. I have grown increasingly worried about his health and well-being due to the construction of HS2. My father has had many health issues in the past which he manages and lives with. He lives with emphysema, he lives with heart problems, he lives with the requirement of a walking stick due to leg problems. He will not be able to live with these health issues as well as the construction of HS2. I see the anxiety he is suffering, the fear of isolation, and I see him becoming more and more depressed by the thought of his life being turned upside down by the construction of HS2. He will end up a prisoner in his own home until his health fails completely, for one reason and one reason alone, the construction of HS2.

196. Day to day activities, such as going shopping or to doctors' appointments, are undertaken on foot. This is due to the need for him to remain active, to keep his fitness

levels up, as per his doctor's instruction, a reduction in confidence with driving. Having lost his driving licence after surgery, he now has his licence assessed every 12 months; the last time he was very close to his licence not being renewed. When it comes to walking, there are factors that need to be taken into account. He is unable to walk any distance uphill. Birch Tree Lane, where he lives, is not viable on foot. It is a steep incline and he is unable to gather his breath. I cannot remember the last time he walked up Birch Tree Lane. Instead he relies upon being able to cut across Whitmore Heath to Snape Hall Road where sometimes he has to stop frequently and with very little warning to get his breath. There is no common time or distance period when this happens.

197. With the construction of HS2, he will not be able to cut across Whitmore Heath. If, somehow, he could get to Snape Hall Road, HS2 have already stated there will be HGVs using this road. A sudden bout of breathlessness which happens frequently, he wouldn't be able to get out of the way of a lorry. All it takes is one HGV or lorry not to see him, I no longer have a dad. I see the worry in my dad with the prospect of HS2. He's suffering mentally even before construction begins. The few remaining neighbours he has will soon be gone. My sister works shifts and doesn't drive. I work offshore and I go away for weeks at a time. When my dad is vulnerable and isolated in his home and there is nobody left nearby, there will be nobody to help him. He won't be able to drive; he won't be able to walk for fear of HS2's lorries. Because of HS2 the outlook is bleak and I cannot see him surviving. In short, HS2 is killing him and he knows it'.

198. I just want to add one thought that came to me on the way down here; I can't remember the last time I saw him smile because of this. It's affecting his mind. He used to have a brightness in his eyes. He's got a walking stick – he's had that for a long time. As a child, lads' and dads' football, nobody would tackle him because he's got a walking stock; he was an ace. You know, he's my dad, he's my hero, and I'm losing him because of this.

199. THE CHAIR: I take it that you would agree that, if he moves and is able to move, then that particular worry will disappear.

200. MR A MURRAY: Yes, My Lord.

201. THE CHAIR: Yes. So it's all about a satisfactory arrangement for him to be able

to move away.

202. MR A MURRAY: Yes, My Lord. And I've made a few notes – it's all over the place – my brain doesn't work like normal people's brains, I'm afraid. But the levels of anxiety are worrying to all residents that are affected, especially the elderly, and a lot of people around there are on their own, my dad included. And with my sister's job and with my job, we can't keep a constant eye on him. He's retired. He should be on cruises. He should be chatting up glamorous ladies on cruise ships and driving Mustangs across America, going on safari. He is not. His full-time existence now is not watching his great-grandson play football. It's not watching his granddaughter ride a bike. HS2 is dominating his life. He is vulnerable, not only mentally, but physically. He's old before his years, all because of this hanging over him.

203. Now, I have a lot to do with mental health in the industry that I work in. Now, there's a video, it's on YouTube. It was made by the World Health Organisation. It's called 'A black dog called depression'. When you get five minutes for a cup of tea, please watch it. It basically summarises mental health issues as having a black dog there constantly. My dad's black dog is one thing and one thing alone. That's HS2. It is constantly in the background. I ring him most days and it never takes more than a couple of minutes until we get onto the subject of HS2. It's dominating his life mentally, and he won't survive physically.

204. There is one option, one clear cut option for him to get rid of that black dog, and that is for him to move away from HS2. It is the only way that he will survive this. It's their fault. Even on Monday they weren't even willing to discuss the offer that, well, not so much an offer, but when we rang up and said, 'How about this for an idea?', they wouldn't even discuss it. That's the people that we're dealing with. They don't care about his mental health. They don't care.

205. THE CHAIR: To be fair, there is an offer on the table which we have in front of us. It is offering as far as they can go as far as the purchase price for the property is concerned. I don't see that they even go further than taking its open market value without any blight whatever.

206. MR A MURRAY: We've seen how people have been dealt with when it comes to –

207. THE CHAIR: Also there's an alternative dispute resolution, should you still be in dispute as to amounts.

208. MR A MURRAY: Sorry, my Lord, I'm going to have to take a moment.

209. THE CHAIR: No, I think we all understand exactly the picture you're presenting to us but the fact is we have to look at the facts as well and there's an offer on the table. We're not in a position to negotiate on your behalf but we are interested in where that offer falls short of what you think you need.

210. MR W MURRAY: Disturbance allowance.

211. MR A MURRAY: It's disturbance allowance. You look in the offer that was there. One word sticks out, 'blighted'/'unblighted', in there. How's that not an admission that the house is blighted? It is blighted.

212. THE CHAIR: I think you misunderstand me. That is a description of the way the house or the property is to be valued. It's to your benefit. It's taking the value of the property as if HS2 didn't exist at all. That element is in your favour. I think you are referring to something else, which isn't in the letter, which is a disturbance allowance, which is the rough and tumble and all the disturbance of having to go somewhere else.

213. MR W MURRAY: Yes, your Lordship, it is.

214. THE CHAIR: That really is the point, I think.

215. MR W MURRAY: That is the point. With the disturbance allowance, I wouldn't be here today.

216. THE CHAIR: Yes.

217. MR W MURRAY: Those I know who've gone unblighted, well, three have gone, well, one's in the process of going and two have gone. I am coming off the heath with the barebones valuation and that's all because everything else is receipted expenditure. I get back to this thing that when I walk from the village post box it's thought that if it wasn't for High Speed 2, even in the state I'm in now, it's a bungalow, I can cope with it. If my house was up for sale, I'd buy it. The only reason I can't stay there is explained in the doctor's letter, blight is more than bricks. Blight is a person and it's

haunting me.

218. MR A MURRAY: And me.

219. THE CHAIR: Well, I think you've explained your position very well. I'm going to ask the Committee again whether they have any questions they'd like to put before I ask Mr Mould to reply. No, I think particularly, Adrian, if I say so, you've presented the position very clearly.

220. MR A MURRAY: Thank you, my Lord.

221. THE CHAIR: We're all fully appraised of the situation. Mr Mould?

Response by Mr Mould

222. MR MOULD QC (DfT): My Lord, can I begin with the offer to purchase that was made on 18 June? That offer is, as your Lordship has indicated, to purchase Mr Murray's freehold interest in his property at its unblighted market value and to pay the removal costs, so the stamp duty as it arises and a sum of money to reflect removal costs, which as he has said, is £10,000 plus VAT. I said it was £12,000 because that is the product of that analysis but it's essentially the same point.

223. THE CHAIR: Can I just ask you to pause there? There was some misunderstanding about the use of the word 'land'. The land includes the property on it.

224. MR MOULD QC (DfT): Yes. In this case, the property to be valued will be the land and the buildings on it. The principal building on it is Mr Murray's house.

225. THE CHAIR: Yes. Where in the letter do we find mention of removal costs?

226. MR MOULD QC (DfT): The removal costs are at the bottom of page A22(1). Under the heading 'compensation' you see three items are mentioned: stamp duty on the new property, professional fees reasonably incurred, £10,000 capped removal costs. The bottom of page A22(1). Subject to substituting the figure of £12,000 for £10,000 to reflect the fact that we've agreed to pay the VAT element, that is the sum.

227. THE CHAIR: It's my fault. I haven't found that yet. Is it in one of the boxes?

228. MR MOULD QC (DfT): Yes. The penultimate box says 'compensation'. Do

you see that?

229. THE CHAIR: Yes.

230. MR MOULD QC (DfT): It has three elements: stamp duty, professional fees and then £10,000 capped removal costs.

231. THE CHAIR: Are we looking at A22(1)?

232. MR MOULD QC (DfT): Yes.

233. THE CHAIR: Yes. Sorry, I found it. Thank you very much.

234. MR MOULD QC (DfT): So that is the offer which was made, obviously, subject to contract. It would be necessary to resolve the value, in other words the purchase price for the land and buildings. Now, Mr Murray has emphasised, as indeed has his son, the importance to him, the overriding importance to him of being in a position to move from his home to a new home well before the HS2 works actually begin. I can tell you that the works to Snape Hall Road, which is the earliest surface work that will affect him, that work is scheduled to begin in the fourth quarter of 2021. So that is by no earlier than 1 October 2021. So, effectively, we have just over a year, shall we say a year from now, in which to complete the purchase of his property in time to enable him to purchase and to move into a new property.

235. Of course, the first thing that needs to happen is he, as the owner of the property with the benefit of the offer to purchase that is set out in the letter of 18 June, he needs to accept that offer; or, if he wants to make a counteroffer, to make that counteroffer. But let us assume that he will accept the offer as far as it goes; I'll come to the point about a further payment in a moment. But the sooner he responds formally to that offer, which he must do as the owner of the property – the Secretary of State is not in a position to force him to accept it so he must do that – then we can move forward to a speedy, I hope, resolution and completion of the purchase.

236. Now, what are the obvious barriers to doing that quickly? The most obvious one is that it may not be possible to reach speedy agreement on the purchase price. That is something that needs to be resolved because obviously this isn't an actual sale in the market where the market will determine the price. This is a sale which is being dealt

with in accordance with this non-statutory arrangement. So, if there is a dispute, the parties need to exchange their views about price. Hopefully they can reach agreement but if they can't then, as I pointed out to you in opening, the promoter has said we are willing, for our part, to move to put that dispute to resolution by a third party under some alternative dispute resolution. That might be by an expert determination or an arbitration.

237. The speediest way of doing it, as your Lordship will know, would probably be through an expert determination. That expert, the most obvious thing, would be for the parties to agree to appoint somebody who is on one of the accredited lists, for example the Royal Institution of Chartered Surveyors has a list of experts who are experienced in dealing with these matters. For example, to put it to that. But that would be a matter for the parties to discuss and to agree in a timely way.

238. The next point is a point I made in relation to the last petitioner. People obviously, I can understand, are reluctant to engage professionals for a variety of reasons but this is, again, one of those areas where if Mr Murray were to take up the offer to retain his own professional advice. He might feel that he would be in the best place to negotiate robustly if he needs to in relation to the purchase price of the property. As the offer letter indicates, his reasonable costs of engaging that person would form part of the price paid to him under the terms of the offer that has been offered to him and which you've been shown.

239. THE CHAIR: I see that advice at page 4 in A22.

240. MR MOULD QC (DfT): Yes, indeed.

241. THE CHAIR: I'm repeating that advice.

242. MR MOULD QC (DfT): So we are at least some way down the road towards a process under which he can sell his property to the Secretary of State on the terms there set out and do so in good time to enable him to purchase a new home well before the actual works begin in his area in about a year's time. That then brings me – in fact, I'll pause there in case there are any questions on those points.

243. THE CHAIR: I think, just to be absolutely clear, the letter at page 4 was unclear

about VAT on the moving costs but you say that has been resolved and is now clear that VAT would be included.

244. MR MOULD QC (DfT): Yes, and I heard Mr Murray to say that he accepted that that was the case.

245. MR W MURRAY: Yes, and if I may, your Lordship, the clarification letter dated 4 September, which is A22(3), (4), (5) and (6), is far and away clearer than the original offer.

246. THE CHAIR: Right. Well, that's helpful.

247. MR W MURRAY: The questions I've asked about which professionals have been answered, VAT have been answered. I agree with everything Mr Mould said except the disturbance allowance. I am being pushed out of my own home.

248. THE CHAIR: I think we need a response from Mr Mould on that. The relocation costs, the moving costs, the removal vans and all the rest of it is covered, but you're wanting something on top of that.

249. MR W MURRAY: I am looking for the – there's various forms of words but there is an element within the blight payment which is a disturbance allowance. I honestly believe I deserve that disturbance allowance because I am being pushed out of my own home. I can forgo the word 'blight' without any trouble at all. I've offered a form of words that gets HS2 away from the 'blight' word but I think it's honest, I think it's decent that I come out of there with the disturbance allowance because, at the moment, I'm going to come out with a barebones valuation. All the rest that's been offered isn't an offer. Stamp duty, I pay the tax to government, government pays me back. I would not pay that tax but for the fact I'm moving.

250. THE CHAIR: I think we do need to hear Mr Mould on this point. You made your case for this several points. Mr Mould?

251. MR MOULD QC (DfT): Yes, my Lord, the payment that I think Mr Murray has in mind is what lawyers know and surveyors know as the 'home loss payment'. As you will recall, on a compulsory purchase which is authorised under statute, where the property which is subject to compulsory purchase is residential, the expropriated owner

of that property, in occupation of that property as their home, essentially receives three payments. They receive the unblighted open market value of the property itself. They receive those costs that they incur, or will incur, as a result of being required to leave their home compulsorily, which will typically include in the residential case the costs of removal, the costs of conveyancing, the costs of seeking legal and professional advice and also any tax that they are liable to pay that they would not have incurred in the absence of compulsory acquisition. Stamp duty is the obvious one. Occasionally there may be a liability to other taxes but I don't think that is relevant to this case.

252. The third element that such a person who is subject to actual compulsory purchase is entitled to receive is a home loss payment. That is a payment that is authorised under section 29 of the Land Compensation Act 1973. The words of that provision are as follows, 'Where a person is displaced from a dwelling on any land in consequence of the compulsory acquisition of an interest in the dwelling, he shall be entitled to receive a payment,' referred to as a home loss payment. That payment is specified under statute in a range. The minimum payment, I think, is presently, Mr Smith will correct me if I am wrong, the minimum payment I think is presently £6,300. The maximum payment is 10% of the open market value of the property, subject to an upper limit, I think, of £63,000 but if I've got those figures slightly wrong, I'll get someone to correct me.

253. But the key point here is that Parliament, in general legislation, has judged that that is a payment that is available to those who are actually subject to compulsory purchase. So the displacement must result from compulsory purchase. The simple point, in the case of Mr Murray and indeed many others whom the Secretary of State has agreed to purchase on the HS2 route voluntarily, is that they are not displaced as a result of compulsory purchase.

254. THE CHAIR: Isn't that a rather harsh criticism, a harsh judgment of Mr Murray's case? He's saying that but for HS2 he wouldn't dream of selling his house. He's not a voluntary seller at all. He's being driven out. That's the point he's making.

255. MR MOULD QC (DfT): I'm simply indicating that that has been the position. Indeed, the cases he's referred to elsewhere in Whitmore Heath, my understanding is those are cases where the purchase was done in anticipation of the land being subject to compulsory purchase. In other words, it was within the Bill limits.

256. THE CHAIR: Right, yes.

257. MR MOULD QC (DfT): Now, my Lord, the Secretary of State's position in relation to the effects that your Lordship has just put to me is different. Rather than extend that statutory payment beyond the scope of section 29 of the Land Compensation Act, the Secretary of State's policies in relation to what is described as 'generalised blight' or 'non-statutory blight', as I think Mr Smith explained to you when he gave a teach-in earlier in the Committee's proceedings, is to have a range of purchase schemes which enable those who, as it were, need to sell rather than simply wish to sell.

258. So because their property is subject to the generalised blighting effect of HS2, they're not within the Bill limits so they can't serve a blight notice and require acquisition under the statutory blight regime but their property is devalued. They need to move because, for example, they need to take up a job elsewhere. Therefore they need to sell their house for that purpose or, in Mr Murray's case, there are health and medical reasons why they need to move. The Secretary of State's position as a matter of policy is that those persons should be able to apply and, if their application is accepted, they will receive the unblighted open market value of their properties on sale but they will not receive any additional payments, including in the ordinary case, the costs of removal. They will simply be paid at market.

259. So, in Mr Murray's case the Secretary of State has gone further. If you will, it can be put colloquially in these terms, Mr Murray's offer represents 'need-to-sell plus'. The 'plus' element is the agreement to reimburse him the stamp duty that would be payable by him on the purchase of his new home and also the removal costs and the professional fees. The further element that is in addition to the ordinary approach under the need-to-sell scheme is the availability of the alternative dispute resolution. Because under the need-to-sell scheme, ordinarily, the value of the property that the Secretary of State has agreed to purchase under the need-to-sell scheme, is determined by reference to an average of valuations. There's no recourse for either party to a formal, independent third-party determination.

260. So Mr Murray, the offer of 18 June does represent a significantly extended offer from the Secretary of State. Beyond that which it would ordinarily be available under the Secretary of State's non-statutory policies, which of course have been in existence

since December 2015 and have been considered by both Houses of Parliament in the context of the West Midlands Bill and indeed have been before the first House in relation to this Bill. They've been the subject of some controversy and some concern but they essentially are the policies that have been consistently applied since the first Bill was introduced into Parliament in late 2013.

261. My Lord, that's really the issue. The question for the Committee, and it is a question for the Committee, is whether in Mr Murray's case, it is sufficient on balance, having regard to his interests and also the interests obviously of the public purse, sufficient that he should have the additional items that I have identified or whether, in his case, there is merit in, perhaps one might say exceptionally, there is merit or a case for him to receive an additional payment, essentially, a home loss payment albeit that under the statute that is not something that is available to him because he's not the subject of compulsory acquisition.

262. If the Committee is of the view that there is, in principle, merit in a special provision being made for him then the question would be whether he should receive the entirety of the home loss payment. That is to say the full 10%, up to the statutory cap, or whether some more limited payment would be appropriate to reflect the fact that, in the final analysis, he is not subject to compulsory purchase. His land is outside the Bill limits. That is where we are. So the residual point of dispute for the Committee is in that respect. I'm not sure that – I don't wish to seek to argue one way or the other. I simply place before you the underlying context and indicate why it is that the promoter, essentially the Secretary of State, has taken the view that he has gone as far as he should to reflect the correct balance in the present case. It's for the Committee to decide whether that balance ought to go further.

263. My Lord, I do have some further details about the duration of vehicular use of Snape Hall Road. I can give you that information if you would like it.

264. THE CHAIR: I think that rather recedes into the background if in fact the position is that Mr Murray will be moving. One would hope that he would be well away by the time the road is being used for construction purposes.

265. MR MOULD QC (DfT): Indeed, and that's been the thrust of my submissions, obviously. Ms Lean has very kindly given me some information about the home loss

payment amounts. She has discovered that under the Home Loss Payments Regulations 2020, new limits come into force with effect from 1 October of this year for a displacement that takes place after that date. Those limits are, the minimum payment is £6,500 pounds, the maximum payment is £65,000. As I say, within those upper and lower limits, the way in which the regime under section 29 of the '73 Act works is that the payment is assessed at 10% of the open market value. So, if the value of the property in question were, for example, £500,000, then the home loss payment for the compulsory purchase, residential owner/occupier would be £50,000.

266. THE CHAIR: Yes. Well, thank you very much. That's very helpful. Do any members of the Committee have questions to put to Mr Mould before we go back to Mr Murray? Yes, Lord Snape.

267. LORD SNAPE: Can I ask Mr Mould a hypothetical question here? If Mr Murray had lived a little nearer the site of works and his property had been compulsorily purchased, or would be liable to compulsory purchase, with all the other allowances that come with that, would the overall global sum that Mr Murray would receive in those circumstances be less or greater than the overall sum he's been offered in the current circumstances?

268. MR MOULD QC (DfT): It would be greater. It would be greater essentially because he would in that case – I think you're assuming in your question that his property would be within Bill limits and thus subject to compulsory purchase. He would have been able to claim the home loss payment that I have mentioned on the exercise of those compulsory purchase powers. He would also, in those circumstances, have been able to serve a blight notice under the statutory regime and there might have been a question as to whether the Secretary of State would have accepted that notice in full because the works that we're dealing with here are principally subterranean works, the tunnel works. But assuming that that blight notice had been accepted, he would then be entitled to proceed to make a claim on full compulsory purchase terms. Again, we're back to the point, the key differential would have been the home loss payment. So, my Lord, it would have been greater to the tune of the home loss payment.

269. LORD SNAPE: Fine. One other question, if I may, Lord Chairman: does the Secretary of State have any discretion so far as making an offer under the current

circumstances rather than the Committee, if it so chooses, having to write something in our report?

270. MR MOULD QC (DfT): The Secretary of State does have a discretion. It is ultimately a matter for a policy judgment for him. As I hope I have indicated, the judgment that has been taken on this issue has been that the additional payments that are reflected in the letter of 18 June draw the right balance between what Mr Murray's case merits and the public purse, effectively. There is also, as you will appreciate, to some degree in the mind of the Secretary of State, to some degree there is always a question of whether a precedent would be set in relation to any payments which go beyond that which the statute requires.

271. The Secretary of State is obviously always mindful of the need to ensure that the policies that he has in place to address the problem of generalised blight, including the need-to-sell scheme, that those policies should be operated in accordance with their terms so that people have the certainty of knowing what it is that they can expect if they find themselves in a position to have to make an application under that policy. There are a range of factors, as you will readily appreciate, I'm sure, that exercise the mind of the Secretary of State and his official advisers when they are faced with cases of this kind. If the Committee reached a certain view on this case, it would obviously be open to the Committee to indicate that view and the Secretary of State would obviously react to that view in his usual responsive manner.

272. THE CHAIR: Yes. I think Lord Goddard has a question and Lord Liddle. Lord Goddard?

273. LORD GODDARD OF STOCKPORT: Yes. First, following on from Lord Snape's question, we're really asking Mr Murray to take a leap of faith here. If he signs and then if the Committee were mindful to advocate the home loss policy, within that home loss policy, his personal circumstances I doubt would be covered in any legal part of that. So I think, just say we recommended the home loss should be used for this purpose, is there anywhere in that policy that would enable that to have any legal status in the Secretary of State's mind? Because I'm of your view that precedents are very dangerously set. I have a feeling that the Secretary of State, unless it's something that could be evidence-based, would be reluctant to set a precedent that could, on a number

of properties up and down this line, become quite a few. Is there an evidence-based piece of kit in the home loss products, if you like, that would be of assistance to Mr Murray, in your view?

274. MR MOULD QC (DfT): The Committee, I suggest, if minded to accede either wholly or in part to what Mr Murray has urged upon them, might wish to express their conclusions closely by reference to what they consider to be the particular factors, the special factors in Mr Murray's case that warranted some special treatment over and above the terms that are already offered in the letter of 18 June. The Committee might find it helpful not simply to say that Mr Murray should receive a home loss payment, because that would raise the sort of difficulties that your Lordship has raised, but, rather to say that his case was one that had some special characteristics that warranted an additional payment to reflect the practical impacts of displacement, the degree to which he was being required to move in fact, or at least his own perception of that. Your Lordships will be able to see very clearly the sort of reasoning that might insulate the Secretary of State against the sort of problems that, if I may say so, your Lordship very fairly raises.

275. LORD GODDARD OF STOCKPORT: Thank you.

276. THE CHAIR: What we would be saying wouldn't be setting a precedent for the Secretary of State. He can retain his policy undiluted, as it were, by what we say but we have to be careful of course that we're not setting a precedent for ourselves or, indeed, our successors if you think of Phase 2B and all these other things that are coming forward. Usually the lawyers work by finding special circumstances to distinguish a case from others. The more we could do that perhaps would be the better if we were minded to go down that route.

277. MR MOULD QC (DfT): Essentially, my Lord, I agree. Essentially, this case is about the Secretary of State has essentially formed his own judgment that the circumstances here, the special aspects of Mr Murray's case are properly reflected in the offer of 18 June. The question is whether the Committee considers that, no, there is a case for more to reflect the true nature of the circumstances that Mr Murray finds himself in. And of course, provided that is articulated clearly, nobody can seek to rely on that as a precedent unless their circumstances are essentially exactly the same.

278. THE CHAIR: Indeed, yes. Lord Goddard, does that satisfy you? Are you content? Lord Liddle?

279. LORD LIDDLE: Mr Mould's answered the point that I was going to make.

280. THE CHAIR: Good. Well, that really completes your answer, I think, doesn't it, Mr Mould?

281. MR MOULD QC (DfT): It does, yes, thank you.

282. THE CHAIR: There's only one technical question I have. Ms Lean has identified the regulations, the 2020 regulations. What is the full title if I was to look it up? Is it the land compensation such-and-such regulations?

283. MR MOULD QC (DfT): I think it's the Home Loss Payments (Prescribed Amounts) (England) Regulations 2020. We might be able to give you the statutory number.

284. THE CHAIR: I think if Mr Turner could be provided with the details later so we know exactly so if we give a reference to it we don't give the wrong reference. That's my only point. Now, Mr Murray, we've had a very full discussion. I think unless you've anything more to say we could really leave it there, couldn't we?

285. MR W MURRAY: Yes, your Lordship. I think Mr Mould and I are heading in the same direction.

286. THE CHAIR: Yes, I think it's now up to the Committee now to decide what to do.

287. MR W MURRAY: Yes. I get back to this walking back from the post box. If my house is up for sale now but for High Speed 2, I'd buy it. I've been there 32 years. I've brought my son up there. It's me. I'm being pushed out. If a form of words – and earlier this week I suggested the form of words – call it something else. Call it ex gratia payment up to. The legislation, I would suggest, tells the Secretary of State the minimum they've got to do. We have this concept of atypical: atypical (Murray), and that's it. We've got a solution and I think that solution is equitable. I think it's fair and I want more great-grandchildren.

288. THE CHAIR: Yes. Well, shall we leave it there, Mr Murray? Thank you and Adrian for presenting your case so clearly.

289. MR W MURRAY: Thank you.

290. THE CHAIR: I think we'll wish you well and that you continue to maintain your health despite all the difficulties.

291. MR W MURRAY: Thank you.

292. THE CHAIR: We'll finish this broadcast at this point and we'll resume again at 2pm. Thank you very much.