

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 (Afternoon)

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:

Sian Froggatt and James Del Mar
Rupert Thornely-Taylor (HS2 Ltd)

IN PUBLIC SESSION

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(At 2.00 p.m.)

293. THE CHAIR: For the benefit of anyone who was not present for this morning's session, it may be helpful if I were to set out how this session will work this afternoon. 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 today. Besides myself, we have Lord Brabazon and Lord Liddle. Tim Mould QC for HS2 and I think, Jacqueline Lean is here too for HS2, and Sian Froggatt for the petitioner.

294. 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 that. Remote participants will be muted at the start of the meeting. You may control your own muting but please remember to unmute before speaking. You may receive a prompt on your screen inviting you to do so.

295. 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 point.

296. Participants should have the exhibit bundles open and available. For this session, that is bundle A23, R68, R112 and P42. We will navigate the documents using the numbers in the bottom left hand corner of each page. We will now begin with petition 28, David and Sian Froggatt. Mr Mould.

David Froggatt and Sian Froggatt

297. MR MOULD QC (DfT): Thank you. It may be helpful if you have open P42(4) which is a plan showing the land holdings of the petitioners in the area of Pipe Ridware and Blithbury superimposed onto the operational phase of the HS2 railway, so following completion of construction.

298. I can tell you that the petitioners are farmers, that they have a farm holding which is made up of several sites. The main holding and buildings are situated at Quintons Orchard Farm, which you will see at box G4 and the land surrounding that. As you can see, it's that holding which actually is affected by permanent land take for the purposes

of the HS2 railway. The railway line will extend across the north-eastern section of that holding.

299. They also own and farm land at Newlands Lane – at Longacre Farm I should say, in Blithbury which is the farm holding which embraces E1, E2, etc. And then they have further land at Newlands Lane which is at just at the join between B1 and C1 and indeed, as I understand it, they have further lands to the south in Kings Bromley as well.

300. Now, they are a diversified farming business. They have arable, livestock farming. They breed horses commercially. They also have a fish farming business which is based at Quintons Orchard Farm itself, and they also are engaged in biomass boilers and energy crop production.

301. Land is required under the Bill from them for a range of activities, as well as the permanent way itself: mitigation, planting, utilities works, habitat creation and also for access for construction traffic. If you turn back to P42(3), you'll see the construction phase and you'll see that in H5, bottom right hand corner, a temporary haul road is authorised across their land from Common Lane. The purpose of that is to limit the amount of HS2 construction traffic going through the village of Pipe Ridware itself, which is just off the page to the right.

302. Then there are haul roads running alongside the – at the western side of the trace at F and G4, and then at the holding at Newlands Lane in B1 and C1, you can see that there is land within Bill limits for the purposes of utility works. You can see the line of the utility, the red dashed line with the UT notation there, so rather more land subject to Bill powers during construction as is subject to permanent acquisition, which is often what one finds with farm holdings.

303. That's the essential position so far as impact is concerned in the exercise of Bill powers and obviously the point one can take from that is that their land is inescapably subject to compulsory acquisition in part for the purposes of the Bill scheme.

304. The only other document I draw to your attention at this point is a letter at P42(73) which runs on to P42(76). It's a letter of 10 September 2020. The reason I draw it to your attention because certainly so far as the promoter is concerned, it's a convenient summary of the outstanding matters as they were at that time. So that's about a week

ago. There have been further meetings since; I think there was a meeting yesterday, in fact, which has resulted in some further progress, as I understand it. But that tells you the topics that have been the subject of further discussion.

305. THE CHAIR: So the letter ends with offering meetings both yesterday and today, I think.

306. MR MOULD QC (DfT): Yes, yes. Certainly, there was a meeting yesterday afternoon, I believe. And I believe that some further adjustments to existing assurances have been – whether they’ve actually been received by Mrs Froggatt, I don’t know, but certainly they have been – the upshot of the meeting yesterday was some further commitments, I think, were proposed.

307. I gather from the gentleman to my left they were received at 12.30 today. So my Lord, I don’t think I ought to go any further into the detail. I will leave it to Mrs Froggatt to develop her case, and obviously I will respond in due course.

308. THE CHAIR: Yes, I think that’s a sensible thing to do. Mrs Froggatt, would you be kind enough to present your case to us?

Submissions by Ms Froggatt

309. MS FROGGATT: Certainly. My Lords, thank you for hearing my petition. May I ask that when I refer to a page number, it is put up so that we can all see it?

310. THE CHAIR: Can you give me the number again?

311. MS FROGGATT: I just wondered when we gave you the number, whether it could be put up.

312. THE CHAIR: Yes.

313. MS FROGGATT: In truth, I regret having to petition again. I had really hoped that we would have been able to reach agreement on all matters outstanding. Please forgive my nervousness. I know you appreciate that this is a particularly stressful – it’s a particularly stressful set of circumstances for me and my family.

314. THE CHAIR: Please feel quite relaxed. There’s absolutely no hurry.

315. MS FROGGATT: Thank you. Indeed. My husband, David, who was declared at risk of a heart attack, in part due to HS2 according to his doctor, see A23(2), has suffered one heart attack since I presented my previous requests. His doctor is of the opinion that HS2 has been a significant contributing factor. I too have suffered ill health as a result of all of this, particularly affecting my eyesight.

316. There are a number of matters outstanding, some of which arise from HS2 not acting as was discussed during the House of Commons Select Committees, some of which arise from being given assurances not representing what was discussed, and some simply having not yet been addressed to our satisfaction. There are plenty of assurances to discuss and consult and lots of ‘as soon as reasonably practicable’, and ‘seek to accommodate reasonable proposals’. But none of these give us any genuine and dependable comfort of actions that will happen to protect us and our business.

317. My aim today is not to complain but to simply set out what we would like, all of which we consider reasonable, why we require it, and to ask you to direct HS2 to do certain things to help us make the best of the very significant impact that the railway will have on our lives, buildings and assets. I will be as brief and succinct as I can, but please do ask questions as we go along.

318. I think you are aware that we farm and manage land in Staffordshire across nine landholdings totalling approximately 700 acres, with the centre of our operation focused on a 150 acre family farm at Quintons Orchard. There’s a plan at A23(3). Originally bought by David’s grandfather, Quintons Orchard is our home, the location for our farm office, the base for our equestrian and fish farming activities, a base for renewable energy, and I can’t say this, so I will refer to it as PV, roof-mounted photovoltaic panels and biomass boilers, and where we have secured planning permission to convert traditional buildings now no longer suitable for modern farming into four separate dwellings in addition to our home.

319. I have provided copies of the cover pages of the planning permissions at A23 slides 8 to 10.

320. THE CHAIR: Just give us a moment to scroll that up, please.

321. MS FROGGATT: The railway will pass within approximately 250 metres of the

farmyard and our house bisecting and seeking to acquire the main farm drive, rights along our secondary farm drive, taking some of our best vegetable growing land, and have found out via a freedom of information request, because HS2 refused to tell me directly, that the construction phase is likely to subject us to approximately 990 HGV movements per day, details attached at A23(11).

322. Our concerns are all around proposed land –

323. THE CHAIR: Sorry to interrupt you.

324. MS FROGGATT: I'm sorry.

325. THE CHAIR: My numbering doesn't seem to match yours. Page 11 on my A23 is annexe 4, with a letter from HS2 dated 19 June 2018. Is that the same?

326. MS FROGGATT: Yes, this is a freedom of information request at the bottom.

327. THE CHAIR: Ah, I see.

328. MS FROGGATT: It actually gives you the numbers.

329. THE CHAIR: Oh, it does, right. Thank you.

330. LORD LIDDLE: And what page is it?

331. MS FROGGATT: A23, slide 11.

332. THE CHAIR: Yes, I was looking at the top of the page. Yes, right I have got it, thank you.

333. MS FROGGATT: Our concerns are all around proposed land take, noise, fumes, dust, vibration and light during and after construction. We have a second farm at Longacre, close to Quintons Orchard, plan A23, slide 12, also impacted by HS2, albeit to a lesser extent.

334. Longacre comprises two houses, a farmyard, land and is a second centre for our renewable energy business as well as farming operations. The secondary house at Longacre is known as Norman's Bungalow. There is planning permission for a further barn conversion house in the farmyard, and Longacre is farmed as part of our overall

operation.

335. It is, as you can see from the plan, very close to Quintons, with access via our main north drive, as it is for all our farming operations. It is essential that we retain full rights of access over this drive for our farm operations and that the proposed bridge can accommodate farm traffic and machinery. HS2 have been proposing a sub-adequate bridge incorporating a new additional footpath. This is unacceptable to us. We must have comfort that the bridge will be capable of allowing us all the access rights that we currently enjoy.

336. Further, the 30 April 2019 and Select Committee indicated that they could direct HS2 to ensure that the development of the relocating school – I don't think Mr Mould has mentioned this – would not adversely affect the bungalow. That has yet to happen but would be appreciated.

337. Our requests are as follows: one, for a noise and visual mitigation screen; that we receive suitable assurances and indemnities regarding dust, noise and light. I am asking you to direct HS2 to provide some form of barrier to protect our house, the farm office, the equestrian operation and the four proposed additional dwellings and to enable us all to continue to live and work and operate Quintons Orchard.

338. THE CHAIR: Can you show us where that would be on a plan, please?

339. MS FROGGATT: P42(3), (4) and (5) I think will show it.

340. THE CHAIR: Again, sorry. I'm a rather slow in am picking up the numbering, but it's very important I get it right. P42?

341. MS FROGGATT: P42.

342. THE CHAIR: Yes.

343. MS FROGGATT: Slide 3, 4 and 5.

344. THE CHAIR: Yes. It's just that we have to switch to different email addresses to find these items, because they came to us separately and separate emails. So it's P42 and we are looking at slide 3.

345. MS FROGGATT: 3, 4 and 5. They all show bunds on the north side of the railway track, and we'd like something similar on the south side of the railway track to protect Quintons Orchard.

346. THE CHAIR: On the south side.

347. MS FROGGATT: Yes.

348. LORD BRABAZON OF TARA: It might be the west side because north is not up.

349. MS FROGGATT: Okay, sorry, to the west side, possibly.

350. THE CHAIR: Yes, it's rather awkward with it a little – at the top left hand corner, there's a thing telling us what the point of the compass is, but it's the west side

351. MS FROGGATT: I think possibly P42 slide 5 probably shows it a little bit clearer.

352. THE CHAIR: Yes.

353. MS FROGGATT: What we're asking for is a noise bund our side of the railway track, mirroring the noise bund at the other side of the railway track.

354. THE CHAIR: Yes, thank you.

355. LORD LIDDLE: What is this – what is it that protects you against noise? What does it look like?

356. MS FROGGATT: It's a pile of soil, a pile of soil. Pile of soil with possibly some tree planting around it.

357. LORD LIDDLE: Right.

358. MS FROGGATT: At the moment, the train is going to be raised about eight metres above ground level which is actually higher than the chimney pots of our house. And there is nothing at all to screen us from the railway track at all.

359. THE CHAIR: And how extensive would it be, looking at P42(5)? Would it

extend from boxes C and D along the line to E and F, or what?

360. MS FROGGATT: Yes, yes.

361. THE CHAIR: All four boxes.

362. MS FROGGATT: Yes. I think as we go along, you possibly understand that the area marked brown is currently proposed to be used by HS2. They're planning to strip off all of the topsoil, subsoil, and raise that whole level of the field by up to three metres. What we're asking the Lords to direct is, instead of the whole field, 18 acres, to be spread out uniformly, three metres higher with soil, to actually use it to form a V-shape and make a bund which would make, we think, more sense. Actually, more of that 18-acre field could still be retained for agricultural use.

363. LORD LIDDLE: I'm afraid I don't understand what a bund is.

364. LORD BRABAZON OF TARA: A mound of earth.

365. MS FROGGATT: A mound of earth, that's a good way of putting it.

366. THE CHAIR: It's sometimes used in connection with oil. If you've got a facility with an oil thing, you form a bund around it, so it's all a little bit like a paddling pool, keeps all the oil inside and doesn't spread outside the perimeter of the bund. But this is for noise, so it has got to be comparatively high.

367. MS FROGGATT: Noise and visual.

368. THE CHAIR: Yes.

369. MS FROGGATT: Yes.

370. LORD LIDDLE: Is that where you can shield yourself against seeing the train if it is raised on such a high – if the line at this point is on such a high embankment?

371. MS FROGGATT: I think if we could plant trees on it, but –

372. LORD LIDDLE: Yes.

373. MS FROGGATT: Yes. I mean, basically, what the proposals are is to take soil

that's unsuitable for use anywhere else in the construction of HS2 and use it to raise the whole of the 18 acres by up to three metres. So we're just saying wouldn't it be more sensible to do that with it, and possibly plants and trees on it?

374. LORD LIDDLE: I understand, yes.

375. THE CHAIR: Yes, Mr Mould, yes.

376. MR MOULD QC (DfT): I just thought I might be able to help at this point, because I think I can give you a straight, clear indication of what Mrs Froggatt has in mind. If you turn on one page to 42(6), you will see that it's a slightly larger scale plan; you see there's a cross-section across the line which runs across Mrs Froggatt's farmhouse at Quintons Orchard, it's 1A to 1B; do you see that?

377. THE CHAIR: Yes.

378. MR MOULD QC (DfT): It goes across the line and then across that bund that she mentioned. If you turn to page 42(7), you can see that cross-section.

379. MS FROGGATT: Yes, thank you.

380. MR MOULD QC (DfT): I think what Mrs Froggatt has in mind is that the earthwork that you see to the right of the main line should effectively be replicated to the left of the main line.

381. THE CHAIR: In the top line at the right hand side, there's a thing pointing upwards, sort of diagonal; that's a bund.

382. MR MOULD QC (DfT): That's a bund. Yes.

383. LORD BRABAZON OF TARA: With trees on top.

384. MR MOULD QC (DfT): I think Mrs Froggatt is saying, 'Could we have the same thing effectively on the other side of the line'.

385. MS FROGGATT: Yes.

386. THE CHAIR: Is there a problem about that?

387. MR MOULD QC (DfT): Well, I'll come to that if I may.
388. THE CHAIR: Yes, alright. That's what's being asked.
389. MR MOULD QC (DfT): I think that's what's being asked for, yes.
390. MS FROGGATT: Yes.
391. THE CHAIR: Right.
392. LORD LIDDLE: Why is there a bund on the other side of the line?
393. MR MOULD QC (DfT): Because it's needed – our noise assessment showed that it was necessary to provide appropriate mitigation to the farmhouse on the other side of the line, which is Woodhouse Farm. I can ask Mr Thornely-Taylor in due course just to explain the position from a technical perspective, but it was introduced for that purpose.
394. THE CHAIR: And we see that farmhouse at page 6.
395. LORD LIDDLE: Yes, I see it.
396. THE CHAIR: Between C and D, is that right? Sorry, boxes C and D2.
397. MR MOULD QC (DfT): Yes.
398. THE CHAIR: Alright. I think we know what we're talking about now.
399. MS FROGGATT: Sorry, yes. The other point that I would like to make with this page, please, is that at the moment, to the south of the railway track, or our side of – west of the railway track, currently shows tree planting around the blue pond, which is actually a balancing pond. That shows tree planting and we'd would like that tree planting to remain.
400. THE CHAIR: It removed?
401. MS FROGGATT: You'll understand, possibly a little bit later on. The tree planting is shown as per AP2, but it appears to be withdrawn –
402. THE CHAIR: You want it to stay there.

403. MS FROGGATT: – with later plans.

404. THE CHAIR: So let's just be quite clear, sorry, I'm being rather slow. You want it to remain?

405. MS FROGGATT: Yes. The tree planting to remain. HS2 Ltd, by their own admission, have not actually undertaken any noise monitoring at Quintons Orchard, but we have commissioned a noise survey, copy at A24 slide 14. I'm sorry, I'm aware we're jumping from P and A.

406. LORD BRABAZON OF TARA: Slide 4, A23?

407. MS FROGGATT: A24, slide 14. Sorry, A23, 14.

408. LORD BRABAZON OF TARA: 14. Yes, 'Noise levels survey', right.

409. MS FROGGATT: This identifies firstly that the farm is very quiet at the moment and secondly, that the impact of HS2 is likely to result in an increase of approximately 15 to 18 decibels, rendering us designated as "major adverse impacted". HS2 Ltd's own data indicates a possible worst case scenario of 74 to 75 decibels. That's at reference P42 slide 9.

410. LORD LIDDLE: What was the A23 reference you quoted? I've have only just got there.

411. MS FROGGATT: I'm sorry. A23(14). Please, am I going too quickly? Just, tell me.

412. LORD LIDDLE: It's just switching from one to another?

413. MS FROGGATT: It is.

414. LORD LIDDLE: It's quite difficult.

415. MS FROGGATT: It's very difficult.

416. LORD LIDDLE: So A23(14).

417. MS FROGGATT: 14, yes.

418. THE CHAIR: Yes, the problem we have is that the only way we can reach these is going to separate emails. So we have to find the email, then open up that particular thing and then find the page numbers. So I'm afraid it does take time.

419. MS FROGGATT: Please tell me to slow down.

420. MR MOULD QC (DfT): Mr Del Mar has made that available to you, sir.

421. LORD LIDDLE: Can I ask, sorry, another –

422. THE CHAIR: I'm looking at P42(9) which is HS2's noise levels?

423. MS FROGGATT: Yes. If you look the bottom of the page, it's three boxes across from the – it says, 'maximum noise'. So HS2 Ltd's own data indicates a worst-case scenario of 74 to 75 decibels. It's quite hard to see.

424. LORD LIDDLE: Yes, I can see it.

425. THE CHAIR: Do you disagree with that assessment?

426. MS FROGGATT: No, no. We're saying that the data indicates 74 to 75 decibels, which would actually be an increase of nearly 40 decibels to the noise levels that we currently experience.

427. Even ignoring the worst case scenario, the increase of 15 to 18 decibels is, by HS2 Ltd's own admission, predicted to increase daytime noise levels to 56 decibels. This would increase our external amenity noise levels, so our noise consultant tells me, to above BS8233 and World Health Organization guidelines of 50 to 55 decibels.

428. We are certain that it's possible to redesign the scheme by reconfiguring the balancing pond, really making it longer and thinner, realigning the HS2 temporary construction access roads and re-profiling the soil placement so as to provide a proper bund, not in the location shown by HS2 on P42(27) but close to, and alongside, the railway and making use of some of the surplus soil that is otherwise intended to re-profile the whole field identified for local placement.

429. This incidentally is surely contradictory to the aspiration stated in the ES statement and the assurances given to the NFU regarding consultation on detailed design

for mitigation purposes. I accept that it might be awkward to reconsider the design but it is not impossible. I draw your attention to the Select Committee of 11 July 2018, paragraphs 558 and 559, which said this was to be considered. The transcript is attached at A23(48).

430. We have asked HS2 to consider the potential for refining the design of the balancing pond and surplus soil placement so as to provide a bund for noise and visual mitigation, but it hasn't been addressed. We have been told that HS2 have looked into it and do not consider it cost-effective but we've not seen any evidence in support of that, and their assumption was based on their information as at the environmental statement date.

431. Since then, we have secured two further planning permissions, so are now considering a total number of five houses. We are told that changes since the environmental statement, like two potential new houses, can't be taken into account. This is surely not correct when the detailed design has yet to be finalised.

432. Considering the extent of soil to be dumped on an adjoining 18 acre field which could be used as a bund, thereby not ruining a good field, this seems strange and contrary to so many generic assurances given regarding noise and land.

433. I ask that HS2 are directed to reconsider and provide a bund, or at least a noise proof, railway-obscuring fence in mitigation. We've have also asked that the proposed balancing pond be redesigned to be longer and thinner, to enable the bund requested to be provided, but this has been denied. We cannot understand why and ask that this is given proper consideration. I ask that HS2 be directed to provide us with suitable noise and visual mitigation.

434. THE CHAIR: Yes.

435. MS FROGGATT: Number 2, for a fish farming business, I ask you that we receive suitable and appropriate measures and indemnities to ensure the continuation of the fish farming business during and after construction, and specifically to ensure that noise, vibration, pollution, biosecurity and trespass do not adversely affect the business.

436. I ask that you direct HS2 to either provide or reimburse us for the cost of

providing security fencing around our lakes, provisionally costed at £77,000, CCTV along both farm drives and around the fish lakes, costed at an estimated £34,000. And regular, frequent water quality, noise dust and vibration monitoring, provisionally costed at £700 a month, which doesn't seem excessive.

437. HS2 evidence now acknowledges, see slide P42(22), HS2 acknowledges that our Luth Burn pool reservoir, which is not only the one closest to the haul road but it is also our only finishing pool in the business – the finishing pool is a pool that is essential for growing the fish to their finishing weight – it's got to be of sufficient depth for the fish to get bigger, like a goldfish in a bowl. If it's restricted in its environment, it won't grow. So that pond is essential for finishing the fish.

438. It's in the potential zone of influence of HS2's borrow pit, hence our concerns on water quality and water levels. We have sourced quotes to address the security attached at A23(32).

439. THE CHAIR: 32?

440. MS FROGGATT: And A23(33). I also ask that this is coupled with an assurance that, should levels of disturbance or adverse effects exceed that recommended by our expert Ian Welby – his report is at A23(34) to (46) – HS2 be directed to compensate us for losses as a result of HS2 construction or use.

441. I had thought that following the July 2018 Select Committee hearing, we might make some progress on this, but the written assurance with which we were provided was diluted against that which was discussed and we thought agreed at the Committee. So there has been no progress on this and time is fast running out. A copy of the transcript of the oral evidence is attached at A23(73) to (78), particularly paragraphs 548 to 551 on 23(75).

442. The 'new year' referred to is 2019; here we are in late 2020 and there has been no progress. Please direct HS2 to create the working group now and maintain it at least for a period expiring one year after the railway is first made fully operational.

443. We have been in discussion with HS2 on this, and all we have is that they will shortly make arrangements for a meeting, which is appreciated but it is not specific

enough. The terms of reference for the working group should be established, we suggest, by 1 October 2020, the brief for the risk assessment established by 1 November 2020, the risk assessment instructed and received by 1 December 2020 and the first draft action plan, including mitigation measures, settled by 1 January 2021.

444. We have asked Connolly for this, but we have not had a response. Forgive my mistrust, but we need a mechanism to ensure that this is set up now and some recourse if it is not.

445. Item number 3, regarding our north drive and the proposed accommodation bridge. We own the north drive and have unencumbered access along it, save for one footpath that is very rarely used which crosses it.

446. LORD LIDDLE: Where do I look at north drive?

447. MS FROGGATT: Sorry?

448. MR DEL MAR: P42(5), sir –

449. THE CHAIR: We go to P42(5).

450. MR DEL MAR: – is one good one.

451. THE CHAIR: We need to find P42 which is another email.

452. MS FROGGATT: I'm sorry.

453. LORD LIDDLE: P52(5).

454. THE CHAIR: Yes. And it's the bridge we can see there going diagonally across the railway line.

455. MS FROGGATT: Yes. I don't know if you can see, there's a lane at the very top.

456. THE CHAIR: And that's the lane in red, is it? With green on either side?

457. MS FROGGATT: Yes. I'm just trying to find a better plan.

458. MR DEL MAR: P42(4) would be better, maybe?

459. MS FROGGATT: Yes, P42(4) would probably be better. I think you can see Pipe Lane is labelled – from Pipe Lane down to Quintons Orchard, that currently is our own private drive and that's what we refer to as the north drive.

460. LORD BRABAZON OF TARA: In red?

461. MS FROGGATT: In red. This is the road that we access between all of our holdings.

462. THE CHAIR: You're moving agricultural machinery between holdings; is that it?

463. MS FROGGATT: Yes.

464. THE CHAIR: It's not just bicycles.

465. MS FROGGATT: No, we move everything along that top drive. The plan only shows three holdings on this sheet, but we actually farm over eight holdings in total. And they're all accessed from the top drive.

466. So regarding our north drive and the proposed accommodation bridge, we own the north drive and have unencumbered access along it to save for one footpath, which is rarely used and it crosses it. HS2's proposals offer a huge reduction in our flexibility of access. I ask that we are assured that we can continue to access all of our property via the main drive during and after construction, and that the bridges are of a specification that makes it safe and suitable for modern agriculture.

467. We base the whole operation out of Quintons and we have a further 550 acres, all of which is reached via the north drive. We see no reason why HS2 should own our farm drive. It only needed to secure access right over it and assume a responsibility for some of the repairs.

468. As the landowner living at the bottom of the drive, we are certain that we are better placed to manage the north drive, rather than a railway company headquartered in Birmingham who may only use it very occasionally. We have made the point that to acquire rights rather than ownership, as well as being more practical, will be cheaper to HS2, but this doesn't appear to have been appreciated.

469. I ask that you direct HS2 to allow us to retain ownership of our farm drive. We

completely accept that HS2 must own the bridge and its footings, but we see no need for them to own the full extent of the drive, nor for anybody else to be granted rights over it.

470. LORD LIDDLE: You want it remain a private road, essentially.

471. MS FROGGATT: Yes, we want it to remain in our ownership and give HS2 access. I think they refer to an access that they need to a balancing pond, which takes the dirty water off the railway track and to a small electric substation. I think they refer to it as a package station, and the engineers have all told us at every meeting that we have had with them that it's only likely to ever be needed once every other quarter. So it seems crazy that we're going up and down the drive, possibly 30/35 times a day, that HS2 require to go over our drive once every quarter, that they have a need to actually own the drive. We're quite happy to give them rights over it, but we would like to retain the ownership.

472. LORD LIDDLE: HS2 is not disputing their commitment to build a bridge over the railway, and that's technically feasible, is it, given the height of the whole thing?

473. MS FROGGATT: We have no problem with them having the bridge, owning the bridge and the footings of the bridge; all we're asking to do is to retain the ownership of the rest of the drive to the west of the bridge.

474. LORD LIDDLE: Presumably with some agreement with them about their rights of access as well.

475. MS FROGGATT: We would give them right of access. I also ask that the bridge to be provided which needs to be able to serve us, the farm, farm office, fish business and four future dwellings, is of a specification that can carry modern farm machinery. Evidence of width required has previously been provided, most recently on 4 September 2020. I'm sorry, I'm going to have to throw slides at you. Copy attached at A23(47).

476. LORD LIDDLE: Just going back a bit because I'm finding it all very complicated, where are these four dwellings? They don't exist at the moment. This is a planning permission you've obtained, is it?

477. MS FROGGATT: Yes.

478. LORD LIDDLE: And where are they in relation to your own farmhouse?

479. MS FROGGATT: In the farmyard.

480. LORD LIDDLE: Oh, I see, there, I see.

481. MS FROGGATT: Absolutely in the farmyard. The conversion that we've got for the farm office is into a dwelling. My parents are 80, my mother is registered blind, my father is her sole carer.

482. LORD LIDDLE: No, no, I perfectly understand, yes. Would the vehicular access to your farm, is it down this private road, or is there another –

483. MS FROGGATT: We've got two drives, to put you in the picture. There's the north drive, which is the one that we access all of the time for the farm machinery to go in and out of all of the other holdings, and then to the – well, we call it the south drive, along to the right – if you see where Quintons Orchard is, there's a red line that shows you – that joins Pipe Lane further down. Where we are was an old moated site and historically the Old Manor House was there in 1200. The south drive is actually the ancient drive that originally went up to the old hall.

484. THE CHAIR: I've managed to find A23(47), which is, 'Access requirements for bridge'.

485. LORD BRABAZON OF TARA: That's a picture of digger, isn't it?

486. MR DEL MAR: A23 should be a specifications of tractors and combine harvesters.

487. LORD BRABAZON OF TARA: Big combine harvester.

488. MS FROGGATT: A23(47), that's just to give you an idea of this type machinery that we have currently coming up and down the north drive.

489. THE CHAIR: Yes.

490. LORD LIDDLE: But HS2 is going to build – there isn't an issue about the width of the bridge to take this machine.

491. MS FROGGATT: There is.

492. THE CHAIR: Yes.

493. LORD LIDDLE: Oh, there is, is there?

494. MS FROGGATT: Yes.

495. THE CHAIR: That's right, that's the crucial point, whether –

496. MS FROGGATT: That is the point.

497. THE CHAIR: – it takes that kind of vehicle.

498. MR DEL MAR: It was initially offered as a 2.5-metre bridge. The current farm machinery is 4.5 metres wide. We've consistently asked for six-metre width, because farm machinery has a habit of getting wider.

499. LORD LIDDLE: I see, fine.

500. MR DEL MAR: We have a verbal assurance for 8.5 metres, including two footpaths, one either side, which has yet to be converted into a written assurance, but that would be appreciated.

501. THE CHAIR: Just to be clear, obviously we've got to accommodate the vehicle itself, which is just under 5 metres, and then you want a gap on either side, do you?

502. MR DEL MAR: HS2 would like to divert a footpath along a section of the north drive. We've said that that is acceptable, but it needs to be done in a health and safety compliant way, so we need there to be sufficient distance for people using the public footpath to be kept separate from the farm machinery.

503. THE CHAIR: And they're going over the bridge?

504. MR DEL MAR: Over the bridge. So the current verbal assurance is for an 8.5-metre width, but we do need that converted to a written assurance. We don't have any comfort regarding the load bearing capacity of the bridge at the moment. And clearly it's quite important that, as well as being wide enough, it's strong enough to take farm machinery, and lorries bringing fish food, and lorries taking fish away and other

very heavy and big things.

505. THE CHAIR: You have any indication of the weight of the machinery, and are you carrying, for example, are you carrying straw on trucks, or –

506. MS FROGGATT: Yes.

507. MR DEL MAR: Straw and grain and fertiliser and seed –

508. THE CHAIR: So it's a considerable weight, isn't it?

509. MS FROGGATT: Yes.

510. MR DEL MAR: Considerable weight. We've asked for a commitment for the bridge to be able to carry a minimum of 60 tonnes. On the basis that current lorries are in the region of 45 to 50 tonnes, and we've seen no evidence of them getting smaller over the last 20 years.

511. LORD BRABAZON OF TARA: That's bigger than is allowed on the road though, isn't it?

512. MR DEL MAR: No, that would be adequate.

513. THE CHAIR: And that's the bridge.

514. LORD BRABAZON OF TARA: And the drive.

515. THE CHAIR: And the drive.

516. MS FROGGATT: We are aware that HS2 have had discussions with one of our neighbours regarding siting a reed bed to receive potato silt washings on land adjoining ours and on the side of the proposed railway. HS2 set out the suggested design on P42(27).

517. THE CHAIR: You'd like us to look at that then.

518. MS FROGGATT: This is really important.

519. THE CHAIR: P42(27)?

520. MS FROGGATT: P42, slide 27.

521. LORD BRABAZON OF TARA: This is the mitigation bund.

522. MS FROGGATT: This is the balancing pond.

523. THE CHAIR: This is a new topic.

524. MS FROGGATT: And reed bed. Are we there? HS2 set out the suggested design on P42(27). I have been told that this reed bed – which is a green oblong box to the side of the balancing pond – been told that this reed bed is a subject of an assurance but it doesn't actually show on the register of assurances, so I cannot see that this proposal is enshrined in any final design. It will require a culvert through which the silt will run under the railway and the granting of access rights over Quintons north drive.

525. It will lead to a silt pond which will drain into the watercourse that supplies our fishponds, which causes us some considerable alarm. We maintain that neither is desirable, nor practical, nor necessary, and we do not want any rights granted over north drive beyond those necessary for HS2.

526. The reasons are around the issues of security, biosecurity, privacy and general practical management. There is, however, a sensible and logical alternative by which access to the balancing pond reed bed and associated mitigation area could be derived over the 18 acre field to the east, which is going to be changed beyond recognition by being the subject of local placement of surplus excavated material.

527. We've asked for clarity regarding the detail surrounding HS2's required access for maintenance, the northern tee off of the newly aligned north drive, but this has not been forthcoming.

528. THE CHAIR: Before you leave P42(27), there is an indication just above the name Quintons Orchard Farm, to the left of it, 'Petitioners' suggested bund location'. Is that the location of the bund we were talking about earlier this afternoon?

529. MS FROGGATT: No.

530. THE CHAIR: It's a different bund.

531. MR DEL MAR: That's not a suggestion. It was a longstanding historic suggestion.

532. THE CHAIR: I see. So we forget about that one.

533. MR DEL MAR: Please forget it.

534. THE CHAIR: Yes, thank you very much. I was just unclear about that. That's helpful.

535. MS FROGGATT: We have asked for some comfort as to the use and impact and if necessary, for some mitigation, for example, to screen against noise and light. Alternatively, HS2 could provide some assurance as regards purpose, frequency of use, absence of light, security, etc. I would be grateful if you could direct them accordingly, or at least require them to provide adequate mitigation in the event that the use is intrusive on our lives and livelihoods, for example, by providing suitable screening and security measures. I don't know if this is clear here.

536. MR DEL MAR: I think it would be helpful to point out where –

537. MS FROGGATT: I think it would be.

538. MR DEL MAR: So if we turn to P42(14).

539. MS FROGGATT: P42(14).

540. THE CHAIR: Just give us a moment to find it, please. It's headed, 'Accommodation overbridge'; is that right?

541. MS FROGGATT: Yes.

542. MR DEL MAR: So coming from the main road at the top of the page, Pipe Lane, you come down the existing section of north drive, and then heading to the right and then vertically downwards you come over the proposed railway. Once over the railway, if you were to turn right, which is heading left on the page towards Bentley Farm, there is a long proposed new road which is an HS2 proposed maintenance access track, but the Froggatts have been given no indication as to what it is to be used for, whether there will be any limits on its use, whether it will be lit, whether it will be used at night,

whether it will be used for storage. And it would be much appreciated to have either clarity as to its use or, in the absence of any restriction on its use, suitable screening so that whatever might happen there doesn't adversely affect them, and presumably also, Bentley Farm, who must be slightly concerned.

543. THE CHAIR: Principally, it's the effect on Bentley Farm you're concerned about, is it?

544. MS FROGGATT: Bentley Farm has actually been offered an assurance. Bentley Farm is actually having a noise bund. It's not shown on any of these plans, but it is written in the assurances and undertakings. I think we have got a copy that Bentley Hall have been promised a noise bund.

545. THE CHAIR: Right.

546. LORD LIDDLE: Is this road you're talking about on their land or on yours?

547. MS FROGGATT: It's on ours.

548. LORD LIDDLE: It's on yours? I see.

549. MS FROGGATT: Item 4. In respect of the HS2 proposed haul road to enable the 990 HGV movements per day to be routed away from the village, this haul road is proposed to be very close to one of our main fish from lakes, the Luth Burn pool reservoir. This is our finishing pond. The plan provided by HS2 at P42 slide 24, amended haul route, shows this very clearly. Assuming a standard nine hour day, that would appear to be one lorry about every 30 seconds. As well as the disruption and dust, we are concerned about the security, including biosecurity, and have asked for an assurance that the haul road be fenced to a pedestrian impermeable standard with CCTV cameras provided.

550. Item number 5, regarding our PV enterprise. I ask that we have some form of assurance and indemnity regarding our solar panels as regards reduced capacity from dust, increased cleaning requirements and the resultant reduced life expectancy. We've got evidence at A23(49) to (51).

551. THE CHAIR: A23(49) to (51) is it? We need to find A23 now.

552. LORD BRABAZON OF TARA: We're getting there, Lord Chairman. What numbers? 23(49).

553. LORD HORAM: Can I ask: what is the evidence base for the presumption that the photovoltaic things would be affected?

554. MS FROGGATT: Well I'm sorry, I've not brought a photograph with me but we've got one photograph of where a lorry comes down the drive and the dust, the amount of dust, that it throws up is quite substantial. But 990 dump trucks, they are 100-tonne dump trucks.

555. LORD HORAM: There is in this letter it says here.

556. MS FROGGATT: What we've got, possibly it would help to explain that the farm to the right of where we farm is going to have about 75 acres of land taken from it to form what's called a borrow pit. It's going to be excavated up to 15 metres deep. That's where they're going to extract all of the sand and gravel to. So all of that will be moving up the track within 1,500 metres of the solar panels.

557. MR DEL MAR: You raise a very fair point. We don't know for sure whether there will be dust, but we do know that if there is, the impact on the productivity of the PV panels is massively reduced, which necessitates further cleaning.

558. LORD HORAM: That's clear, is it?

559. MR DEL MAR: That's clear from the evidence.

560. LORD HORAM: The science of the way they work. Right.

561. MR DEL MAR: The comfort that the Froggatts seek is either that the panels can be cleaned more often, which will have an impact on the panel's life expectancy, so that's a compensation issue, or that there's some form of assurance that there won't be the level of dust. We just have a degree of uncertainty, which makes planning for the business difficult.

562. LORD HORAM: The other point you make when you were talking about the fish farm and the biodiversity under threat. Again, what's the evidence for that? Are these just fears or is there more to it than that?

563. MS FROGGATT: No, no. There's something called carp herpes virus.

564. LORD HORAM: What?

565. MS FROGGATT: I know. I know. It's something called carp herpes virus, which is a disease almost like TB. Call it like Covid-19 within fish.

566. LORD BRABAZON OF TARA: Perhaps 17 or 18.

567. MS FROGGATT: If we actually got this our farm business would be completely wiped out. We did produce at AP1 evidence from the NFU to say it's impossible for us to insure against this. So anybody that comes onto our farm, we have to comply with what's called CEFAS regulations. Anybody that comes on completely disinfects all of the nets, their shoes, everything is disinfected.

568. LORD HORAM: Have other fish farms in the country fallen victim to this virus?

569. MS FROGGATT: Some have.

570. LORD HORAM: Is it a real thing, as it were?

571. MS FROGGATT: Well, we had an incident of trespass with HS2 in October 2017. Carp herpes virus at the time had been diagnosed in a fish farm possibly about eight miles away in December 2016. Effectively, that wipes out the business.

572. MR DEL MAR: That's one disease; there are others.

573. MS FROGGATT: There are other diseases.

574. MR DEL MAR: And there are obviously concerns around water quality, oxygen levels and, to be honest, about theft. We're having significantly increased traffic and people in the area, an area, at the moment, that is currently very remote, very isolated and unknown. There will be much more so the threat is a concern.

575. MS FROGGATT: I should say actually, at close proximity to the reservoir pool HS2 are planning to build a compound for, I think it's about 100 people possibly. It is a concern because, of course, carp is eaten worldwide, particularly in Eastern Europe. It's classed almost – they eat it like we eat turkey. So we have got a real concern about the security of the fish.

576. LORD HORAM: Right, I see.

577. THE CHAIR: Is this head 6 or head 5 of your list?

578. MS FROGGATT: Sorry, we were with the photovoltaic.

579. MR DEL MAR: We've moved from photovoltaics to fish without meaning to. Shall we move on to the equestrian?

580. MS FROGGATT: Shall we move on to the equestrian business? I ask that we have some sort of assurance and indemnity regarding our ability to keep, breed and train horses at Quintons or that we are appropriately compensated so as to allow them to be properly located and managed elsewhere. Our vet tells me that he does not expect me to be able to train nor lead horses out from the buildings at Quintons during or after construction. HS2 contractors and staff have told me the same thing. I can see why HS2 find this difficult to address. The plans of the farm at P42(7) and (28).

581. THE CHAIR: Sorry, this is moving to another email, I'm afraid.

582. MS FROGGATT: I think it might be easier if we look at P42(28).

583. THE CHAIR: I'm not there yet I'm afraid.

584. MS FROGGATT: The plan at P42(28) is actually wrong in that they do not identify the paddocks nearest the farmyard. The paddocks are actually located under the text 'Quintons Orchard Farm' and slightly to the right of the right-hand line.

585. THE CHAIR: So they're much closer to the line.

586. MS FROGGATT: Yes, yes. We have provided this information to HS2, not least at and after our meeting on 21 October 2019. And we offered to show Connelly around the farm on 7 March 2019 but the offer was declined. Again, providing a bund for noise and visual mitigation would help solve this.

587. THE CHAIR: Can you just go back to the plan at P42(28)? I can see a box headed 'ménage' with an arrow; that is correct, is it?

588. MS FROGGATT: Yes, the 'ménage' is correct.

589. THE CHAIR: Yes.

590. MS FROGGATT: But they only identify the horse fields as being –

591. THE CHAIR: Then the stables are obviously correctly located so it's the location of the horse fields that are wrong.

592. MS FROGGATT: Yes, yes.

593. THE CHAIR: And where should they be?

594. MS FROGGATT: They're actually located under 'Quintons Orchard Farm', the writing 'Quintons Orchard Farm'.

595. THE CHAIR: That's where the horse fields are? +

596. MS FROGGATT: Yes, and also to the right of the red line. They actually go slightly to the east of that.

597. THE CHAIR: Right, I've got it. Thank you.

598. MS FROGGATT: I think we should point out we actually have a stallion as well that's 16,2. I don't know if anybody is familiar with this but trying to lead a stallion, it's quite difficult.

599. THE CHAIR: Yes.

600. MS FROGGATT: So, number 7, regarding the south drive. HS2 propose to acquire a new way leave along our south drive for the purposes of installing a BT line to serve Quintons Orchard. We don't need this. We have a perfectly good BT line coming along the north drive. We have very serious concerns that such a wayleave, including telegraph poles, will restrict access by narrowing the width along the south drive, which is already very narrow. This would be wholly unacceptable, particularly considering the likely complications with access over the north drive, the only other way in and out of the farm.

601. We believe there's a far simpler option that we have proposed, namely that our BT connection is delivered, as it is at the moment, via north drive and from where we could access better broadband connectivity, as could Bentley Hall Farm. I ask HS2 be

directed to abandon the suggested BT line along south drive and instead reconnect us and Bentley Hall via north drive. This would not only be simpler and shorter but also, therefore, cheaper.

602. Number 8, in respect of the miscanthus crop at Morton, please can we address the issue of appropriate compensation for the loss of this crop on the 39 acres of land that we rent at Morton? Had it not been for HS2 we would have had a longer tenancy agreement, as evidence at A23(52).

603. THE CHAIR: I'm afraid that's moving to another email, A23(52)?

604. MS FROGGATT: 52.

605. THE CHAIR: 52?

606. MS FROGGATT: Yes.

607. THE CHAIR: Yes.

608. MS FROGGATT: Okay. HS2 have insisted that we can rely on the compensation code but this does not go far enough. Miscanthus is an unusual crop. The rhizomes remain in the ground and they sort of bud off new rhizomes, each sprouting more miscanthus, or elephant grass, each year. This is cut and harvested for biofuel. We established this crop in 2004. The yield has been increasing ever since. Because of HS2, our landlord has been unwilling to allow us to take another long-term tenancy so the very significant investment that we have made is going to be lost. I ask that we be compensated for the loss of that investment.

609. You may hear the accusation that we've not engaged with HS2. This is not true. A schedule of our experience is at A23(53) to (72). And more recently, we've provided HS2 with a revised version which includes additional engagement and runs to 21 pages. We acknowledge that we have struggled to engage professional support to properly facilitate our case until recently but we do feel very poorly treated by HS2. Our endeavours have always focused on positive measures to mitigate the impact and protect our business and livelihood. There have been occasions where illness, like David's heart attack, or family events, our daughter's wedding, our grandchildren's birth, have made attending meetings difficult but we have tried to do the best we can while

continuing to run the farm.

610. As far as the fish are concerned, the disappointment for us, and the major reason as to why we are here, is that what we thought from our initial involvement with HS2 at our meeting on 6 March 2017 and later – see HS2 response to 19 May 2017 – culminating in July 2018 – see the Select Committee oral evidence at A23(73) to (74).

611. THE CHAIR: Any particular paragraphs you want us to look at there?

612. MS FROGGATT: 551, I think would be useful.

613. LORD HORAM: Where's this letter?

614. MR DEL MAR: A23(75) sir.

615. THE CHAIR: This is a transcript of evidence, is it?

616. MR DEL MAR: This is the minutes of the oral evidence of 11 July 2018 Select Committee in the Commons.

617. THE CHAIR: Yes. Paragraph numbers though, you say –

618. MS FROGGATT: 551.

619. MR DEL MAR: A23(75), paragraph 551.

620. THE CHAIR: Right. All right, yes.

621. MS FROGGATT: My request today is that HS2 are directed to deliver on those verbal assurances and to provide us with what we need to derive some comfort that our livelihood will not be destroyed. So in summary, please can I ask for assurances regarding one, noise and visual mitigation at Quintons Orchard; two, security fencing and CCTV for the fish farm, coupled with immediate creation of the working group; three, our retention of our ownership of north drive and no rights of way to others over our land; four, Security fencing and CCTV along the haul road; five, monitoring and protection of our PV cells; six, protection of our equestrian operation; seven, bringing superfast broadband in via north drive, not south drive; and eight, compensation for loss of miscanthus ground. Thank you for hearing my petition.

622. THE CHAIR: You didn't mention the overbridge but we include that presumably in what you're saying about north drive in item 3, do we?

623. MS FROGGATT: Yes, yes, that would be wonderful.

624. THE CHAIR: Good. Well, thank you very much indeed.

625. LORD BRABAZON OF TARA: I just had one question, on the question of BT. You said 'superfast broadband via north drive'. Do you have superfast at the moment?

626. MS FROGGATT: No.

627. LORD BRABAZON OF TARA: So you're asking for an extra.

628. MS FROGGATT: No, no.

629. MR DEL MAR: You've been directed to an assurance that as part of this, where lines are being rearranged, if an improvement is possible as part of the national effort to improve infrastructure, then that would be complied with. You've made the point to me that superfast broadband exists just a little bit further along. So we don't think it's a significant ask but, yes, you're absolutely right sir, it would be a slight improvement on existing.

630. LORD BRABAZON OF TARA: Okay, fair enough. Thank you.

631. MS FROGGATT: But if I'm honest, Bentley Hall actually petitioned for the superfast broadband, our neighbour. We would be content, if I'm absolutely truthful, we would be content just to have the existing line as it is rather than having a new line brought up south drive.

632. THE CHAIR: Before I pass to Mr Mould, any other member of the Committee? Lord Snape, you have a question.

633. LORD SNAPE: It's not a question, Chairman. The gentleman sitting next to the witness has made a couple of interventions which, whether it's at my end or his microphone, I just can't hear a word. He just said something there in support, I think, of the question that was asked and I didn't hear a word of it. Could you ask him to speak directly into the microphone or something equivalent?

634. MR DEL MAR: Is that clearer?

635. THE CHAIR: Well, I'm not sure it's really the laptop microphone.

636. MR DEL MAR: Is that clearer, sir?

637. THE CHAIR: It's to the left, I'm told.

638. LORD SNAPE: There is a bit of an echo but at least I could hear something. I couldn't hear anything at all.

639. MR DEL MAR: Is that audible?

640. LORD SNAPE: That's better.

641. MR DEL MAR: Is this clearly audible to everybody?

642. THE CHAIR: Is it audible to Lord Snape is the important thing?

643. LORD SNAPE: Yes, Mrs Froggatt is extremely audible; it's the gentleman next to her that I can't hear.

644. THE CHAIR: Well, I think the problem is you're sitting a bit too far away to your right.

645. MR DEL MAR: It's the social distancing, sir.

646. THE CHAIR: I know we're trying to social distance but I think there are moments – I think technically if you're side-by-side it's less critical. You're not facing each other so you can be a little more generous in adjusting the distance.

647. MS FROGGATT: Okay.

648. MR DEL MAR: I will try harder.

649. THE CHAIR: Thank you very much. Mr Mould?

Response by Mr Mould

650. MR MOULD QC (DfT): I need to ask Mr Thornely-Taylor to help you in a few moments in relation to the issues relating to noise but before I do that I'm going to just

deal with one or two of the other matters, if I may.

651. THE CHAIR: Yes.

652. MR MOULD QC (DfT): Then we'll come to noise and Mr Thornely-Taylor will help you with the effectiveness of the proposed noise bund. He'll also help you with the position with regard to impact on the horse activities as well because he's able to deal with that.

653. THE CHAIR: Right.

654. MR MOULD QC (DfT): But first of all, I hope you will forgive me for making an obvious point, but it is one that is worth making and is contextual and necessary to make for contextual purposes. This is a property that, as I explained to you in opening, is subject to compulsory purchase under the terms of the Bill. I say this is the property, the Quintons Orchard Farm, the main holding, which you see on P42(4), which is the farm holding to the bottom right-hand corner of that sheet, subject to compulsory acquisition in part, as you see and as I showed you, in order to carry out permanent railway construction works and a somewhat larger area required during construction.

655. So the petitioners will, as the expropriated landowners, be entitled to bring a claim for compensation under the terms of the compensation code. That claim will extend to the open market value of the land that is taken from them. Any elements of loss that they have suffered as a result of the exercise of the Bill powers under the heading of disturbance, it will be for them to show that they've suffered such a loss and that it's not too remote, but that is in principle the head of claim. Thirdly, they will be able to make a claim under Section 7 of the Compulsory Purchase Act 1965 for any diminution in the value of their retained lands that they are able to show results from severance or from other injury to those lands, either during the construction or as a result of the permanent acquisition of the land taken for them for the railway.

656. So, in my submission, it is not necessary for this Committee to go further in relation to matters that would be the subject of a future compensation claim, which would fall within those parameters.

657. THE CHAIR: Sorry to interrupt you but I wonder whether that's right. As I

understand the presentation they would like avoid these losses being incurred at all. They think there are other measures that could be introduced which would minimise the extent of losses. That would seem a sensible way to go if it's possible to do it.

658. MR MOULD QC (DfT): I'm not suggesting that what I've just said is an answer to all the points. Please don't misunderstand me, but it does address the point about the argument in relation to the loss of the tenancy agreement and the crop.

659. THE CHAIR: Right.

660. MR MOULD QC (DfT): If that is a consequence of the HS2 scheme, then that would be something that, as you heard has been said before, that would be something that would be appropriately dealt with by way of the compensation claim. Let me come to other matters. The fish farm, let me deal with that one. As you have been shown, that was a matter for discussion and debate before the Select Committee in the other place. You've been shown an extract from that debated at A23(75). The point that I recognised on behalf of the promoter before the Select Committee in the other place was that fish farming is a sensitive activity that is likely to require some special measures in order to avoid the risk of harm to the fish, harm to the activity itself, resulting from heavy construction work going on in the vicinity.

661. That point was common ground between myself and Mrs Froggatt's then agent before the Committee, and indeed the Committee was satisfied that there was a common understanding that there should be special arrangements made. The promoter's position was that it would then go away and formulate an assurance which would reflect the need for those special measures. That assurance is set out in a letter which you have in the pack before you. It's a letter of 19 November 2018 at P42(51) to (53). I'm not going to read it all out, but my Lord, can I please invite you and your colleagues to look at it carefully because it is the promoter's present commitment with a view to ensuring that the fish farming activities enjoy proper protection from damage that might result from the exercise of the powers under this Bill?

662. It involves, as Mrs Froggatt has hinted at, the carrying out of a risk assessment, paragraph 1 on page 52, the formulation of an action plan so far as the risk assessment identifies the need for measures to be identified and to be implemented, and the formation of a working group in order to enable those matters to be addressed and for a

proper programme of protection measures and monitoring to be undertaken. That, as I understood her point today, she now says that it's important that that process gets going. I agree and, as I understand it, the instructions I have are that, as a result of the most recent meetings that have taken place, both parties agree that a convenient date needs to be found for the first meeting so as to get the terms of reference sorted, get the membership of the working group set up and start the process of preparing the risk assessment and so on.

663. Whether it is realistic or sensible to micromanage that process under the direction of the Committee by specifying dates in the way that she suggested to you, I question. The first date she gave was 1 October. Well, that's less than 14 days away. There's no point in either party being subjected to a series of closely defined dates if there's a real risk that they won't be achieved. By far the most sensible way of dealing with this is to recognise that the plan of action that is set out in that assurance should now be brought into effect and brought into operation.

664. We are still some months away, as you will appreciate, from any activity authorised by this Bill in the form of significant construction works beginning in this location. The Bill is expected to achieve Royal Assent at the turn of the year. It's going to take time, obviously, to mobilise procurement and construction and so forth. So it is important that the programme set out in this assurance gets underway well before the end of this year; I acknowledge that. But perhaps it's unnecessary for the Committee to be quite so prescriptive, as Mrs Froggatt has suggested or has sought, by specifying specific dates in the way that she did.

665. THE CHAIR: Yes, Lord Brabazon?

666. LORD BRABAZON OF TARA: Would this fish farm risk assessment include the possibility of theft of the carp, which is favoured amongst Eastern Europeans, apparently, and the possibility no doubt of Eastern Europeans working in the compound adjacent?

667. MR MOULD QC (DfT): It doesn't; in the terms in which that risk assessment is specified at the moment in paragraph 1.1 on page 52, it doesn't extend, at least in express terms, to that point. It seems to me that there is no reason why it shouldn't be adjusted so as to bring that into scope so that the risk assessment and the work of the

working group can consider whether there is a need for, amongst other things, protective fencing, security cameras and so on. Again, surely it would be better for that to be dealt with that way rather than to rush to judgment now and to say that those must be done. It may be that the working group – formed as it will be of representatives of both the petitioner and of the promoter and of people who are competent specialists, as you see in paragraph 1.1 – there seems no good reason why its scope can't be widened in that way. I'm content to say that in order to give comfort on that, the terms of that paragraph can be adjusted so as to embrace the questions of security that have been raised.

668. THE CHAIR: Yes.

669. LORD BRABAZON OF TARA: Thank you.

670. THE CHAIR: But it's not there at the moment. So you would accept, I'm not quite sure how it would be done, just an indication that you should amend it to include security.

671. MR MOULD QC (DfT): Well, I would have thought the sensible thing is for this letter to be reissued in a slightly resolved form so as to specify that broader scope for the risk assessment.

672. THE CHAIR: Yes. Well, if you could arrange for that to be done, that would be very helpful.

673. MR MOULD QC (DfT): Yes, we'll do that.

674. THE CHAIR: Thank you.

675. MR MOULD QC (DfT): Coming back to my theme, I very much accept your Lordship's point, that prevention is better than cure. There is nothing at all unreasonable about Mrs Froggatt seeking protective measures. I accept that without reservation. It is, of course, and this is a good example of where the parties are looking to follow that course, to try and make sure that things are done to avoid harm rather than to remedy harm. In the event that the fish farming activities, as I hope will not be the case, in the event that despite the work of this group and the measures that are taken, that some residual harm is caused, then that would be a matter that is in principle subject to compensation under the statutory code because it would be an impact on Mrs

Froggatt's retained land and the businesses that she carries out on the holding.

676. One would have thought it would in principle, clearly, relate to the value of the holding to her as a diversified farmer. So it would fall within that scope. Whether there was a claim in those circumstances would obviously turn on a more detailed understanding of the facts. So I make the point in terms of principle rather than guaranteeing what the position would be.

677. THE CHAIR: Yes.

678. MR MOULD QC (DfT): But anybody whose land is affected by compulsory purchase, your Lordship knows, they are given a framework of rights. Whether those rights eventuate turns on the facts, as they are found to be, when they seek to rely upon them.

679. Can I turn to the accommodation bridge and the issues that were raised in relation to that? It would be helpful to turn to one of the promoter's exhibits. First of all, that bridge has been provided to accommodate two principle needs. One is access to Quintons Orchard Farm once the railway is in place, and thus to overcome the problem severance. The second is to provide for a realignment of footpath 38, which is a public right of way, an existing right of way, which is also otherwise severed by the railway. So it is designed – that's why it's called an accommodation... If you look at P42(55), that's why it's called an accommodation overbridge. It is intended to accommodate what would otherwise be the severance of a private access, but also the severance of a public right of way.

680. It must, therefore, plainly be designed and provided in a form that is able, effectively, to fulfil those functions. I accept that. I think that, essentially, Mrs Froggatt's point, that it should be specified both in terms of width and weight to do so, my understanding is that this was the subject of further discussion yesterday. There is an assurance already in relation to that, but there was some discussion yesterday about varying the assurance so as to accommodate the specifications that Mrs Froggatt would reasonably seek it. As I understand it, it is able to accommodate, we think it is able to accommodate, the overall eight-metre width that Mrs Froggatt mentioned.

681. In terms of the loadbearing, whether it is appropriate for it to be able to

accommodate 60 tonne loads is perhaps more debatable, because the ordinary weight loadbearing, I believe I'm right in saying, that the ordinary specification for a carriageway bridge is 44 tonnes. That would be expected to accommodate all road-going traffic, including heavy lorries. It's not obvious why this accommodation bridge needs to be able to accommodate loads which are 16 tonnes heavier than that.

682. But plainly if the petitioner were able to demonstrate, I don't think she has, but if she were able to demonstrate during the detailed design that she had some particular requirement that would generate significant losses if that bridge were not subject to a higher loadbearing specification, for example, she had some exceptional piece of machinery whose use would be severed by the railway line, unless she were able to take that machinery over the bridge, then that would be a matter that would need to be considered by the promoter in the context of the detailed design.

683. And, obviously, in that scenario, which is at present, as I say, not substantiated by evidence, but if that scenario were to emerge the promoter would then have a choice. Either they accommodate that or they face the prospect of the compensation claim brought forward by the Froggatt's being larger by virtue of the severance that would otherwise ensue. So there's a self-interest there in terms of making sure that during the detailed design of the bridge is specified to an appropriate weight to accommodate present and foreseeable future needs for the farmer for whose benefit it is being provided.

684. THE CHAIR: How does that fit with what we see on page 45? Because there's a minimum specification given there and the assurance is that the accommodation overbridge will be constructed to the minimum specification. Is there any capacity, any ability there, to adapt that specification in the light of further information?

685. MR MOULD QC (DfT): Yes there is. I mean a minimum specification means what it says. It's at least got to meet that specification. As I say, there have been further discussions, I think, over the last couple of days. My understanding is the upshot of that was that the HS2 negotiators were going to review the terms in which this assurance has been given. If that is the case, I will again ask that a further letter is issued or that a revision of this letter is issued, that we provide a copy of that to you.

686. THE CHAIR: Yes well that too would be very helpful, if you would do that.

687. MR MOULD QC (DfT): I have a note to say that the AP2 design shows a width of 8.5 metres from parapet to parapet. It's presently showing 5.5 metres of track and 1.5 metre of verge but with the caveat that it needs to accommodate agricultural vehicles and pedestrians on a public right of way, there's obviously room for some review of how the space between the parapets is deployed during the detailed design.

688. THE CHAIR: Yes.

689. MR MOULD QC (DfT): Turning to those who need to have the use of that bridge, there is here, I fear, a point where the Committee will need to take a view. If we can look at – forgive me, I'll find the relevant – P42(13). As Mrs Froggatt, quite correctly said, that bridge and the way which it will accommodate from Pipe Lane south-westward over the railway line into her farm, that bridge needs to accommodate her existing private access along north drive to her farm. It also, as you can see from this plan, needs to accommodate HS2 maintenance access to the balancing pond that lies to the west of the railway line and just to the south. That's the red shaded access that you see passing from north drive to the balancing pond; do you see that?

690. It also needs to accommodate the maintenance access to the north, the blue line. As she mentioned to you, there is a commitment to enable the owner and farmer of Woodhouse Farm, Mr and Mrs Daw, to have a reed bed system in the position shown on the plan in front of you. That is an accommodation work which has been included within the Bill arrangements and assurances given to accommodate, in this instance, not Mr and Mrs Froggatt, but to accommodate Mr and Mrs Daw. It lies on land that is presently within the ownership of Mr and Mrs Daw. They, just as Mr and Mrs Froggatt, experienced a measure of severance by virtue of the railway line, so Mr and Mrs Daw experienced a measure of severance. As you can see, because their main centre of activity lies to the east of the line, the lands that they own to the west are severed by the railway line.

The obvious solution to accommodate not only Mr and Mrs Froggatt but also to accommodate Mr and Mrs Daw, insofar as they need to gain access to their reed bed system, is that they should be able to do so by means of the new accommodation bridge, as shown with the red shading on that plan. Now, that, of course, does mean that they will need to have the requisite rights conferred upon them under the terms of the Bill to

enable them to enjoy that right of access.

691. It does mean that there is a change from the existing position in that Mr and Mrs Froggatt must, if you will, accept that Mr and Mrs Daw will be able to use that part of north drive to gain access the reed bed. That is all provided for under the terms of the Bill. The powers are available to enable those rights to be created. The reason why it was thought sensible that the Secretary of State should acquire that part of the road rather than to leave it in the ownership of its present owners was to ensure that those various public and private rights were appropriately provided for by the necessary statutory powers and also, if appropriate, by the grant of easements and that kind of thing, all of which the Secretary of State is empowered to do by virtue of clause 4, I think it is – clause 4 and 5 of the Bill.

692. Now, it would, of course, be open to the Secretary of State to agree only to take rights from the Froggatts and to leave ownership of that section of north drive with them, but you can see from what I have said that that might not be quite so straightforward. It would be more sensible for the Secretary of State to be the owner of that part of the route itself that is shown up to the point at which the red becomes yellow on the plan in front of you, so that the Secretary of State can ensure that everybody who needs to use that newly created section of road is able to do so for their reasonable needs.

693. THE CHAIR: There is a complication and a legal issue, I suppose. If the ownership of Woodhouse Farm were to change, anything that was done by agreement might not carry forward to the new owner. This is one of the advantages, I suppose, of the scheme you are talking about. I do follow that. It is always a problem of change of ownership whether the former agreement, as it is put, runs with the lands when they are changed over. This arrangement is permanent because the railway line is there for a considerable time, with the permanent bridge and so on. That having been said, what assurance is there for Mrs Froggatt that the Secretary of State is not going to broaden out the use of North Lane and so on to all sorts of other people as well?

694. MR MOULD QC (DfT): Unless I have forgotten it – and I will be reminded if I have – I don't think there is any specific assurance that the Secretary of State will not take that course. It's perhaps reasonable to assume that he will not do so because there's

no obvious reason why he should and it would be something that we know from today's hearing would be a source of concern. Speaking aloud – and you will forgive me if I put it that way – I can see no reason, if Mrs Froggatt would find it reassuring, why the Secretary of State shouldn't and the promoter shouldn't say to her in a letter, 'These are the purposes for which that section of road will be used and the rights that are granted under the Bill will be limited.'

695. THE CHAIR: I think that kind of assurance would be extremely helpful in the form of a letter, and also any further consultation; if there was to be any change in the arrangement, that consultation would precede any decision before that decision is taken. Could something be done to provide a letter of that kind?

696. MR MOULD QC (DfT): Yes. I'll need, obviously, to take instructions but let us assume that there will be no difficulty in doing so and, if there is, I will make sure I let you know as soon as possible.

697. THE CHAIR: Thank you very much.

698. MR MOULD QC (DfT): May I just deal with the question of the possibility of lighting and other intrusion and disturbance from the use of the blue route, if you remember that point that was raised?

699. THE CHAIR: Yes.

700. MR MOULD QC (DfT): I understand that this is a point that has been raised and discussed during the course of meetings. The position is that that access is required in order to maintain railway crossovers. If you would like to see where they are, you can see that from P42, page 4. They are located in box F4 on P42(4). It's quite detailed. I hope, if you look closely at the line of the railway as it passes across box F4, you can just make out that maintenance track just to the southwest, running alongside the railway. Do you see that?

701. THE CHAIR: Yes.

702. MR MOULD QC (DfT): Well, the crossovers are located just at the endpoint of that maintenance track, as I understand it, as you would expect, given that its purpose is to enable vehicular to those crossovers.

703. THE CHAIR: At what stage is the railway in there? Is it in a cutting at that point?

704. MR MOULD QC (DfT): I think, at that point, it's, broadly speaking, at grade. It may be slightly embanked. You can see there's a very narrow embankment on either side, but it's, broadly speaking, at grade. Now, the practical implications of that maintenance are that there would be a need for visual inspection about every four to eight weeks, routine maintenance on a quarterly basis, and full replacement of the crossovers every 15 to 20 years during the lifetime of the railway.

705. Plainly, that would be a night-time activity, for reasons that I needn't elaborate and, whilst the activity was going on, there would be lighting at the point at which the maintenance work was going on. The railway itself, of course, is not going to be lit, so one could imagine the kind of lighting it would be. It would be lighting that would be brought in, one would imagine, to provide those carrying out the work to see what they were doing whilst the work was going on.

706. It's difficult to see what physical mitigation one might sensibly provide against that. It's clearly got to happen, and it's clearly got to happen during the night time, when the railway is not in operation. Because it's at grade – or, indeed, slightly elevated – it would be very difficult indeed in practice to provide any sort of barrier that would diminish the spread of light. HS2's position on lighting is that, where it's able to do so, it uses lighting which minimises the spread of light, which, as I'm sure members know, is increasingly a requirement which the construction industry is required to do, and it's always a requirement which the railway industry is required to achieve as a matter of good practice. But I hope that the relatively limited level of the frequency of activity that I've mentioned will be sufficient comfort that the impact of night-time lighting to enable those activities to take place is not so intrusive as to merit any particular measures.

707. I've been asked to stress those are indicative frequencies. I assume that means that they might be rather less frequent or they might, on occasion, be rather more frequent, but that's an order of the kind of –

708. THE CHAIR: Of course, yes.

709. MR MOULD QC (DfT): My Lord, as you can see, I'm saving up Mr Thornely-Taylor's evidence in relation to the noise issues till last. I think that there was a question about utilities: the BT line. Again, I understand that's been the subject of discussion in the last couple of days, and HS2 is able to agree to the alternate routing that I think Mrs Froggatt mentioned, and that may already have been confirmed in a letter today. But again, I'll make sure that the Committee has a copy of that.

710. THE CHAIR: Thank you.

711. MR MOULD QC (DfT): I don't seek to say any more about the quality of broadband. I think the position is as you were told by the petitioner. Where opportunities exist to improve, I think they are being taken in accordance with general Government policy.

712. THE CHAIR: Yes. A note has just reached you, I think, on your right-hand side.

713. MR MOULD QC (DfT): Yes. Indeed, paragraph 76 of the promoter's response to the third special report of the House of Commons Select Committee included the following commitment: 'The promoter will engage with the Department of Digital, Culture, Media and Sport and infrastructure providers regarding current plans for superfast broadband and to understand how the construction programme for Phase 2A may provide any opportunities.' So perhaps this particular point will come within the scope of that engagement.

714. THE CHAIR: Yes

715. MR MOULD QC (DfT): Forgive me, I'll just check whether there's anything more beyond the –

716. THE CHAIR: Well, the solar panels, PVC panels and dust.

717. MR MOULD QC (DfT): I ought to deal with that. The solar panels – yes. Now, those panels are located, I think, on the holding which we see at P42(4), in the vicinity of Blithbury Road, so that's broadly speaking, in boxes E1/2 and F1/2, which I think is –

718. MR DEL MAR: I think there are PV panels at G4, which is about 200 metres from the track.

719. MS FROGGATT: Yes.

720. THE CHAIR: I wasn't sure I picked that up.

721. MR DEL MAR: G4, sir.

722. MR MOULD QC (DfT): Thank you. It doesn't affect the point I was going to make but I am grateful for the clarification. The position as regards the management of dust from construction is set out in the code of construction practice with which the contractors will be required to comply under the terms of the works contracts. Section 7 of the code deals with air quality and the management of air-quality issues, and dust is dealt with in paragraph 7.2.6 to 7.2.9, pages 31 to 33. I think you may have been told this earlier in your hearings, but certainly the promoter's position is that the management of dust from construction activities is a mature and well-understood process. HS2 is committed to requiring its contractors to operate high standards in relation to dust suppression, and that is, essentially, the basis upon which those paragraphs in the code of construction practice are founded.

723. The requirements to operate the highest prevailing standards in relation to dust suppression which are generally set are also a feature of the borrow-pit excavation strategy. I think there was a concern here about dust from a borrow pit. In the event that, notwithstanding those measures, the photovoltaic cells are found to be affected by dust which covers them and which affects their performance and so forth, then that would be a matter that would fall to be addressed in the first instance under the terms of the small claims scheme, which I think you'll remember being told about. HS2 has a small claims scheme which is a procedure which was first introduced, I think, in the context of the Channel Tunnel Rail Link. It certainly was something that was a feature of the Crossrail scheme and it is a feature of the Phase One HS2 railway.

724. That is a process whereby that kind of problem, whether it's a house or, in this case, a piece of equipment, plant or machinery, where it is affected by dust which results from the HS2 construction activities, the owner of the facility can get in touch with the HS2 construction commissioner and there's an arrangement under the small claims scheme for action to be taken to remedy the matter – to carry out cleaning and that kind of thing. If actual damage is caused, then that is recoverable up to a specified level under the terms of the small claims scheme.

725. Just to set the legal context for this, if construction activities lead to dust damage to industrial equipment which is at a significant level of value, then that would be recoverable under the law of nuisance. I'm not suggesting for a minute that that is to be anticipated here, but that's the context in which the small claims scheme has been developed. It's intended to provide a more straightforward remedy for those who would otherwise need to pursue their legal rights in that way in relation to relatively straightforward dust and other construction impacts.

726. THE CHAIR: Presumably, if an incident were to occur again, then a fresh claim could be brought under the procedure. It is not a one-off event.

727. MR MOULD QC (DfT): No. I do emphasise it's very much a fall-back in the event, which HS2 is committed to taking all reasonable steps to avoid, that the dust-suppression measures that I have referred you to in the code don't prove to be effective.

728. THE CHAIR: Yes.

729. MR MOULD QC (DfT): If it becomes apparent to Mrs Froggatt that the photovoltaic cells are experiencing a covering of dust or something of that kind, then the simple point is that she picks up the phone to the contractor or to HS2's engagement team, and they get on to the contractor straight away. That's the starting point with the process I've described.

730. THE CHAIR: How are we doing for time? For the broadcaster's sake, we've got just over half an hour left.

731. MR MOULD QC (DfT): Yes. I think I have now got to the point where Ms Lean has given me the references to information papers, which you may find helpful. Information paper C10 deals with the small claims scheme, and Information Paper D4 deals with the construction commissioner. So my Lord, in the light of what I've said about that issue, again I would suggest there's no need for the Committee to intervene with any particular direction. Those arrangements already, essentially, form part of the environmental minimum requirements which must necessarily be incorporated into the terms of the construction contracts that will be formed to deliver the railway.

732. Can I then turn to the question of noise? I think there are two elements to that.

The first is the proposal for a noise bund. With your leave, unless there's any questions you and your colleagues would like to ask now, I'll turn to Mr Thornely-Taylor.

733. THE CHAIR: No, I think you can go ahead.

Evidence of Mr Thornely-Taylor

734. MR MOULD QC (DfT): Right. Mr Thornely-Taylor, if we can just turn perhaps to P42(6), do you have that available in your papers?

735. MR THORNELY-TAYLOR: Yes, I do.

736. MR MOULD QC (DfT): If you recall, we can see, in boxes C3 and D3, the bund on the eastern side of the line, which lies between the buildings of Woodhouse Farm and the railway. We see that.

737. MR THORNELY-TAYLOR: We do, yes.

738. MR MOULD QC (DfT): What is suggested is that, if one was to replicate that on the other side of the line, it would provide an effective noise barrier which would provide significant benefit to the occupiers of Quintons Orchard Farm, the farmhouse of which is located at C4. Do you see?

739. MR THORNELY-TAYLOR: Yes.

740. MR MOULD QC (DfT): Could you help the Committee with whether that would provide significant improvement in terms of noise attenuation?

741. MR THORNELY-TAYLOR: It's probably helpful to understand exactly what that bund is on the Woodhouse Farm side of the railway, but we looked earlier on at the section at P42(7), the very substantial bund and it's there because, without it, Woodhouse Farm and the receptors there would have noise that was over this critical significant observed adverse effect level, called SOAEL for short, because the formal policy of the Government on noise is such that you cannot go over SOAEL, it has to be avoided, so a substantial noise bund is there to prevent the SOAEL contour, which we can see on P42(8); it's the pinkish contour towards the middle. That would extend over the Woodhouse Farm area and be in contravention of Government policy and that is why that barrier is there.

742. On the Quintons Orchard side of the railway, the distances are much greater, as we saw in that section we were just looking at. And in fact, the conclusion which is reached in the environmental statement about Quintons Orchard is different from Woodhouse Farm.

743. As we can see from P42(8), Woodhouse Farm, as I said, is on the edge of the pink area, but Quintons Orchard is outside it. Before we start thinking about the effect of the noise bund on the Quintons Orchard side, it is within the grey area which is the contour of the lowest observed adverse effect level, which we know as LOAEL, and that does, according to Government policy, necessitate mitigating, minimising noise so long as it's practicable, but the requirement there is not anything like as strong as it is for Woodhouse Farm.

744. It's important to realise that although there is a major adverse impact, because this very quiet area will have train noise introduced to it – I explained in the noise presentation that I gave at the beginning of the Committee's original session that the LAeq index, which is the set of numbers we look at to see whether we're into LOAEL or SOAEL, is an index and not actually a direct noise level when you compare the numbers, it's important not to compare the maximum noise level which was the 75/74 that Mrs Froggatt was referring to with the LAeq index; they're different sets of numbers.

745. But the important thing is that there isn't, in the environmental statement, a conclusion that there is significance, in the environment assessment meaning of the word, and if we do put a noise barrier in, and noise barriers only really work well alongside railways if they are close to the railway, we get quite a small reduction in noise and the reason why it's small is that it's to do with the long distances involved. Quintons Orchard is, as I say, a long way from the railway and over a long distance like that, you get considerable benefit from propagation over soft ground. As soon as you put a barrier in, you have to take that away, that benefit away before you introduce the benefit of the barrier, and the net benefit of putting a barrier in, when the distance is long, is quite modest. If it were put in there, it wouldn't actually change the conclusions in the environmental statement, even though the cost would be very substantial.

746. If we now think, not in terms of a barrier close to the railway, which is what I've

just been talking about, but a bund further out, its effect is considerably less because, as I explained in my original noise presentation, you get much smaller distance between the line over the top over the noise barrier and the line straight through it, and the benefit would really be almost unnoticeable if it was just a bund a substantial distance from the railway. I'm sorry about the length of the answer but it's a complex topic.

747. THE CHAIR: What about a fence? In your presentation to us in the teach-in you gave us, you gave an indication of how benefit could be obtained by a fence up to a certain point; that's an alternative to a bund, I suppose. It may not be very attractive; that's the problem.

748. MR THORNELY-TAYLOR: If the fence was in the same position as we've been talking about as the possibility of a bund, it would still suffer from being too far from the railway. A noise fence close to the railway – we have looked it – it would have to be very long because of the long distance back to the sensitive properties at Quintons Orchard. We would have to have a 600-metre-long barrier, four metres high to get a noise reduction of about 4 dB, which would be noticeable. It wouldn't change the conclusions of the environmental statement, but it would cost about £750,000, and for that outcome, it doesn't pass the practicability test.

749. THE CHAIR: Yes. Now Lord Haselhurst is wanting to ask a question.

750. LORD HASELHURST: Thank you, Chairman. Mrs Froggatt mentioned the welfare of the horses. Now looking at the map, if I've understood it correctly, their grazing would take place some distance from the farm, but I'm not quite sure about the stud, and if Mr Thornely-Taylor is able to reassure us about the general protection that he feels is already in existence for noise for the farm buildings, is he also satisfied that there need be no excess concern over the welfare of the horses?

751. MR THORNELY-TAYLOR: Yes, I've done quite a lot of work assessing the effect of noise on horses, and it so happens I am also a breeder of thoroughbred racehorses. They are all around me now as I speak. I can say quite a lot about reaction of horses to noise.

752. There are some fundamental physical things. The hearing sensitivity of horses is very different from that of humans. At the sort of frequencies at which transportation

noise occurs, noise has to be two to four times as loud to a human to sound the same to a horse. They are more sensitive at much higher frequencies and the horse being a prey animal is actually all the time worried about something possibly coming to attack it. They've been domesticated for actually quite a small proportion of their time on earth, in evolutionary time, and they're still all the time on the lookout for something that might be a threat to them.

753. So what they are better at doing is hearing quiet noises than loud noises. A little rustle at low level in a hedgerow is going to disturb a horse much more than quite a loud noise, so long as it doesn't have very sudden rises and fall in level, and that doesn't occur with the passage of an HS2 train. The fact that the noise level might be quite high, it's not a thing which would disturb a horse. It's anything which it might interpret as being a possible threat that will spook it, as they say, particularly if it's at close range. Horses are particularly sensitive to things happening within a range of about 10 metres because that's the range from which a predatory animal could leap on the horse and harm it.

754. This is the reason why, when you're travelling on a train, you can often look out of the windows and watch horses in fields taking absolutely no notice of the passage of the train. The very first train that goes by, they may take exception to, but they very rapidly become habituated and take no notice at all.

755. Taking into account Mrs Froggatt's explanation about where the grazing land is, we still do have substantial distances between the areas where the horses will be and the railway.

756. MR MOULD QC (DfT): That's the plan on page P42(28), I think. She told us that her paddocks were rather closer to the railway than is shown on that plan. I think that was the point, wasn't it?

757. MR THORNELY-TAYLOR: Yes she said they're underneath the words, 'Quintons Orchard Farm'. That is still a substantial distance from the railway.

758. MR MOULD QC (DfT): May I just raise two other points very briefly? First of all, Mr Thornely-Taylor, if you could just turn P42(9), please, P42, page 9. You made a point about the degree to which the noise bund, or indeed a fence, in the location

proposed by Mrs Froggatt would significantly change the performance, the noise levels. Can we just look at P42? On the table at the bottom, table 3, the relevant numbers for design purposes, are they the 'do something' column under the middle box, 'Impact criteria', that is to say 56 by day and 46 by night?

759. MR THORNELY-TAYLOR: That is right and those are on this index I mentioned called LAeq. They count as the noise of the individual trains and the numbers of times they pass and the length of time they take to pass. It is an index. You won't actually go out there and hear 56; what you will hear, when there isn't a train passing, is the base line of 38. When the train passes, it goes up to 74. After the train's gone, it goes back down to 38, but on the index that we use for highly variable noise environments we get this number of 56.

760. The reason why we have the major adverse impact – and the word 'impact' has a different meaning from 'effect'; impact in this context is about noise change – is because it is basically, now, a very quiet location. After the introduction of trains that index goes up by a large margin, by 18 a day, and that gives rise to those red boxes, and it's the change that causes the red, not the fact that the level you arrive at after the change is particularly high. As I mentioned earlier on, we're still only just part way into the lowest of the adverse effect level contour. We're quite a long way back from the significant observed adverse effect level contour.

761. MR MOULD QC (DfT): And the final question was we saw that Mrs Froggatt had commissioned a noise survey of her own which she referred to in her evidence. I think you've had a chance to look at that.

762. MR THORNELY-TAYLOR: Yes. She did that because she was concerned about the base line noise survey for the environment assessment was done at Woodhouse Farm and not Quintons Orchard Farm. It's quite common –

763. MR MOULD QC (DfT): Can I just ask you – I'm so sorry. Can I just ask you to help the Committee? Do the results of that survey cause you any concern insofar as the reliability of the HS2 noise impact assessment is concerned?

764. MR THORNELY-TAYLOR: They produce slightly higher numbers which reduces the magnitude of the impact; the impact is the noise change. So if the baseline

is a little bit higher than the figure of 38 that we've been looking at, the consequence of that, comparing that with the index after the introduction of the railway, means the noise change is a little bit less, but that's the consequence of the survey that Mrs Froggatt had carried out.

765. MR MOULD QC (DfT): So the HS2 existing baseline survey suggested the environment was rather quieter than Mrs Froggatt's.

766. MR THORNELY-TAYLOR: That's right.

767. MR MOULD QC (DfT): My Lord, those were my question to Mr Thornely-Taylor; I don't know if members of the Committee have any other points they wish to raise.

768. THE CHAIR: No I don't think so. Thank you very much, Mr Thornely-Taylor.

769. MR MOULD QC (DfT): And I had one more point I needed to cover which was relating to trees, I think, which I can deal with by reference to page 42(6). Mrs Froggatt, I think, was concerned that the tree cover that is proposed on the Daws' land, essentially along the line of cross-section 1(a) 1(b) on that page, that should be retained. You can see that tree cover on the cross-section itself, on P42(7).

770. The position is that, in the light of commitments given to Mrs and Mrs Daw in relation to their land, the tree planting in the area closest to Mr and Mrs Froggatt's property, so that's the tree planting just above the word 'section', that tree planting will no longer be made but the tree planting under the words 'Proposed HS2 access', closer to the railway line, that tree planting remains.

771. THE CHAIR: Can I just be sure about that? So it's removing the tree planting to effectively the middle of the cross-section we're looking at. That will go.

772. MR MOULD QC (DfT): Yes. The planting closest to the railway would remain. So there would be a diminished quantity of tree cover, but there would still be some. I'm told by Mr Miller that none of that tree planting was introduced for screening purposes; it was introduced for compensation purposes, and so the area that is being removed is being placed elsewhere, but plainly, once the belt that remains closest to the line, once that tree planting matures, one can expect that it will provide some sort of

visual break between the Froggatts' looking east and the railway line.

773. THE CHAIR: Yes.

774. MR MOULD QC (DfT): And I do emphasise that is not on the Froggatts' land, that's on the Daws' land. I hope I have given our response to each of Mrs Froggatt's points, and unless there's anything else I can help you with, those are my submissions.

775. THE CHAIR: Any questions from the Committee? No. Well, Mrs Froggatt, I think it's back to you to make any concluding remarks, please.

Closing submissions by Ms Froggatt

776. MS FROGGATT: Yes, certainly. I think one point that I'd just like to pick up with Mr Mould, if I may, is the assurance that he refers to by the assurance dated November. Our appearance in the 2018 Select Committee hearing on A23(75), recommended that we commenced a working party meeting; ideally before the end of 2018, or actually before the commencement of AP2.

777. We had made several requests to have a working party meeting with HS2. The first one was 21 September 2018 that was declined, and our first working party meeting was actually supposed to be 5 February 2019, which took place, but at that point, it was two days after that meeting that this assurance of November was actually published. We thought we were having a first working party meeting on 5 February, and we were told by Connolly Meagher at that point that the working party meeting was not going to start until Royal Assent had actually been granted. So this is why we came here to have the House of Lords, hopefully, direct HS2 to have a working party meeting because obviously, since this publication has come about, we're actually alarmed to discover that, for the first time ever, HS2 are acknowledging that our finishing pond, which is the basis of our business, is going to be potentially impacted by HS2.

778. The second point that I'd like to –

779. THE CHAIR: Just before you leave that, sorry just a matter of technicality: obviously, for a meeting to take place, there need to be two sides. How would this direction be framed? Would it be for them to meet at a date which you request, or identify?

780. MR DEL MAR: May I?

781. MS FROGGATT: Yes, please, James.

782. MR DEL MAR: Mr Mould made a very valid point that there's no point directing parties to hold meetings via timeframes which cannot be adhered to. Bearing in mind the Select Committee assumed that the working group would start some 21 months ago, and that hasn't happened, I think we do need to provide, please, some form of deadline for something to happen, so the Froggatts have some form of recourse if it doesn't. I think, Mr Mould, if I understood him correctly, indicated that he would be willing to put forward that the parties were to meet before the end of this year for the creation of this working group.

783. MR MOULD QC (DfT): Yes, yes.

784. MR DEL MAR: And bearing in mind the helpful comment that you made last time about it happening as soon as possible, I'm sure we would be more comfortable with a date that effectively was by 31 December 2020; that would be a sensible suggestion. We would then have some certainty and, if it didn't happen, the Froggatts would have some recourse. We suggested only two/three days ago that a meeting happen, but we couldn't get a date. It's all be about getting this started and getting a date, so we would very much appreciate some form of realistic and fairly soon deadline, please.

785. THE CHAIR: Yes, thank you.

786. MS FROGGATT: Second, I think that the weight of the overbridge is so important to us because, currently, a digger would be 32 tonnes in weight, I believe, on top of a low loader.

787. THE CHAIR: Well, I think this is really a question of providing information, Mrs Froggatt, isn't it?

788. MS FROGGATT: Okay.

789. MR DEL MAR: Well, we may struggle to predict the future.

790. THE CHAIR: Yes, but I mean, you must presumably have some idea of what the

existing requirement are.

791. MR DEL MAR: Oh, yes.

792. THE CHAIR: And even to get that amount of information collected and transmitted would be a great start, and then maybe some allowance you know, for improvements and enlargements could be built into it, but really, it's up to you, I think, to provide the detail.

793. MS FROGGATT: Okay. Thank you. So my question is really to Mr Thornely-Taylor. The local HS2 noise modelling was done next to a busy road and farm, and then adapted for Quintons Orchard, so it is hypothetical. My concern is for the residents' horses and fish. Are the readings averages over time or a measure of instantaneous noise? What I'm trying to understand: I understand you saying about horses, but obviously, we have a stallion; if anybody's used to handling a stallion, is very, very sensitive. So what is the actual noise when the train goes past? That's, I think, what we're trying to establish here.

794. THE CHAIR: Can you answer that, Mr Thornely-Taylor?

795. MR THORNELY-TAYLOR: The actual noise level when a train's going by is 74 dBA, that's the figure in the max column of table 3 that we were looking up.

796. THE CHAIR: Could you give the figures again?

797. MR THORNELY-TAYLOR: The maximum noise level when a train is going by at Quintons Orchard dwelling building, which is about the same distance from the track as the location where we said horses would be turned out, although handling a stallion would be in the vicinity of the stables, the actual noise level while a train is passing is 74.

798. THE CHAIR: 74?

799. MS FROGGATT: 74. And how frequently is that?

800. MR THORNELY-TAYLOR: You need another witness to give the exact figures, but we're talking about the order of 20 trains per – I think you'll have to ask Mr Miller to give that answer.

801. LORD BRABAZON OF TARA: How many an hour?

802. THE CHAIR: I'm not sure whether Mr Mould can give the answer. You gave some information – well, it was Mr Strachan, actually, introducing the case in March, gave some information about the number of trains.

803. MR MOULD QC (DfT): My recollection is that the initial service pattern was of the order of 11 trains an hour. I'm sorry, I ought to know that and it's –

804. THE CHAIR: Yes. And is that 11 in one direction and 11 in the other, or that's a total in two directions?

805. MR MOULD QC (DfT): I thought it was overall, but let me – I'm sorry, I ought to know that and it's just slipped my mind. We'll find that out, someone will tell us that very shortly.

806. THE CHAIR: Anyway, going back to Mr Thornely-Taylor, it's 74 dB as the train passes, and is there a build-up over a period of time? It builds up from a very low level from the surrounding noise, which is very low, but presumably, there's a noise as it approaches, and then a burst of noise to 74 as it passes, and then it diminishes. –

807. MR THORNELY-TAYLOR: That is exactly right. It's unfortunate, my Lord, that because of Covid-19, we weren't able to do the sound lab demonstration because you would have heard exactly what it sounds like. There is a build-up; it's quite quick because the trains are fast, but it's a steady rise in noise level, but then it's almost continuous for a number of seconds while the train passes, and then it declines.

808. Handling a stallion is a dangerous business at all times, as we all know to our painful cost, but horses in general do cope with a lot of noise. In the days when we used to have agricultural shows before the virus, horses including stallions would be on showgrounds with things like monster truck demonstrations taking place in the main ring, and a lot of noise going on, and those aren't the things that spook horses. The things that spook horses are flapping pieces of plastic on bails blowing in the wind, things in the hedgerow quite close by, quite quiet. It's not loud machinery with horses.

809. THE CHAIR: Well, what you're asking to envisage is not a thunderclap, but it's a build-up, and a diminution over a fairly short period of time.

810. MR THORNELY-TAYLOR: Exactly, that's right my Lord.

811. THE CHAIR: Thank you very much.

812. MR MOULD QC (DfT): I can give you an answer now to the question. The position is, passenger services will start at or after 5.00 a.m. and the trains will increase in frequency to 12 trains per hour in each direction on the main lines with an operating speed of 330 kilometres per hour for 90% of services, and 360 kilometres per hour for 10% of services. This number of services is assumed to operate every hour from 7.00 in the morning until 9 o'clock at night, after which services will decrease between 9 o'clock to the last service towards the end of the evening. So, for the bulk of the day, it's 12 trains an hour in each direction. And I'm reading that from the environment statement; that explains the assumption that is made for the purposes of the noise impact assessment. So that frequency has been fed into the model and the number Mr Thornely-Taylor spoke to in the slides, therefore, is founded on that assumed pattern of train services.

813. THE CHAIR: Yes, thank you very much. Well it's back to you, Mrs Froggatt.

814. MS FROGGATT: Well I think the point I'd like to make is if the real noise is 74 dB when the train passes, what is the significance of the map at P42(8) where it actually talks about 40? And I think our concern is if we look at P42(7), you can see the building where the horse shed and the fish shed is; there's no mention of the ménage here, and I think the question that I'm asking is, what comfort can you give me as the person that leads out the mares, the stallions and the foals, and trains young horses in the ménage, that it will be safe to do so without them rearing or bolting? Because our vet tells us it's not – he's quite adamant that it's not going to be safe.

815. THE CHAIR: Mr Thornely-Taylor, can you respond?

816. MR THORNELY-TAYLOR: Well the nature of the noise in the ménage is such that it will not, in any way, resemble a threat to a horse, nothing like something which it may interpret as a predatory animal approaching, or some other threat to its own safety and life. Very quickly, the horses will become habituated to the passage of trains; they will be frequent as we've just been discussing, and all animals, including horses, once they realise what is the cause of the noise – horses are intelligent animals; they have

cognitive ability – they quite quickly work out what it is that they hear coming, and the fact that it doesn't approach them is extremely important.

817. If something that's noisy is coming towards a horse, like a vehicle in a road, there is considerable danger, and I have had horses killed in the road, as perhaps you have as well. It's a terrible thing, but the difference between vehicles approaching in the road, when you're in the road with a horse, is that the source is coming towards them; they see that as a threat, particularly if it's less than 10 metres away. But a train passing 150 metres away with particular distinguishing features, no sudden rise or fall in noise, no strange appearance to it, a horse is intelligent enough to work out quite quickly that it's not a threat and will pay no attention.

818. MS FROGGATT: I see. I think our concern is we're talking about one train every two and a half minutes. So actually, when I'm training them in the ménage and I'm actually dealing with something, say a two or three year old that I'm actually teaching it to walk, trot, canter, etc, my concern is, is the horse actually going to be able to hear me?

819. MR THORNELLY-TAYLOR: Yes, it is. As you know, I'm sure, in the 2012 Olympics, the dressage competition was held at the Royal Naval College at Greenwich which is a very noisy place with all sorts of things going on, river traffic and helicopters and the rest of it, and I haven't actually heard complaints from competitors that their horses were upset by noise at that location.

820. MS FROGGATT: Which I totally accept because those horses, to compete at that level, are trained to an extremely high standard, almost like the police horses within London. I'm talking about youngsters that we're starting off for the first time, which is quite dangerous at the best of times –

821. THE CHAIR: Mrs Froggatt, I'm going to have to ask you to be a little more concise because we're just about at the point where the broadcasters are going to have to finish their broadcast.

822. MS FROGGATT: Okay. Can I move on to item 3? I'm just asking where else have you had to deal with fish farming like ours. If you have, how have you resolved it, because our concern has been that the fish become less good at avoiding predators when

they've got high background noise?

823. MR THORNELY-TAYLOR: My Lord, do you want me to answer that?

824. THE CHAIR: Yes, I think that's a question being put to you.

825. MR THORNELY-TAYLOR: There is quite a lot of noise under water already. Because of the long distance to the railway, the level of noise from the passage of a train, though audible to a fish, will be well, well below levels which we know cause behavioural changes. The effect of noise on fish is well understood because of the construction of offshore wind farms and the construction of ports where piling takes place, percussive piling to construct quays, and so a great deal of work has been done and we know the levels at which behavioural changes in fish take place. The levels we can expect from the passage of trains are well below those levels.

826. THE CHAIR: Mrs Froggatt I think we're really at the point where really have to ask you to bring your submissions to an end very soon.

827. MS FROGGATT: Okay. Well I'd like to close by saying this is the most stressful and frustrating saga that we could ever have imagined, and the impact on both our health has been significant. We are certain that sensible and practical solutions exist to address all our concerns, and we're also certain that, in the long run, the measures we propose will save both time and money for everyone. So I repeat again, our request is for proper noise and visual mitigation for Quintons Orchard through a more sensible use of soil placement, instead of that three-metres-high on the 18 acre – we'd like that in the form of a noise bund, security fencing and CCTV for the fish farm, coupled with immediate creation of a working group.

828. Three, I can't stress enough that we would like our retention of our ownership of north drive, and the rearrangement of others' access off our land, and satisfactory bridge specification. Four, security fencing and CCTV along the haul road, monitoring and protection of the PV cells. Protection of our equestrian breeding and training operation. I think the superfast broadband has been addressed, and eight, compensation for loss of miscanthus ground. We very much hope that you can help us, and thank you very much.

829. THE CHAIR: Well, thank you very much. I hope you found this a reasonably helpful session because you've been able to expand on your various points, and we've had some responses, and you've heard Mr Thornely-Taylor. We'll have to consider what we can do in the light of what you've been saying and what Mr Mould has told us. But I think at this point, it's really for me to bring this session to an end and thank you very much indeed to you both for attending, and giving us the benefit of your knowledge and experience.

830. MS FROGGATT: Thank you.

831. THE CHAIR: Thank you.

832. MR DEL MAR: Thank you.

833. THE CHAIR: Yes, Mr Mould?

834. MR MOULD QC (DfT): Well am I right in thinking that I needed briefly to mention the filled Bill amendments?

835. THE CHAIR: Yes, I have these in front of me. There's a useful explanatory note.

836. MR MOULD QC (DfT): Yes.

837. THE CHAIR: Do we need to know more about it from you?

838. MR MOULD QC (DfT): No, if you're content just to work to that note, then I don't need to say anything else, I think.

839. THE CHAIR: Yes. I mean, the amendments themselves are a bit puzzling, but the explanatory note does actually provide a context for them. And so, I think we can proceed on that basis, thank you very much.

840. MR MOULD QC (DfT): Thank you.

841. THE CHAIR: Good, well this is, in fact, the final session. There's one possible occurrence we may have to have a final virtual hearing to do with Cycling UK. I think you know that there is an issue there; we haven't decided whether we need to have that or not, but subject to that possibility, I think it's as well that I should thank you Mr Mould and those behind you, and Mr Strachan as well, for your help in assisting us to

understand these petitioners against your proposals, so that we've been able to have some kind of solution to the problems that have been raised which are compatible with the broad aims which you've put before us.

842. MR MOULD QC (DfT): We're very grateful and we're pleased to have been of some assistance to you.

843. THE CHAIR: Thank you very much.

844. MR MOULD QC (DfT): Thank you.

845. THE CHAIR: Right, good afternoon.