



HOUSE OF LORDS

Select Committee on the High Speed Rail  
(West Midlands–Crewe) Bill

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Special Report of Session 2019–21

# High Speed Rail (West Midlands– Crewe) Bill

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### *Select Committee on the High Speed Rail (West Midlands–Crewe) Bill*

The Select Committee on the High Speed Rail (West Midlands–Crewe) Bill provides individuals and bodies directly and specifically affected by the bill with the opportunity to object to the bill's specific provisions and to seek its amendment, although not to object to the principle of the bill.

### *Membership*

The members of the Select Committee on the High Speed Rail (West Midlands–Crewe) Bill are:

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

### *Declaration of interests*

See Appendix 1.

A full list of Members' interests can be found in the Register of Lords' Interests:

<http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests>

### *Publications*

All publications of the Committee are available at:

<https://committees.parliament.uk/committee/404/high-speed-rail-west-midlands-crewe-bill-select-committee-lords/>

### *Parliament Live*

Live coverage of public sessions of the Committee's meetings are available at:

<http://www.parliamentlive.tv>

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# High Speed Rail (West Midlands–Crewe) Bill

## CHAPTER 1: INTRODUCTION

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### Background

1. This is the final report of the House of Lords Select Committee on the High Speed Rail (West Midlands–Crewe) Bill. The bill confers legislative powers for the construction of Phase 2a of the High Speed 2 (HS2) rail network, running between Fradley in the West Midlands and Crewe.
2. HS2 will be a Y-shaped network, with trains running at up to 360 kilometres per hour, connecting London with Birmingham, the West Midlands, Leeds and Manchester. Development of the project has been split into three phases, together comprising the largest rail infrastructure project in Europe and the first major rail line north of London since the nineteenth century.
3. The programme is being promoted in three phases known as Phase 1, Phase 2a and Phase 2b. Phase 1 covers the route from Euston station in London to the West Midlands. Work on Phase 1 was authorised by the High Speed Rail (London–West Midlands) Act 2017. The Bill for that Act was considered by both Houses of Parliament between 2013 and 2017 and, being a hybrid bill, was considered by select committees in each House.
4. Phase 2b consists of lines from Crewe to Manchester and from the West Midlands to Leeds. Legislation to authorise that work has not yet been introduced. The extended network was expected to be in operation in 2033, but according to the latest estimate this will not be until 2035–2040.
5. The HS2 project has been controversial and, while supported by many, has been opposed both by those likely to be affected by the scheme and more generally on public policy grounds, particularly on grounds of cost. In August 2019 the Government commissioned a review of the case for HS2 from a panel chaired by Douglas Oakervee. It reported on 11 February 2020 and concluded that the scheme should, with some caveats, go ahead.<sup>1</sup> The same day, the Prime Minister announced that the Government would proceed.<sup>2</sup> On 15 April, the Government issued the notice to proceed—the formal approval for main construction work to begin—and work is underway.<sup>3</sup>
6. It is not for this Committee to consider the general merits of the scheme. Parliament has already approved it by passing the 2017 Act and by giving a second reading in both Houses to the West Midlands–Crewe bill. We note these general issues by way of background.

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1 Oakervee Review, 11 February 2020: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/870092/oakervee-review.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/870092/oakervee-review.pdf)

2 HC Deb, 11 February 2020, cols 711–714

3 The formal start of construction was 4 September 2020: HS2 website, ‘HS2 heralds formal start of construction as 22,000 “jobs boost” for Britain’, 4 September 2020: <https://mediacentre.hs2.org.uk/news/hs2-heralds-formal-start-of-construction-as-a-22-000-jobs-boost-for-britain>

### The Phase 2a route

7. Phase 2a covers a largely rural portion of the route from Fradley in Staffordshire to Crewe in Cheshire, where it would connect with the West Coast Main Line and the western part of Phase 2b. It runs for a total of 36 miles or 58km (compared to 140 miles, or 225km, for Phase 1). The southern section passes through the flood plains of the River Trent and its tributaries before passing north east of Cannock Chase and Stafford. It then runs between Stone and the M6 motorway, passing to the west of Newcastle-under-Lyme before ending just south of Crewe.
8. Because of the topography of the area, much of the track will be constructed in or on a series of cuttings, embankments and viaducts. These amount to 28.3km of cutting, 21.5km of embankment and 5.5km of viaducts, including the Kings Bromley and Trent Valley viaducts taking the line across the Trent flood plain. There will be two short bored tunnels at Whitmore Heath and Madeley in North Staffordshire totalling 2.4km.
9. The route is divided into five “community areas”. Community Area 1 (CA1) runs from Fradley, where the line joins Phase 1, to Colton, and includes the proposed Kings Bromley, Trent and Moreton Brook viaducts.
10. Community Area 2 (CA2) runs from Colwich to Yarlet, to the east of Stafford, and includes the villages of Ingestre and Tixall, whose parish councils appeared before us, as did Ingestre Park Golf Club. CA2 includes the Great Haywood viaduct, between Great Haywood and Ingestre.
11. Community Area 3 (CA3), Stone and Swynnerton, includes one of the major features of the route: the Stone Infrastructure Maintenance Base-Rail (usually referred to as the Stone IMB-R). This would sit in an area between the HS2 line and the M6 near Stone and would connect to the existing Norton Bridge to Stone Railway. The scheme provides for new slip roads on and off the M6 to allow materials to be transported to the Stone IMB-R. A transfer node next to the IMB-R would receive construction loads from the surrounding road network for onward transport to other areas along the route by means of specially constructed haul roads. Other transfer nodes would be built elsewhere on the line. We heard extensive argument on the location of the Stone IMB-R and its effect on the local area.
12. The major features of Community Area 4 (CA4), Whitmore Heath to Madeley, are the Whitmore Heath and Madeley tunnels and the River Lea Viaduct.
13. Community Area 5 (CA5), South Cheshire, covers the line’s connection with Crewe. We did not hear any petitions relating to this area.

### Hybrid bills

14. The High Speed Rail (West Midlands–Crewe) Bill is a hybrid bill promoted by the Department for Transport (the promoter). A hybrid bill is a public bill of general application and giving effect to Government policy. Nonetheless it contains provisions which adversely affect the private interests of certain individuals and organisations in the same way as might a private bill. The bill is thus effectively subject to two different sets of procedures: those relating to public bills and those corresponding to private bill procedure. It must follow the standard public bill procedures in both Houses: first and second

reading, committee stage, report stage, etc. But it must also follow a process akin to the private bill procedures, allowing those whose property interests are directly and specially affected by the bill, as well as certain community interests, to deposit petitions against the bill and to have those petitions heard by a select committee in public quasi-judicial hearings.

15. This report represents an account of the hearings conducted by the Select Committee in the House of Lords and contains its findings in relation to the petitions that were the subject of those hearings.

### **Additional Provisions**

16. The Bill that reached the House of Lords was different from that which had been introduced to the House of Commons by virtue of two Additional Provisions promoted in, and agreed by, that House.
17. Additional Provisions are changes to a hybrid bill that go beyond the scope of the existing bill powers. The *Second Special Report* of the House of Commons Select Committee on the High Speed Rail (London–West Midlands) Bill explained them thus:

“Additional provisions are amendments to the Bill powers which go beyond the scope of the original proposals and which may potentially have adverse direct and special effects on particular individuals or bodies, over and above any effects on the general public.”<sup>4</sup>

18. They are in effect mini hybrid bills in their own right and attract the same protections for private interests as would apply to a full hybrid bill. This means that a fresh petitioning period is triggered for those specially and directly affected by the Additional Provision. The key point is that almost every Additional Provision which solves or mitigates difficulties for one group of people raises difficulties for others.
19. The Additional Provisions introduced in the House of Commons<sup>5</sup> are described in the *Third Special Report* of the House of Commons Select Committee on the High Speed Rail (West Midlands–Crewe) Bill.<sup>6</sup> The bill that reached the Lords incorporated them.
20. While it is possible for Additional Provisions to be incorporated into a bill while it is in its first House, practice prevents Additional Provisions being promoted in the second House. This issue was covered at length in the report of our predecessor committee on the Phase 1 Bill.<sup>7</sup> Following the lead of that committee we ruled that we would not hear argument proposing changes that would amount to an Additional Provision as we simply could not recommend such a course of action. Similarly, we ruled that it was not our role to recommend an order under the Transport and Works Act 1992, which would be to pursue an Additional Provision by other means. The full text of our ruling can be found at Appendix 2.

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4 House of Commons Select Committee on the High Speed Rail (London–West Midlands) Bill, *Second Special Report of Session 2015–16* (HC 129), 22 February 2016, para 8

5 Additional Provision 1 was introduced on 23 March 2018 and Additional Provision 2 on 8 February 2019.

6 House of Commons Select Committee on the High Speed Rail (West Midlands–Crewe) Bill, *Third Special Report of Session 2017–19* (HC 2270), 7 June 2019, paras 12 to 20

7 House of Lords Select Committee on the High Speed Rail (London–West Midlands) Bill, *High Speed Rail (London–West Midlands) Bill* (Special Report, Session 2016–17, HL Paper 83), 15 December 2016, paras 21 to 26

### Right to be heard

21. For completeness we should note that a procedure exists allowing the promoter to challenge a petitioner’s right to be heard by the Committee (formerly known as locus standi). Should the promoter challenge a petitioner’s right, it is for the Committee to decide whether they do in fact have the right to be heard or whether the Committee nonetheless wishes to hear from them. The promoter did not challenge the right of any of our petitioners to be heard.

### Amendments to the Bill

22. The Committee agreed to several amendments to the bill proposed by the promoter. The text of those amendments may be found at Appendix 3. An “As Amended in Select Committee” version of the bill (HL Bill 142) was ordered to be published on 14 October, accompanying the Committee’s formal making of this report. The bill will now continue its progress through the House of Lords before returning to the Commons for consideration of Lords amendments.

### Acknowledgements

23. The work of a committee such as this is complex, only possible because of the hard work and dedication of a wide range of people within and without Parliament. We therefore wish to thank: David Walker, Programme Manager, who drew up at least three schedules for the Committee as its progress was stalled by events; Lucy Lagerweij and Henry Robinson, and the rest of the Parliamentary Management team at HS2 Ltd, who were helpful throughout, especially in responding to new ways of working and presenting evidence as a result of the COVID-19 pandemic; the promoter’s counsel and expert witnesses, who were courteous and professional throughout; and all those within Parliament—Hansard reporters, the Parliamentary Digital Service, the broadcasters and facilities teams, and many others—who supported us so well in enabling us to conduct our hearings remotely and to return to hybrid hearings in Westminster.
24. We must also express our thanks and appreciation to John Turner, our Clerk, the Committee Assistant, Louise Andrews, and Mark Cooper, the Manager of Private and Hybrid Legislation, for all they did to enable us to do our work in such unusual circumstances. For us, moving from a largely paper-based system to one that was based entirely on IT, has been a quite a challenge. The fact that we were able to adapt to the new system so quickly owes much to John Turner’s careful planning and patient guidance and to the invaluable email briefings and links to the remote communication systems which we received from Louise Andrews all along the way.
25. But, above all, we wish to acknowledge the petitioners and their witnesses, who have endured two false starts to proceedings and the need in some circumstances to present their cases to the Committee remotely. The process has been a challenge for all concerned, but we think it has worked very well. We are glad to have been able to allow the petitioners to have their say, and in some cases to have provided solutions to their problems.

## CHAPTER 2: THE PASSAGE OF THE BILL AND THE FORMATION OF THIS COMMITTEE

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26. The High Speed Rail (West Midlands–Crewe) Bill arrived in the House of Lords during one of the most extraordinary periods of modern political history. Progress has been hampered by a prorogation, a general election and COVID-19. So what was expected to be a relatively brief select committee stage, over well before Christmas 2019, has in the event taken over a year to complete. The promoter and petitioners have shown commendable patience in waiting for these proceedings to take place and conclude, and we owe it to them to give an account of events since July 2019. But first, briefly, we describe the bill’s progress through the House of Commons.

### The House of Commons

27. The bill was deposited and had its first reading on 17 July 2017, and it received its second reading on 30 January 2018. A petitioning period ran between 31 January and 26 February 2018, during which 187 petitions were received. The first Additional Provision (AP1) was deposited on 23 March 2018. The petitioning period for AP1 ran from 29 March to 27 April 2018, and a further 33 petitions were received.
28. The Commons’ Select Committee’s first<sup>8</sup> and second<sup>9</sup> special reports record that Committee’s decisions in relation to the bill and AP1. The first report rejected in principle a proposal for a single tunnel between Whitmore Heath and Madeley and a proposal for the Infrastructure Maintenance Base–Rail to be built at Aldersley’s Rough instead of Stone. The second report made several further findings.
29. The second Additional Provision (AP2) was deposited on 8 February 2019. It introduced 287 individual changes, 28 of which were the result of settling with petitioners or directions from the Commons Committee. The Committee received 82 petitions against AP2. Perhaps the most significant change for the purposes of this Committee was the proposal in AP2 for HS2 to purchase land adjacent to the Ingestre Park Golf Club in order to realign the course. The Golf Club opposed this proposal at that stage and petitioned for the whole course to be relocated.
30. The Committee’s findings on AP2 were published in its Third Special Report,<sup>10</sup> published on 7 June 2019. Following remaining stages in the Commons, the bill was sent to the House of Lords on 16 July 2019.

### The House of Lords

31. The petitioning period in the Lords ran from 17 July to 16 August 2019. We received 35 petitions during that period.<sup>11</sup>

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8 House of Commons Select Committee on the High Speed Rail (West Midlands–Crewe) Bill, *First Special Report of Session 2017–19* (HC 1085), 24 May 2018

9 House of Commons Select Committee on the High Speed Rail (West Midlands–Crewe) Bill, *Second Special Report of Session 2017–19* (HC 1452), 23 July 2018

10 House of Commons Select Committee on the High Speed Rail (West Midlands–Crewe) Bill, *Third Special Report of Session 2017–19* (HC 2270), 7 June 2019

11 A 36th petition, that of Theo Clarke MP, was accepted as a late petition by the Standing Orders (Private Business) Committee on 16 March.

32. The bill was read a second time and committed to a select committee on 9 September 2019.<sup>12</sup> A motion allowing the bill to be carried over into the next session was also passed that day<sup>13</sup> in anticipation of the bill not completing its progress in the 2017–19 session. In fact, prorogation—the formal end of the session—was scheduled for the close of that day’s proceedings.<sup>14</sup>
33. On 24 September 2019 the Supreme Court found the prorogation on 9 September 2019 to have been unlawful.<sup>15</sup> Parliament returned and sat until a further, unchallenged, prorogation on 8 October 2019, ending the 2017–19 session.
34. The bill was reintroduced in the Commons for the 2019 session, sent to the Lords on 15 October<sup>16</sup> and committed to a select committee on 29 October.<sup>17</sup> That Committee was appointed on 30 October<sup>18</sup> with the following members:
- Lord Walker of Gestingthorpe (Chair, Crossbench)
  - Lord Flight (Conservative)
  - Lord Haselhurst (Conservative)
  - Lord Jones of Cheltenham (Liberal Democrat)
  - Lord Liddle (Labour)
  - Lord Porter of Spalding (Conservative)
  - Lord Snape (Labour)
35. The Committee never met. On 6 November 2019 Parliament was dissolved for the general election. The bill, and the Committee, ceased to exist at that point.
36. During this period tentative steps had been taken to arrange for the Committee to hear petitions during a two week period in October and November, and some petitioners had made plans to appear. We again express our gratitude for their forbearance.

### Revival of the bill and reappointment of the Committee

37. Following the 2019 general election there was some uncertainty over the future of the HS2 project as a whole. Therefore, little progress was made until the Prime Minister’s statement on 11 February that it would indeed go ahead. There having been no carry-over motion in the 2019 session, the bill

12 House of Lords Minutes of Proceedings, [9 September 2019](#)

13 *Ibid.*

14 Before it became clear that prorogation was intended for 9 September it had been expected that the Committee would be appointed on 10 September. The members would have been Lord Walker of Gestingthorpe (Chair), Lord Flight, Lord Jones of Cheltenham, Lord Liddle, Baroness O’Cathain, Lord Porter of Spalding and Lord Snape. Future business fell at the supposed prorogation so that Committee was never appointed. See House of Lords Business, [9 September 2019](#).

15 *R (on the application of Miller) (Appellant) v The Prime Minister (Respondent)* [2019] UKSC 41: <https://www.supremecourt.uk/cases/uksc-2019-0192.html>

16 House of Lords Minutes of Proceedings, [15 October 2019](#)

17 House of Lords Minutes of Proceedings, [29 October 2019](#)

18 House of Lords Minutes of Proceedings, [30 October 2019](#)

was revived in both Houses via a series of motions—a procedure which had not been used since 1974.<sup>19</sup>

38. Our select committee was then appointed on 5 March 2020<sup>20</sup> with the following members:
- Lord Hope of Craighead (Chair, Crossbench)
  - Lord Brabazon of Tara (Conservative)
  - Lord Goddard of Stockport (Liberal Democrat)
  - Lord Haselhurst (Conservative)
  - Lord Horam (Conservative)
  - Lord Liddle (Labour)
  - Lord Snape (Labour)
39. Our quorum was four, but all seven Members were present for well over 90 per cent of our hearings. We got to work quickly. Having agreed our working methods and a programme of hearings, we visited the Phase 2a route (on a tour organised by HS2 Ltd) on 11 March. While there we saw Ingestre Park Golf Club, the proposed site of the IMB-R and Yarnfield Lane, the Hanchurch Interchange, Whitmore Heath and Woore village, all of which featured prominently in our hearings.<sup>21</sup>

### COVID-19

40. We began our Westminster hearings on 16 March, when James Strachan QC made the promoter’s opening statement. We met again on 17 March to hear the promoter’s presentations on engineering, the environment and compensation, delivered by Tim Smart, Peter Miller and Colin Smith respectively. At this point it became clear that we could not carry on. The seriousness of the COVID-19 pandemic had become apparent and the Government’s guidance was tightening. It would not have been fair to expect people to travel to Westminster under such circumstances and, in any event, the national lockdown announced by the Prime Minister on 23 March would have prevented any further hearings. We decided to pause our hearings until we were in a position to hold them safely.
41. By July we were able to do so. We met remotely via Zoom on 20, 28 and 29 July, beginning with the promoter’s presentation on noise, sound and vibration, delivered by Rupert Thornely-Taylor. We met again remotely on 2 and 3 September. By 7 September we were able to meet in hybrid form, with some participants present in Westminster and others appearing remotely. We held our final public hearing, meeting remotely with Cycling UK, on 23 September.

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<sup>19</sup> This required a paving motion in the House of Lords on 25 February (House of Lords Minutes of Proceedings, [25 February 2020](#)), a corresponding motion in the House of Commons on 2 March (HC Deb, 2 March 2020, [col 694](#)), and for the Bill to be re-introduced in the Commons on 3 March. The Bill was then automatically returned to the Lords at the point it had reached in the 2019 session (House of Lords Minutes of Proceedings, [3 March 2020](#)).

<sup>20</sup> House of Lords Minutes of Proceedings, [5 March 2020](#)

<sup>21</sup> The full itinerary was: Handsacre Junction, Kings Bromley Viaduct, Newlands Lane National Grid connection, Great Haywood Viaduct, Ingestre Park Golf Club, Staffordshire Showground (drive past), Hopton village, Yarlet School (drive past), Stone IMB-R/Yarnfield Lane, Hanchurch Interchange (drive past), Whitmore Heath, Woore village, Crewe South Connection (drive past), Crewe station.

### CHAPTER 3: PLANNING AND THE ENVIRONMENT

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42. The following chapters describe how the scheme intends generally to deal with certain route-wide issues. They are based to a large extent on the promoter's presentations given to the Committee at the start of our hearings. The underlying issues discussed in these chapters were relevant to the specific cases we heard from petitioners later in the process and informed our thinking on them. In certain cases the argument was developed during those hearings.
43. We were given an initial briefing on planning and the environment by HS2 Ltd's Environment and Town Planning Director, Mr Miller. We were also assisted by exchanges with Timothy Mould QC, for the promoter, during the hearing of the petition by Yarnfield and Cold Meece Parish Council and others. They had presented a direct challenge to the proposition that a limited level of detail was all that was required from the promoter for the parliamentary stage of the bill's progress. They wanted to explore various aspects of the scheme in much greater detail, to expose what they submitted was the inadequacy of the promoter's analysis. This was an approach to our task that was urged upon us by several other petitioners, and it requires examination as an issue of principle.
44. As Mr Mould explained, it is well established that where a national project is promoted through a measure of this kind the level of detail that must be provided to Parliament should be sufficient to enable it to scrutinise whether the scheme is acceptable and its promoters ought to be given the powers that are needed to carry it out. This means that it must be sufficient for an assessment of the environmental effects of the scheme. For example, the engineering design must be developed to the degree necessary to enable a traffic impact assessment to be undertaken and a noise impact assessment to be carried out and design policies formulated for the specification of noise levels and matters of that kind. But it has never been regarded as necessary for the scheme to be developed to the level of design detail that would enable contracts to be let for the construction of the railway. The bill itself is essentially an enabling bill. It is designed to give local control over these matters to the planning and highway authorities following its enactment.
45. As the Court of Appeal said with regard to the provisions of the High Speed Rail (London to West Midlands) Act 2017 in *R (on the application of Hillingdon London Borough Council) v Secretary of State for Transport and others* [2020] EWHC 3574 (Admin), para 10, the duty to perform an assessment of the impact and possible mitigation and modification measures was imposed by Parliament squarely and exclusively upon the local authority, and the authority was under no duty to process a request for approval by HS2 Ltd unless it was accompanied by evidence and information adequate and sufficient to enable the authority to perform its statutory duty. What was said there about the division of powers and responsibility for the evaluation of local planning concerns between local authorities and HS2 Ltd applies equally to the bill with which we are concerned. We are satisfied that the promoter's understanding of the level of detail that is required of them for our purpose was well-founded, and that there was no sound basis for demands that further details should be provided.

### The legal framework

46. The bill contains a variety of provisions which are designed to minimise the effect of the works on the environment. They include the provisions about highway access, interference with highways and the construction and maintenance of new or re-aligned carriageways in Schedule 4. They also include conditions attached to the planning permission for the carrying out of the development that is deemed to be granted by clause 17. Schedule 17 to which that clause refers requires various matters to be subject to approval by the local planning authority. They include building and other construction works, road transport, waste and spoil disposal and excavation and site restoration. A broad analogy can be drawn in this regard between an outline planning permission and the matters that are reserved for detailed scrutiny in relation to a permission of that kind. Authorities which have given undertakings to the Secretary of State with respect to the handling of planning matters under the bill may refuse to approve or set conditions on the approval of plans for most of the permanent, above ground works on grounds specified in the Schedule. Various ancillary matters such as the handling of re-useable spoil or topsoil, the restoration of borrow pits and construction camps, works screening and road control matters including the movement of large goods vehicles are also subject to approval by the relevant planning authority.
47. The bill also includes protective provisions in Schedule 32 in relation to highways and traffic to minimise disruption to traffic where reasonably practicable, and requiring the promoter to submit plans to the Environment Agency or local drainage authorities for approval for any specified works which may affect land drainage, flood storage or defence, the flow or purity of water and the conservation of water resources and fisheries. These bodies may require the construction of such protective works as are reasonably necessary. Before giving up possession of land of which possession has been taken temporarily, the promoter must return the land to its former condition or to a condition agreed with the owners of the land or the relevant planning authority: see Schedule 15, paragraph 5.
48. There are also controls outside the bill, such as the Code of Construction Practice and the provisions of the promoter's planning, heritage and environmental memoranda.<sup>22</sup> Various agreements have been entered into and assurances given to individual petitioners in the course of the proceedings in both Houses on environmental matters. They, together with assurances of a general application given to representative bodies such as local authorities, wildlife trusts and the National Farmers Union, have been published in a draft Register of Undertakings and Assurances held by the Department of Transport.<sup>23</sup> A final version of the Register will be produced and published on or shortly after Royal Assent. Furthermore, unless expressly or impliedly disapplied or modified by the bill, existing legislation in relation to such matters as the control of pollution under section 61 of the Control of Pollution Act 1974 and wildlife licences for the protection of affected species under

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22 All available at <https://www.gov.uk/government/publications/environmental-minimum-requirements-for-hs2-phase-2a>. The draft Code is subject to periodic revisions until the bill receives Royal Assent. Further information may be found on HS2's Information Paper D3: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/627938/D3\\_Code\\_of\\_Construction\\_Practice\\_v1.0.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627938/D3_Code_of_Construction_Practice_v1.0.pdf)

23 Available at <https://www.gov.uk/government/publications/hs2-phase-2a-register-of-undertakings-and-assurances>

the Conservation of Habitats and Species Regulations 2017 will continue to apply. Air quality is covered by a large volume of EU legislation which has been transposed into English law or is now part of retained EU law under the European Union (Withdrawal) Act 2018.

### **The Environmental Statement**

49. In accordance with the Environmental Impact Assessment Directive 2011/92/EU, environmental concerns arising out of legislative projects receive special treatment if the objectives of the Directive are achieved by the legislative process. The work of parliamentary committees hearing petitions against hybrid bills can be seen as part of that process. The Environmental Statement<sup>24</sup> must include measures to avoid, prevent, reduce and monitor the effects of the project. These impacts will be monitored by HS2 Ltd as the nominated undertaker and by the relevant planning and regulatory authorities.
50. The Secretary of State established a set of Environmental Minimum Requirements (“EMRs”) which will apply, as a matter of contractual obligation, to the nominated undertaker and its contractors which will not be appointed until the bill has received the Royal Assent, although they may already have been selected, or are being considered for selection. EMRs include general principles, the Code of Construction Practice comprising general requirements about such matters as core working hours and pollution control measures and site-specific requirements such as dust and air quality management and the protection of trees. They also include an Environmental Memorandum, a Heritage Memorandum, a Planning Memorandum and a Housing Memorandum. In compliance with the House of Commons and House of Lords Standing Orders, the promoter undertook an eight-stage process culminating with the final publication of the Environmental Statement which was submitted with the bill. Details of the eight-stage process of this Environmental Impact Assessment are given in the Third Special Report of the House of Commons Select Committee.<sup>25</sup> The nominated undertaker has to ensure that environmental effects of the scheme as reported in the Environmental Statement will not be exceeded. The opportunity will be taken at the stage of detailed design to adopt further mitigation.

### **Trees and Woodland**

51. In carrying out these works the promoter’s averred aim is to adopt the principle of ecological compensation and mitigation. This means that, if trees and woodland must be removed, they are to be replaced in a suitable location in reasonably close proximity. Small fragmented groups of trees are to be linked together by new planting and so re-established or improved as habitats. Existing trees which are to remain in place are to be protected, especially if they are old and vulnerable.
52. The petitioner who addressed us on these matters in the greatest detail was the Woodland Trust. This is the UK’s woodland conservation charity and is the national authority on ancient woodlands and trees. Other environmental societies and local groups also petitioned, including the Royal Society

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<sup>24</sup> Available at <https://www.gov.uk/government/collections/hs2-phase-2a-environmental-statement>.

<sup>25</sup> House of Commons Select Committee on the High Speed Rail (West Midlands–Crewe) Bill, *Third Special Report of Session 2017–19* (HC 2270), 7 June 2019

Wildlife Trusts and the Staffordshire Wildlife Trust. The National Trust did not petition, but joined with the HS2 company and numerous other bodies in establishing the Trent-Sow Parklands and Cannock Chase Area of Outstanding Natural Beauty HS2 Group with an initial funding of £1.5 million and an annual budget of £150,000 a year. Our attention was drawn to paragraph 175(c) of the National Planning Policy framework,<sup>26</sup> which states that development resulting in the loss or deterioration of irreplaceable habitats such as ancient woodland and ancient or veteran trees should be refused unless there are wholly exceptional reasons. The Woodland Trust seeks to ensure that every possible step is taken by HS2 to minimise the loss of irreplaceable woodland and that, where this cannot be avoided, compensation is provided for its loss.

53. The expression “ancient woodland” has something of an aura about it, but it does not mean that all of the trees within it have any particular antiquity. It is usually taken as meaning that the area of land in question has been covered by trees since 1600, but there is no assurance that those trees, or even trees of the same species, have been there for any particular period of time. The year 1600 is used for the very practical reason that before then there were very few accurate large-scale maps in existence. In detailed evidence submitted to the House of Lords Select Committee on the HS2 Phase 1 bill, Natural England submitted a glossary which distinguished between ASNW (ancient semi-natural woodland) and PAWS. PAWS are plantations on ancient woodland sites which, it said, “were planted with (often non-native) broad-leaved trees and conifers after the First and Second World Wars”.<sup>27</sup> Both ASNW and PAWS count as ancient woodland, but their environmental value may be very different. This distinction is also recognised in the Woodland Trust’s own website.
54. Ancient trees are not confined to woodlands. Like veteran trees, they can also be found on their own, such as at the edge of fields. Veteran trees can be of any age, but they share the same characteristics as ancient trees. Like ancient trees, they have developed fissured bark, holes and other features that come with age that mean that, like ancient trees, they are especially rich in wildlife.
55. The Woodland Trust’s petition lists, in Table 1 at the end,<sup>28</sup> 10 areas of woodland, from which about 9.8ha will be lost due the project. Seven other areas of ancient woodland are listed as indirectly affected. Most of these are very small indeed, and areas of less than 2ha are not included in the Ancient Woodland Inventory which has over 50,000 entries for England. Whitmore Wood, the loss from which extends to 5.5ha, is probably the only complete example of ancient woodland to be found in the Inventory, although Clifford’s Wood and The Grove at Yarlet Hill, where the loss is 1.3ha in each case, are probably also in the Inventory. The losses from the other areas on the list range from 0.1 to 0.6ha.

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26 National Planning and Policy Framework, February 2019, CP 48: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810197/NPPF\\_Feb\\_2019\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf)

27 House of Lords Select Committee on the High Speed Rail (London–West Midlands) Bill, *High Speed Rail (London–West Midlands) Bill* (Special Report, Session 2016–17, HL Paper 83), 15 December 2016, para 292

28 Document R60 (12): <https://committees.parliament.uk/publications/2324/documents/22838/default/>

56. The Woodland Trust and several others asked in their petitions for a single long tunnel between Whitmore Heath and Madeley instead of the two much shorter tunnels that are proposed, primarily to protect the ancient woodland at Whitmore Hill. The House of Commons Select Committee rejected this proposal, primarily on the grounds of expense. The creation of such a tunnel would require an additional provision, as it would go beyond the scope of the original proposals in the bill. We decided to follow the precedent set by the ruling on this matter by Lord Walker's Committee on the Phase 1 bill and issued our own ruling on this matter, indicating that we would have to decline to admit such an application were it to be made to us. In the event, we received no such application.
57. Another issue raised by the Woodland Trust has been the number of new trees that should be planted in order to make good losses of existing trees. It is conceded that the number to be planted should considerably exceed the number lost, but the use of a multiplier to determine how much new planting there should be has been controversial. The Woodland Trust has argued that a ratio of 30:1 should be applied, meaning that 30ha of new trees should be planted for each hectare that is lost. Like the House of Commons Select Committee and Lord Walker's Committee on the Phase 1 bill, we feel that creating new woodlands on that scale in this area would be excessive. In particular, it would impose unfair burdens on farmers who would lose more land to tree-planting in addition to the productive land which they will lose to the line of route and to embankments, borrow pits, access routes and other permanent or temporary purposes. HS2's proposed new woodland planting for this section of the line extends to about 78ha, with a further 13ha of ancient woodland enhancement. This is considerably less than the total area that would be required if the Woodland Trust's mechanistic formula were to be applied, but we consider its application to be unnecessary as well as undesirable. Four funds have been announced since the Phase 2a bill was deposited, including the Phase 2a Woodland Fund, amounting to £2 million. This fund is intended to help landowners to create new native woodlands and restore existing ancient woodlands on their own initiative. We are told that estimates to date indicate that it can reasonably be expected that a further 170ha of new woodland could be created and 100ha of ancient woodland sites restored by allocations made from this fund.
58. The source of all new trees to be planted is another matter about which the Woodland Trust has expressed concern, due to the risk of importing diseases from abroad such as happened in the case of ash die-back and the oak processionary moth. HS2 is committed to growing all of its planting stock within the United Kingdom, and it has already been established for HS2 Phase 1 that any imported stock has to be grown in the UK for a minimum of two years before being supplied for use. A proportion of the seeds for new stock will need to be sourced from outside the UK subject to stringent hygiene regulations, in line with Forestry Commission guidance which seeks to increase the resilience of planting stock and build in adaptability to any future climate change. But this is a relatively new area of environmental science, and it seems to us that there is room for debate as to what the proportion should be. We return to this issue in paragraph 144 on the Woodland Trust.

### Protection of birds, voles and other animals

59. One of the most important issues on AP2 was the source and route of the supply of power to the Newlands Lane Auto Transformer Feeder Station near Colton. There was doubt as to the capacity of the Rugeley substation to provide an adequate supply. The chosen option was a new Grid Supply Point connected to the National Grid at Parkgate, near Hoar. This requires a 7.7km double row of 27 pairs of pylons 250-300m apart. The West Midland Bird Club petitioned the Commons Committee for an underground route, which was refused, and alternatively for bird protectors to be fitted to the section of pylons nearest to the flight paths of birds from the Blithfield Reservoir. The Commons Committee directed that these protectors should be fitted at a cost of about £300,000.<sup>29</sup>
60. Some areas of wetland and various ponds along the line will be affected. Among other things, engineering works will interfere with water vole habitats. An important aim of the Environmental Statement was to create a “green corridor” along the whole line of route. The aim is not only to screen the railway, and so reduce its visual impact, but also to create new habitats for existing wildlife, and other wildlife which might move into the new habitats. The plans include both underpasses and “green bridges”, some also carrying footpaths and bridle paths, to enable the railway to be crossed by different species such as deer, badgers and otters that move across the landscape.
61. Following the petition of the Cheshire Wildlife Trust, the Commons Committee was assured that the promoters would work with the Trust to secure the relocation of the voles, under a licence from Natural England, to a new and more suitable habitat. Assurances have also been given to the Trust to meet other concerns about the impact of the scheme on wildlife in areas in need of protection in East Cheshire.<sup>30</sup>

### Footpaths, cycleways, bridleways

62. Apart from the petition from Cycling UK which we mention in Chapter 7, there were almost no references in the petitions to footpaths, cycleways or bridle paths. The application of mitigation measures during the design process and compliance with conditions imposed by local authorities on developments affecting them should provide the protections that are needed by persons using these routes. Since some of these are to cross the new railway on “green bridges”, we add, in view of the consequences that could follow if a bicycle or pony managed to fall with its rider onto the railway, that the precautionary approach should be taken to the height and robustness of the bridge sides, even if it entails some deficit in their appearance.

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29 House of Commons Select Committee on the High Speed Rail (West Midlands–Crewe) Bill, *Third Special Report of Session 2017–19* (HC 2270), 7 June 2019, paras 70–72

30 *Ibid.*, para 88

## CHAPTER 4: ENGINEERING

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63. As Mr Strachan QC explained in his opening statement, and Mr Smart did in the promoter's engineering presentation, the main engineering features of the proposed scheme reflect the topography of the countryside. The line between the West Midlands and Crewe is approximately 58km in length. 28.3km of the route would be constructed in cutting and 21.5 of it on embankment. There would be 5.5km of viaducts, including the King's Bromley and Trent Valley viaducts in the southern section taking the railway across the Trent flood plain. There would also be two short twin-bore tunnels, one at Whitmore Heath extending to 1.1km and the other at Madeley extending to 673m. There is an additional allowance of 150m for porous portals at the end of each tunnel, which are designed for speeds of up to 360 kilometres an hour. Their purpose is to dissipate the air pressure when a train enters the tunnel at speed, and to avoid a sonic boom effect and vibrations in the atmosphere due to the build-up of pressure when the train exits the tunnel at the other end. No vent shafts to remove smoke in the event of a fire would be required in either tunnel because of their length, but a cross-passage would be provided to enable the evacuation of passengers into the neighbouring tunnel. This is subject to a risk assessment in the case of the Madeley tunnel to determine whether, because of its relatively short length, this is necessary.
64. The bill provides for the construction of a rail maintenance depot known as the Stone Infrastructure Maintenance Base-Rail (the IMB-R). This would be on land situated between the HS2 line and the M6 near Stone. Its functions would be to act as a railhead for the construction of Phase 2 and to provide an operational base for this section of the railway after completion. A rail connection would be formed to the existing Norton Bridge to Stone railway which runs alongside the depot site. Temporary access to and from the M6 during construction would be provided by means of specially designed slips agreed with Highways England. The southbound slip would be left in place for vehicles coming into the operational maintenance base for the railway when it is in use. Electricity to power the proposed scheme would be transmitted from a connection with the National Grid at Park Gate via overhead lines to a main autotransformer feeder station at Newlands Lane near Colton. No new stations are proposed in this scheme, but there would be some works at Crewe Station to allow HS2 trains to run smoothly onto the West Coast Mainline. There would be a connection at the southern end of the proposed scheme between the HS2 Phase 1 scheme and the West Coast Mainline at Handsacre using the up-slow and down-slow lines on the outside of the line.

### Extraction, transport and disposal of materials

65. In order to carry out the civil engineering works it would be necessary to transport large quantities of good quality aggregate comprising sand and gravel to the route, known as the trace, as it is being constructed, and then to move the material along it. It would also be necessary to remove material excavated from the cuttings and tunnels which would not be needed or would not be suitable for use for the proposed scheme. Under the traffic management plans to be developed in consultation with the highway authorities, these materials would be moved by lorry along the strategic and primary road network in Staffordshire and East Cheshire such as the M6, the A34 and the A500. The promoters have introduced two principal measures

to reduce the need to transport construction materials and excavated loads along these and other roads.

66. The first measure is intended to mitigate the impact of traffic during construction and to reduce, so far as reasonably practicable, traffic on local roads. The HS2 railway trace would be used to provide a series of haul roads within the lands authorised for use for construction purposes under the bill. They would be used for the transportation of construction materials and excavated loads wherever this was reasonably practicable. These haul routes would be connected to a series of transfer nodes to enable construction loads to be transported by lorry directly from the strategic or primary road network to the trace. The most extensive transfer node would be located next to the site of the Stone IMB-R. This would enable lorries to use the motorway for the transfer of their loads directly onto and from the trace. The proximity of the Norton Bridge to Stone railway has enabled the bill to authorise the creation of a construction railhead through which the equipment for the track and rail system would be imported to fit out the proposed scheme. Existing highways would be improved to address potential delays to other traffic and safety issues. All roads would be kept open where reasonably practicable, including the provision of off-line diversions where these are needed. Overnight accommodation and welfare facilities would be provided for the workforce at three main construction compounds. Surplus excavated material would be disposed of locally, to reduce the need for it to be exported by road.
67. The second measure is the inclusion within the bill of the power to create and work borrow pits along and adjacent to the Phase 2a route. There is a shortfall in the amount of high-quality aggregate in the form of sand and gravel that would be required for the construction of the proposed scheme. Six borrow pits would be developed to meet this need, the extent and depth of which would depend on further ground investigation works. They are intended to be on sites close to the route at Crawley Lane, adjacent to a realigned A515 Lichfield Road, adjacent to a realigned Shore Lane, near Blithbury, to the west of Netherset Hay Farm and to the north of Checkley Lane. The aggregates extracted from these pits would be transported directly onto the trace via internal site haul roads within the construction boundary of the proposed scheme. The borrow pits would then be progressively backfilled with materials excavated during construction which were surplus to requirements. Much of that excavated material would be transported directly from the trace to the borrow pits by these routes. The use of borrow pits would result in significantly lower levels of HGV movements on local roads than would have been the case if aggregate had been imported from local quarries and excavated materials had been disposed of by landfill. It would also reduce costs. The land required for these borrow pits is for the most part currently in agricultural use but within an area of search that has been identified by the local mineral planning authorities for future potential mineral extraction. They would be worked over a maximum of four years, including their excavation and backfilling. This would be followed by their restoration in accordance with a scheme approved by the local authority. A borrow pits restoration strategy forms part of the Environmental Statement.<sup>31</sup> The expectation is that they would be restored to a condition suitable for the

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31 Volume 5: <https://www.gov.uk/government/publications/hs2-phase-2a-environmental-statement-volume-5-borrow-pits-restoration-strategy>

resumption of agriculture, with effective long-term management of drainage and flood prevention.

68. A further measure, introduced into the bill by Additional Provision 2, was the identification of areas for the local placement of excavated material that is surplus to construction requirements. Their purpose is to reduce the need to transport such material away from the trace onto the highway network. The criteria by which these areas were identified included that they were only on land that was already required for construction, that the sites were close to where surplus material would be generated and that they would avoid sites for habitat creation and were above source protection zones, land drainage or major utility diversions.<sup>32</sup>

### Traffic

69. A draft Code of Construction Practice<sup>33</sup> has been prepared with a view to mitigating and managing the impacts of traffic during construction. The measures that are set out in the draft Code address the phasing of the works, the timing of operations, road traffic management, layouts and signage, parking controls, a list of roads that may be used as construction routes by large goods vehicles, including any restrictions on the use of these routes and the monitoring of vehicles arriving at and leaving the construction compounds. They also address monitoring for any deviation from authorised routes, measures for the reinstatement of highways, emergency access protocols, proposals for the transport of the construction workforce, measures to ensure their safe access to and from the site and arrangements for liaison with the relevant highway authorities and emergency services. The construction routes would be submitted to the local planning authority for approval under Schedule 17 to the bill. Routes with direct access to the strategic road network would be used, and the use of local roads would be limited where reasonably practicable. Construction routes used by large goods vehicles of over 7.5 tonnes would require the approval of the local highway authority, except where they were using motorways or trunk roads and access to compounds with less than 24 two-way trips per day.<sup>34</sup>
70. A transport assessment was prepared as part of the Environmental Statement.<sup>35</sup> Its purpose was to identify the traffic and transport impacts during construction and operation of the railway. It made a number of precautionary assumptions based on a reasonable worst case scenario, such as the length of working days and workforce arrival times and patterns. The impacts are assessed against a future baseline. This is an estimate of the level of future travel demand without Phase 2a, derived from the use of local models of local plan projections, planning data in the area of the proposed scheme and the Department for Transport's transport forecasting Trip End

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32 Promoter's presentation on engineering, P2(22): <https://committees.parliament.uk/publications/359/documents/1403/default/>

33 Available at <https://www.gov.uk/government/publications/environmental-minimum-requirements-for-hs2-phase-2a>. The draft Code is subject to periodic revisions until the bill receives Royal Assent. Further information may be found on HS2's Information Paper D3: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/627938/D3\\_Code\\_of\\_Construction\\_Practice\\_v1.0.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627938/D3_Code_of_Construction_Practice_v1.0.pdf)

34 Promoter's presentation on engineering, P2(24): <https://committees.parliament.uk/publications/359/documents/1403/default/>

35 Environmental Statement, Volume 5: Technical appendices, Traffic and transport. Transport Assessment (TR-001-000) Part 1: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/627113/E62-A\\_TR-001-000\\_Part\\_1\\_WEB.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627113/E62-A_TR-001-000_Part_1_WEB.pdf)

Model Presentation Program (TEMPro). The peak level of construction traffic impacts resulting from HS2 has been assessed against a common 2023 baseline. Operational traffic impacts have been assessed against an opening year of 2027 and a design year of 2041. The traffic effects resulting from the use of construction routes at key locations, and the duration of peak periods on these routes, have been identified. The traffic data have also informed an assessment of air quality, noise and other impacts on the community.

71. As the proposed scheme would run through rural areas where the existing use of the land is primarily for arable and livestock farming, significant permanent and temporary disturbance to farm holdings along the line would be unavoidable. The promoter has sought to minimise its impact in designing the proposed scheme. The location of environmental mitigation and compensation works has been determined by engaging with affected farmers and growers and their representative body, the National Farmers Union, throughout the bill process. A specific guidance document has been prepared called the Code for Farmers and Growers. It sets out the policies currently proposed by the promoter on agricultural matters. It also provides a framework for managing the effects of the proposed scheme in relation to the individual landholdings through the detailed design, construction and operational phases of the railway.
72. It should be noted that, while the design of the proposed scheme to date has provided the level of detail needed for the purposes of the bill and the Environmental Impact Assessment, the level of detailed design to enable the proposed scheme to be constructed and operated will not be completed until after Royal Assent. As noted in Chapter 3, Schedule 17 to the bill will create the planning regime that is to be put in place to regulate that process. The local planning authorities would be able after Royal Assent to ensure before any work is undertaken that the detailed design of the permanent elements fits into the local environment, taking into account the best interests of the various individuals and communities along the route who are affected by the proposed scheme.

## CHAPTER 5: NOISE

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73. The promoter's expert, Mr Thornely-Taylor, gave us an initial briefing.<sup>36</sup> He is highly qualified in the subjects of noise, vibration and acoustics and has extensive experience of the effects of noise and vibration from the construction and operation of railways. He was an expert witness for HS2 in the Select Committee hearings in both Houses on the High-Speed Rail (London–West Midlands) Bill. The information that he gave us was clear and definite, but he readily agreed that there are areas of difficulty and uncertainty.
74. As he explained, sound and vibration arise in several ways in a project of this kind. Top of the list is sound and vibration from the operation of the railway. Fixed plant associated with the railway can also emit sound and vibration. Where there are tunnels, sound and vibration can arise in a different way. There are also aspects of conventional construction that can create site noise, and this is one of the effects of constructing tunnels.
75. What the human ear perceives as sound is air oscillation that is propagated by wave motion at frequencies of between about 20Hz and 20kHz. The Hertz unit, Hz, is one cycle per second, and kHz is 1,000 cycles per second. The human ear is very insensitive to low-frequency sounds and slightly insensitive to very high-frequency sounds. Sound decays with distance, and it is reduced by soft ground surfaces and intervening obstacles such as noise barriers. Wind is also an important consideration when predicting environmental sound. The convention when doing environmental assessment predictions is to take a light wind from source to the receiver as the basic prediction condition. But on many days the sounds are less than predicted because the wind is not there or is in the opposite direction. Noise is unwanted sound. It is difficult to measure due to the complexity of the human ear.
76. Vibration is the oscillation or rapid movement of solids, which can be propagated through wave motion. Where it occurs in soil it too decays with distance, but in a more complex way. It is attenuated by energy absorption in the soil and by obstacles and discontinuities. It is mainly of interest in the frequency range 0.5Hz to 250Hz. It can give rise to audible sound. As in the case of airborne sound, the sound that vibration creates is measured in decibels (dB).
77. The decibel scale is a measure of proportional changes. Every time a level in dB goes up by 10 units it doubles the intensity of that previous sound level. That is as true all the way up the scale, whether for an increase from 70dB to 80dB or an increase from 10dB to 20dB. Conversely, every 10dB decrease is a halving of the sound level. Weighted decibels, dB(A), approximate to the response of the human ear. The response varies from person to person, depending on the quality of their hearing.
78. The decibel scale starts with the smallest sound that is just perceptible to a human being with good hearing, and even at 20dB(A) most people would not really notice any significant level of sound. In Mr Thornely-Taylor's words in his presentation, "in ordinary life if you are in a room that you consider pretty much silent and you can't hear anything it may well have a sound level

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<sup>36</sup> This Chapter is heavily based on Mr Thornely-Taylor's presentation, which can be found in its entirety at <https://committees.parliament.uk/oralevidence/724/pdf/>. Mr Thornely-Taylor's exhibits can be found at <https://committees.parliament.uk/publications/362/documents/18590/default/>.

around about 20dB(A).”<sup>37</sup> He went on to say that the sound level at 30dB(A) is still very quiet, such as one would experience in a concert hall background noise or a country area at night with no traffic.

**Table 1: Typical sources of noise at certain decibel levels**

Indoor	Noise level	Outdoor
Refrigerator at 1m	40dB(A)	Suburban area at night, no traffic
Open plan office	50dB(A)	Lorry at 100m
Normal voice at 1m	60dB(A)	Petrol lawnmower at 30m
Loud voice at 1m	70dB(A)	Aircraft at height of 200m
Vacuum cleaner at 1m	80dB(A)	Pavement of city street
Food blender at 1m	90dB(A)	Petrol lawnmower at 1m
Night club	100dB(A)	Pneumatic road breaker at 1m
Rock band	110dB(A)	Underneath aircraft landing at 1km from runway

Source: Promoter’s noise presentation

79. Meters for measuring sound levels are designed to produce readings appropriate to the range of frequencies of human hearing. This is termed A-weighting to indicate what is heard by the human ear. The symbol L<sub>Amax</sub> is used to indicate the sound level (L), A-weighted (A), at its maximum intensity (max). Many sounds that are encountered in projects of this kind, such as vehicle movements, vary in level. So for most but not all purposes, measurements and predictions of sounds that vary in level use what is called an “equivalent continuous sound level” index, denoted by L<sub>Aeq</sub>. For the environmental assessment for HS2 for airborne sound, wherever LA levels are used they are L<sub>Amax</sub>, fast for changing rapidly as the sound loudness changes and max for the maximum level of sound. This more or less follows the rate at which the human ear responds to changes in loudness.
80. While the maximum sound level of an individual event such as a motorcycle going by can be very important, it is important also to know how often that sort of event may occur. In the symbol L<sub>pAeqT</sub>, the letter p signifies that the L is measuring sound pressure and the letter T denotes the period of time for which the equivalent continuous sound level is being measured or predicted.
81. Mr Thornely-Taylor emphasised that L<sub>eq</sub> is not an average of sound levels. It is an index, and the way it is calculated gives very strong weightings to the high noise events that occur during a given period. As it includes sound levels measured in decibels, it too is expressed in decibels and follows the same rules. If you double the energy in the sound, the number of sources, the duration of the sound event or the number of similar events, the consequence is always a 3dB in L<sub>Aeq</sub> in each case. This could be because the thing you are measuring has got a bit louder, but it could also be because it happens twice as often. In each case there is a 3dB change.

### Measurement of vibration and ground-borne noise

82. Vibration felt by touch is assessed by using the Vibration Dose Value (VDV). Vibration affecting buildings is assessed using peak vibration velocity, called Peak Particle Velocity (PPV). Ground-borne noise is something that is heard in the air in a room, and sometimes out of doors, when the source of the noise is underground and the source begins life as vibration. The vibration which produces sound is at a frequency which is within the audible range. The floor and the walls behave as if they were loudspeakers by radiating the vibration in the room. This noise is assessed using the maximum sound level as LA<sub>maxS</sub>, where S is the slow time weighting of 1 second.

### Tolerable and intolerable noise

83. All humans are different, and people's responses to noise vary. There is a wide variation in the public's willingness to accept, or at least tolerate, types and levels of noise. Some people respond with very little annoyance to moderately high sound levels, while others are very highly annoyed by extremely low sound levels. This is a factor that plays a part in the environmental assessment, and it can be measured. But emotional reactions to the physical levels of noise are quite difficult to quantify in numerical terms. The same is true of vibration. There is never a clear distinction between what is acceptable and unacceptable and what is significant and not significant.
84. There are sound levels (of the order of 120dB) at which permanent damage to human hearing is likely, after even brief exposure. Regular exposure to lower levels (about 100dB and above) will also cause permanent damage. But there is no single, objectively verifiable standard for determining the intensity and duration of noise which the general public can reasonably be expected to tolerate. There is a wide variation in the public's willingness to accept, or at least tolerate, types and levels of noise. Although the same index is used to measure traffic noise and train noise, it should be borne in mind that a sound level of, say, 60LA<sub>eq</sub> at a location near to a motorway represents a never-ending passage of vehicles with very little in the way of rise and fall whereas there is no extra sound between trains over that from the surrounding environment. It is only when the trains are passing that there is an influence on the measured sound index.
85. The only way one can link measured sound levels with human response is through social surveys. A standard procedure is to measure the percentage of respondents who are highly annoyed by different levels of noise. This varies with noise of a particular type, taking account not only of intensity, duration and pitch, but also of the shock of an unexpected loud noise. The views of respondents to surveys of this sort can be plotted on a graph and are found to form a bell-shaped or "Gaussian distribution" curve familiar to statisticians. It is a matter of expert judgement to decide how many of the outliers at the two extremes should be disregarded in arriving at the sound levels that are treated as significant. These thresholds are the "significant observed adverse effect level" (SOAEL) and the "lowest observed adverse effect level" (LOAEL).

### Government policy

86. The Noise Policy Statement for England<sup>38</sup> aims to avoid significant adverse effects on health and quality of life, to mitigate and minimize any such adverse effects and, where possible, to contribute to the improvement of health and quality of life. In practice this amounts to avoiding levels in excess of SOAEL, mitigating and minimizing levels between LOAEL and SOAEL and proactively to manage noise, taking account of the guiding principles of sustainable development. This includes identifying all those living beside the scheme whose noise levels are between LOAEL and SOAEL and looking at the balance of practicability in applying mitigation and minimisation works for them, and identifying those who have significant observed effect levels and applying measures to avoid that happening. But it is not possible to have a single objective noise-based measure that is applicable to all sources of noise in all situations. SOAEL is likely to be different for different noise sources, for different receptors and at different times.
87. HS2 seeks to implement government policy by setting the LOAEL and SOAEL values having regard to established practice, research results and guidance in national and international standards. These include the World Health Organization 2018 Environmental Noise Guidelines for the European Region and surviving parts of the Guidelines for Community Noise 1999. Regard has been had also to the Department of Transport's web-based transport analysis guidance, known as WebTAG, which enables a balance to be struck between the cost of mitigation and the benefit it brings.

### Sources of operational noise

88. It is intended that the high-speed passenger service will operate daily between the hours of 0500 hours (0800 hours on Sundays) and 2400 hours. When the railway is fully operational the trains' maximum speed will be 360kph, but it is estimated that 90 per cent of the trains would run at about 330kph. The maximum speed will be attained only by trains running at 360kph to make up lost time. Between 2400 hours and 0500 hours the line would be used only for the purposes of track maintenance and engineering, with trains running at much lower speeds. These proposals are essentially the same as those applying to HS2 Phase 1 (the London to West Midlands line).
89. The main sources of sound from high-speed travel will be the rails, the power units, the pantographs (the apparatus conducting electric current from the overhead cables) and aerodynamic effects (the last two being increasingly significant as the train's speed increases). All these components will be designed and constructed so as to reduce noise as far as possible. The rails will be continuously welded and highly finished. A new type of pantograph has been developed in the course of HS2 Phase 1 to reduce the amount of air turbulence that is generated by the protrusion above the top of the train, with a consequent reduction in the noise that it generates. The Environmental Statement was pessimistic in its assumptions about the benefits that can be obtained by this refinement in the design of the trains. A 3dB reduction was assumed, but Mr Thornely-Taylor said that much more than that can be achieved and that the effort to achieve noise reduction is continual.

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38 Department for Environment, Food and Rural Affairs, Noise Policy Statement for England, March 2010: <https://www.gov.uk/government/publications/noise-policy-statement-for-england>

90. Operational vibration and ground-borne noise will be mitigated by track design and maintenance, the use of continuous welded rail and the method of rail support. In the assessment of noise for Phase 1 it was assumed that the track would be ballasted, with the rail fixed to concrete sleepers by clips and with stone chips holding it all in place between them. By the time of the assessment for this Phase, the decision had been made to move to a more modern form of track support which is non-ballasted. It consists of a concrete slab with a more elaborate form of rail support. There are differences between the noise characteristics of those two types of track. But research has shown that their overall noise level will be very similar.
91. Airborne noise will be mitigated by noise barriers where their use is appropriate. Their effectiveness depends on their geometry, as to where the top of the barrier is relative to the position of the source and the position of the receiver. The main noise source is at rail level where wheels and the rails meet. The effectiveness of the barrier is reduced as it moves closer to one position or the other. It will have no effect if the top of the barrier is well below the line of sight to the source of the noise. If the top of the barrier just reaches the line of sight to the source its effect is taken to be a noise reduction of 5dB. As it goes higher more than 5dB will be achieved. But the cost goes up dramatically, and incremental heights produce a marginal improvement in noise level which is much less than the physical increase in height.

#### The promoter's proposed limits; mapping of noise contours

92. For daytime operational noise, HS2 Ltd proposes to set limits by reference to the equivalent continuous sound level, that is LAeqT, where T is the period of 16 hours from 0700 hours to 2300 hours. For night-time, reference will be made both to LAeqT (with T as 8 hours) and to L<sub>Amax</sub>. That is because occasions of maximum noise level are particularly important during the hours when most people sleep. The L<sub>Amax</sub> values are for measurements at the facade of a dwelling house, which are usually rather higher than when measured in a free field. The alternative values for SOAEL depend on the frequency of night-time trains.
93. The proposed limits (night-time noise having to meet two limits) are as follows:

**Table 2: LOAEL and SOAEL limits for noise**

Time of day	LOAEL	SOAEL
Day (0700–2300)	50dB L <sub>pAeq</sub> , 16hr	65dB L <sub>pAeq</sub> , 16hr
Night (2300–0700)	40dB L <sub>pAeq</sub> , 8hr	55dB L <sub>pAeq</sub> , 8hr
Night (2300–0700)	60dB L <sub>pAFMax</sub> (at the façade, from any nightly noise event)	80dB L <sub>pAFMax</sub> (at the façade, from more than 20 nightly train passbys), or 85dB L <sub>pAFMax</sub> (at the façade, from 20 or fewer nightly train passbys)

Source: Promoter's noise presentation

94. The proposed limits for operational ground-borne noise and vibration effect levels, primarily from the operation of trains in tunnels, are as follows:

**Table 3: LOAEL and SOAEL limits for ground-borne noise and vibration**

<b>Ground-borne noise</b>	LOAEL	LpASMax [dB]	35
	SOAEL	LpASMax [dB]	45
<b>Vibration</b>	LOAEL	VDVday [m/s <sup>1.75</sup> ]	0.2
		VDVnight [m/s <sup>1.75</sup> ]	0.1
	SOAEL	VDVday [m/s <sup>1.75</sup> ]	0.8
		VDVnight [m/s <sup>1.75</sup> ]	0.4

*Source: Promoter's noise presentation*

95. We regard these limits, which are the same as those proposed for HS2 Phase 1, as reasonable. The promoter has, with the sound experts, provided detailed plans in the form of noise map books and tables for the whole of the line of route showing what the noise effects are predicted to be at any particular location. Areas within the 40dB LAeq contour are indicated on maps by grey shading and the contours of the SOAEL in pink. Properties in the pink areas, of which there are some, will be eligible for sound insulation to avoid SOAEL in accordance with government policy. Other kinds of mitigation and minimisation will be applied, so far as practicable, in the case of properties in areas that are between LOAEL and SOAEL. Detailed application of the various measures required to address these issues will be a matter for the contractors appointed to work on the scheme.

## CHAPTER 6: COMPENSATION

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96. The bill will give authority to the promoter to carry out extensive and invasive works along the entire line of route. This will seriously affect many private interests both during the construction phase and when this phase of the high-speed railway is operational. In so far as detriment to private interests cannot be avoided, reduced or mitigated, full and fair compensation must be provided.
97. There are several different schemes for providing monetary compensation to landowners and tenants whose property rights are adversely affected by the bill. These schemes differ in their legal basis, in their geographical limits, in the timing of payment under them and in whether or not the claimant must make out a special case in order to qualify for them. On the one hand, there are the schemes which depend on the general statutory law relating to the compulsory purchase of land (“the statutory compensation code”). On the other, there are a number of special schemes which have been established for the purposes of the HS2 project (“the HS2 non-statutory package”). To offer help to those who are not used to them, these schemes are identified in the following paragraphs.

### The statutory compensation code

98. The bill gives power to the Secretary of State to acquire compulsorily so much of the land within the Act limits as may be required for Phase 2a purposes.<sup>39</sup> The promoter has stated that the exercise of this power will operate on the basis that that no greater amount of land will be acquired than appears to the Secretary of State to be reasonably required following the detailed design of the Scheme. It also gives power to the nominated undertaker to enter and take temporary possession of land for the purposes of or in connection with construction works.<sup>40</sup> The principal clauses of and schedules to the bill which incorporate the statutory compensation code, with some modifications, where these powers are exercised are clauses 4 to 11 and Schedules 5 to 14.
99. The State’s power to acquire private land compulsorily for purposes in the general public interest is very long established, deriving from the ancient doctrine of “eminent domain”. Today it is axiomatic that, hand in hand with the power to acquire land without the owner’s consent, is an obligation to pay full and fair compensation.<sup>41</sup> The question of what is, in all the circumstances, full and fair compensation is the subject of many difficult cases. But the general rule is to value what the citizen has lost rather than what the public is potentially gaining.
100. The modern history of the British law of compulsory purchase starts with the explosion of canal-building at the end of the 18th century. This was followed by an even greater explosion of railway-building in the Victorian age. The peak year was 1847, in which so many private bills for the construction of railways were placed before Parliament that the system of select committees became hopelessly overloaded and consideration of the bills was passed to officials. Initially each of these private bills contained separate provisions for compensation, but quite soon statutory codes developed. These were in

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39 Clause 4(1)

40 Schedule 15, paragraph 1

41 Lord Nicholls of Birkenhead in *Waters v Welsh Development Agency* [2004] UKHL19

due course embodied in the Land Clauses Consolidation Act 1845 and the Railway Clauses Consolidation Act 1845, which were widely adopted and incorporated into later private bills.

101. There are collections of reports of 19th century proceedings on private bills, but they need to be approached with great caution as a guide to present-day conditions. They are a glimpse of another world. Land ownership was concentrated in very few hands. Bateman's *Great Landowners of Great Britain and Ireland*, published in 1879, records 44 landowners with more than 100,000 acres; 71 with between 100,000 and 50,000; 299 with between 50,000 and 20,000; and 487 with between 20,000 and 10,000.<sup>42</sup> Land ownership in the United Kingdom is still concentrated in relatively few hands, although the aristocracy have been to some extent displaced by property companies of all sorts.<sup>43</sup> But today there are millions more owner-occupiers of freehold and long leasehold dwelling-houses who may be affected by redevelopment involving compulsory purchase, and many more farmers own their own farms.
102. In short, in the middle of the 19th century far fewer persons were in a position to present petitions against private bills. Environmental issues were almost totally disregarded, except for a few lone voices such as William Wordsworth and John Ruskin: no National Trust, no CPRE, no Nature Conservancy, no Woodland Trust or local Wildlife Trusts. Most important of all, perhaps, the internal combustion engine had not yet been invented. The efforts of the canal-builders and the early railway-builders were heroic, but the huge quantities of earth which they moved were moved by hand or by primitive steam shovels. There was no question of millions of tons of earth and spoil being moved long distances by road, in competition with other road traffic. Air pollution was a problem, but it was caused mainly by furnaces and fires, not by petrol or diesel engines.
103. As the law now stands, the statutory compensation code is based on a number of valuation rules and assumptions. The basic rule is that compensation is assessed by reference to the open market value of the land, on the assumption that the proposed scheme has been cancelled and ignoring any increase or decrease in value resulting from it.<sup>44</sup> "Land" for this purpose includes any buildings on the land and any interest in or over land. This is known as rule 2. Account may be taken of the value of the land for future development if an alternative use is allocated to it on a development plan or a certificate of appropriate alternative development has been obtained from the planning authority. There is an exception to that rule where the land is devoted to a purpose for which there is no general demand or market. In that event section 5(5) provides that compensation may be assessed on the basis of equivalent reinstatement. This known as rule 5. Disputes as to which rule should be applied in any given case are a matter for determination by the Upper Tribunal if they cannot be resolved by agreement.

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42 J Bateman, *The Great Landowners of Great Britain and Ireland. A List of all Owners of Three Thousand Acres and Upwards, worth £3,000 a Year, in England, Scotland, Ireland and Wales* (1879), p 490: [https://books.google.co.uk/books?id=Eb45AQAAMAAJ&pg=PA490&source=gbs\\_selected\\_pages&cad=3#v=onepage&q&f=false](https://books.google.co.uk/books?id=Eb45AQAAMAAJ&pg=PA490&source=gbs_selected_pages&cad=3#v=onepage&q&f=false)

43 See, for instance, 'Half of England is owned by less than 1 per cent of the population', *The Guardian* (1 April 2019): <https://www.theguardian.com/money/2019/apr/17/who-owns-england-thousand-secret-landowners-author>

44 Land Compensation Act 1961, [section 5\(2\)](#)

104. In line with the relatively small scale of most 19th century projects, and a general Victorian inclination not to hinder progress, there was a reluctance to award compensation for temporary disruption caused by development projects, especially if the disruption was in an urban environment. This ended with the decision of the House of Lords in *Wildtree Hotels Ltd v Harrow LBC* [2000] UKHL70 in which Lord Hoffmann referred to *Andreae v Selfridges and Co Ltd* [1938] Ch 1, 5-6 for the former view: “When one is dealing with temporary operations, such as demolition and rebuilding, everybody has to put up with a certain amount of discomfort, because operations of that kind cannot be carried on at all without a certain amount of noise and a certain amount of dust.”
105. Following the final report of the Select Committee of the House of Lords on HS2 Phase 1, the Secretary of State accepted that the massive and prolonged redevelopment of parts of Camden and Old Oak Common in London merited proper compensation for those most affected, even though the redevelopment would eventually come to an end.<sup>45</sup> Provisions about temporary possession and use of land in connection with the works authorised for Phase 2a are contained in Schedules 15 and 16 of the bill. They provide that compensation must be paid to the owners and occupiers of the land for any loss that they may suffer by reason of the exercise of these rights.

#### The non-statutory property package in outline

106. As with HS2 Phase 1 and other recent major projects, the landowner’s recourse to the general law of compulsory purchase is largely displaced by a complex but rather more generous series of schemes which the House of Commons Select Committee referred to as the “HS2 Non-Statutory Property Package”.<sup>46</sup> Many of those affected by Phase 2a have been able to settle, or are in the process of settling, their claims against the promoter under one or other of these schemes. In the Staffordshire Constituency for example, as at the date of this report, 52 of such applications have been concluded, 13 have been accepted and the valuation process is under way and 4 are cases where a decision on the application is pending.<sup>47</sup> For the whole Phase 2a route the situation at the time we agreed this report is shown in the following table:

**Table 4: Status of route-wide compensation cases as at 14 October 2020**

Scheme	Applied	Acquired	Withdrawn	Active	Cash Offer
Atypical	18	7	-	11	N/A
Exceptional Hardship Scheme	63	36	1	-	N/A
Need To Sell	159	69	12	16	N/A

45 House of Lords Select Committee on the High Speed Rail (London–West Midlands) Bill, Promoter’s Response to the Select Committee’s Special Report of Session 2016–17, paras 72–78: <https://old.parliament.uk/documents/lords-committees/High-Speed-Rail/Promoter’s-Response-to-Lords-Select-Committee-Special-Report-Cm9396.pdf>

46 House of Commons Select Committee on the High Speed Rail (West Midlands–Crewe) Bill, *Third Special Report of Session 2017–19* (HC 2270), 7 June 2019, paras 120ff

47 On 9 October, the promoter informed us that progress had been made in 10 of the 13 cases where the valuation process was underway.

Scheme	Applied	Acquired	Withdrawn	Active	Cash Offer
Rural Support Zone	19	6	2	1	7
Statutory Blight	139	47	34	29	N/A

Source: HS2 Ltd

107. The main elements of the non-statutory property package are (i) the Express Purchase Scheme, (ii) the Voluntary Purchase Scheme, (iii) the Homeowner Payments Scheme and (iv) the Need to Sell Scheme. The first three of these schemes start, in the most literal way, with the line of route. Entitlement to any of them is measured at right angles from the centre point of the area where the two main lines of railway track will be constructed. The general overall effect of these schemes is to produce a sort of hierarchy of entitlement to compensation: the closer to the line of route, the more ample the compensation. The illustrations that follow take the simple case of a freehold dwelling-house.

### Express Purchase Scheme

108. This scheme applies to houses that must be demolished as they are in the direct line of route. It is a procedurally simplified, and slightly extended, version of the statutory machinery already applying to landowners who are subject to statutory blight because their land is already safeguarded for some proposed project. The owners of these houses can require their property to be acquired by the authority which has the power of compulsory purchase. It extends to all property subject to surface safeguarding (subsurface safeguarding applies to houses above a deep-bored tunnel) whether or not the house is within the rural support zone (as to which see paragraph 110 below). The seller receives full, unblighted market value together with removal costs and legal fees (including the estimated stamp duty on the purchase of a new house). The seller is also entitled to a home-loss compensation payment of 10 per cent of the unblighted market value up to a maximum of £65,000, with a minimum of £6,500.<sup>48</sup>

109. In paragraph 121 of the House of Commons Select Committee’s final report<sup>49</sup> the HS2 Residents’ Commissioner is quoted as criticising the term “Express Purchase Scheme” because the process of negotiation can be very drawn out. We think there has been a misunderstanding here. As we understand it, the term “express” is being used not in its popular sense as the opposite of “slow”, but in its legal sense as the opposite of “implied”. A house purchased under the scheme is actually transferred and the agreed consideration is paid then by force of contract, whereas under true compulsory purchase the property vests automatically by operation of law and the compensation is paid once it has been finally determined. Negotiations under the Express Purchase Scheme may indeed be protracted, but we would not assume that that is invariably the fault of the promoter.

48 [Home Loss Payments \(Prescribed Amounts\) \(England\) Regulations 2020](#)

49 House of Commons Select Committee on the High Speed Rail (West Midlands–Crewe) Bill, *Third Special Report of Session 2017–19* (HC 2270), 7 June 2019

### **Voluntary Purchase Scheme (with Cash Option)**

110. The Rural Support Zone (“RSZ”) can be described as a strip of land which (i) is within 120m of the centre of the line of route and (ii) is not in an urban area or over a deep-bored tunnel. For present purposes the only urban area is Crewe. This scheme applies to houses which are not within the safeguarded area (and so within the Express Purchase Scheme) but which are within the RSZ. These houses will not normally have to be demolished, but they will be very close to the high-speed railway.
111. Owner-occupiers of houses in this category have the option of selling at unblighted market value, but they are not entitled to removal expenses or legal fees or a home loss payment. Alternatively, they may opt to keep their houses and receive a cash sum of 10 per cent of their unblighted value up to a maximum of £100,000.

### **Homeowner Payment Scheme**

112. These are cash sums payable to owner-occupiers of houses in rural areas which are close to, but not within, the RSZ. They are in three bands depending on proximity to the centre of the line of route, as follows (the figures in brackets will apply after the bill has received Royal Assent): 120m to 180m £22,500 (£24,000); 180m to 240m £15,000 (£16,000); 240m to 300m £7,500 (£8,000).

### **Need to Sell Scheme**

113. This scheme, which has no geographical boundary, applies where the owner of the property can show that its value has been substantially affected by the proposed development, that efforts have been made to sell it without success or at a price significantly lower than its unblighted property value, that it was purchased without knowledge of the proposed line of route and that the applicant has a compelling reason to sell. Applications are assessed by an independent panel. If they are accepted the promoter will purchase the property at its full unblighted value, but without removal costs and legal fees and a home loss payment.
114. This scheme has replaced the “exceptional hardship” scheme which originally applied to the HS2 Phase 1 project but was abandoned as unworkable because of the degree of subjective judgement which it called for. The new scheme has also been criticised on similar grounds (the examples given by HS2 Ltd have not always been easy to reconcile) and the scheme also imposes conditions (as to prior marketing activity by the owner) which have been criticised as being unrealistic in any area known to be blighted. But the House of Commons Select Committee did not comment at any length on the working of the scheme, and it was not a major element of our hearings.

### **Tenants**

115. Residential tenants who are leaseholders with at least three years of their terms unexpired are eligible for the Express Purchase Scheme, the Voluntary Purchase Scheme, and the Need to Sell Scheme, or to receive a homeowner payment. Other residential tenants will be entitled to a home loss payment. This does not however apply to tenants with shorthold assured periodic tenancies, to some agricultural tenancies, or to tenancies of narrow boats. The House of Commons Select Committee took up these omissions with the Secretary of State but does not seem to have made much progress.

Residential tenants will also have a statutory right, under section 39 of the Land Compensation Act 1973, to be rehoused.

### **Business premises**

116. The owners of business premises who are displaced will be entitled to a “basic loss payment” equal to 7.5 per cent of the open market value of the premises or £75,000, whichever is the smaller. Business tenants who are displaced will be entitled to an “occupier’s loss payment” of 2.5 per cent of the open market value of the premises or £25,000, whichever is the less. Some commentators have suggested that these percentages of 7.5 per cent and 2.5 per cent should be reversed, but that has not so far occurred.
117. Business owners whose property is safeguarded can take advantage of the statutory blight regime only if the rateable value of their property does not exceed the limit set by a statutory instrument made under the Land Compensation Act 1973. The current limit is £36,000.

### **Special cases**

118. Despite the complexity of the non-statutory property package, there are inevitably special cases in which its application would produce unfair results, and which must therefore be dealt with differently. It is one of the strengths of the hybrid bill system that such cases can be dealt with on the petition of a citizen who might otherwise be treated unfairly. The two examples that follow are not exhaustive of the possibilities.
119. The first example is of a householder who finds themselves threatened with isolation from the small community of which they were a member. Imagine a small hamlet of only five dwellings. Three are very close to the centre of the line of route and are sure to be demolished. One is a bit further away but is within the RSZ, and its owner has already decided to sell under the voluntary purchase scheme; that vacant house may also be demolished. The last house is just outside the RSZ. They would be eligible for a homeowner payment, but it would not adequately compensate them for the disappearance of the little community of which they had been a member. They too should be eligible for the voluntary purchase scheme.
120. The other example is the householder whose house is in close proximity to an area outside the RSZ which is to be acquired for temporary use as a dump for excavated earth, an HGV park or some similar purpose. Such areas will have been safeguarded, but the safeguarding is strictly limited to the area itself; there is no “mini-RSZ” surrounding it. Yet the temporary use may be, while it lasts, extremely intrusive. Excavated earth may be put in piles up to three metres or more in height. In some cases the intrusion may be so bad as to make the neighbouring house almost uninhabitable. In such cases the voluntary purchase scheme may be the best solution.

## CHAPTER 7: PETITIONS

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121. Of the 36<sup>50</sup> petitions received by the Committee, 18 resulted in some form of hearing. Previous special reports by committees on hybrid bills have covered such hearings by exception, only reporting on those which they considered particularly significant. We have taken a different approach and have chosen to give an account of each of the petitions heard by the Committee. The petitioners have shown exceptional patience in waiting for their petitions to be heard throughout the various delays to proceedings and we felt they deserved to receive an account of the Committee’s findings. We note that this is only possible because of the small number that received a hearing. It would be unreasonable to expect other committees on hybrid bills to follow this approach.

### Cycling UK (Petition 32, heard on 28 July and 23 September)

122. The petition was presented by Mr Roger Geffen, originally on 28 July. This was unfortunate timing because the Government’s updated cycling strategy and guidance<sup>51</sup> had been issued overnight and Mr Geffen wished to draw on the new guidance in making his case. Mr Geffen and the promoter agreed to discuss the implementation of the guidance in respect of HS2 over the summer, and we offered Mr Geffen the chance to appear before us again if he was not satisfied with those discussions. He accepted that offer, and he appeared before us again on 23 September.

123. Mr Geffen submitted that the updated design strategy should be applied consistently by the promoter in planning and designing the temporary and permanent new highway infrastructure. His specific requests were that safe cycling provision should be made as part of the proposed works to Yarnfield Lane in the area of the Stone IMB-R, and that there should be a safe redesign of the junction of the A34 and A51. Yarnfield Lane is to cross the IMB-R and the M6 via an underbridge and overbridge. This would constitute the main cycle route between the communities on the Yarnfield side of the tracks and Stone, the main town in the area, on the other side. Mr Geffen argued that HS2’s plans for the overbridge did not provide sufficient space for adequate cycle lanes either side of the carriageway. He suggested a single, two-way cycle lane to one side. But primarily he was concerned that the proposed bridge should be wide enough to accommodate cycle lanes, whatever the detailed solution. As to the A34/A51 junction, Mr Geffen was concerned that the creation of a left-turn slip road would create dangers for cyclists which had not been adequately mitigated.

124. Mr Geffen’s second appearance concentrated on the extent to which the promoter should view the contents of Local Traffic Note 1/20 as standards and incorporate its principles in its infrastructure design, something Mr Geffen argued that the promoter had not so far done in its plans. Ms Lean, counsel for the promoter, and Mr Mould in the earlier hearing, argued that LTN 1/20 should be adopted as guidance by HS2, and that final decisions as to the detailed design of the highways infrastructure would be a matter for the relevant highway authority—in this case Staffordshire County Council

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50 There is a discrepancy in the numbering between this Committee’s proceedings and what is recorded in the Minutes of Proceedings of the House of Lords. For our purposes the petitions were numbered 2 to 37. They are recorded as 1 to 36 in the Minutes.

51 Cycle Infrastructure Design, Local Transport Note 1/20 (LTN 1/20): <https://www.gov.uk/government/publications/cycle-infrastructure-design-ltn-120>

and Highways England. They drew our attention to assurances that had been offered to Staffordshire County Council about Yarnfield Lane, to features of the A34/A51 junction which made it undesirable for use by cyclists, to an alternative means of access for cyclists to the A34 provided by National Cycle Network 5 and to an assurance offered to Cycling UK to engage with them during the detailed design stage of the proposed scheme.

125. We consider that the most that can be expected of HS2 at this stage is that it should adopt LTN 1/20 as guidance and not as binding standards. It will be for the highway authorities to determine the adequacy of any proposed road changes during the construction stage against their own standards, as informed by LTN 1/20 and other considerations. This applies in general as well as to the specific cases of the Yarnfield Lane bridges and the A34/A51 junction. We make no recommendations on this petition, but we understand that HS2 Ltd wrote to Mr Geffen on 30 September and hope that a satisfactory outcome can be reached.

#### **Royal Society of Wildlife Trusts (Petition 26, heard on 28 July)**

126. This petition requested that a clause be added to the bill to require HS2 to ensure a net gain in biodiversity in perpetuity through the works with appropriate funding, rather than its present commitment. This to achieve no net loss at a route-wide level, by balancing against losses as a consequence of the bill the biodiversity gains that would be provided in the detailed design and implementation of the scheme.
127. The promoter argued that net gain could not be guaranteed without further purchase of land beyond the bill limits (which would require an Additional Provision), and that it would not be prudent to make this a mandatory requirement. Current Government policy was to require net gain for smaller projects but not for major infrastructure projects. This policy would be put into law by the Environment Bill, currently in the House of Commons. That was the proper place to discuss the major public policy issue of whether net gain should be a requirement on major infrastructure projects.
128. Mr Mould suggested that a more nuanced approach to this issue would be appropriate. We agreed, and encouraged the promoter to work with the Royal Society of Wildlife Trusts (RSWT) beyond their existing policy to prepare a suitably caveated assurance about how they would move towards net gains in biodiversity.
129. On 27 August, HS2 Ltd offered the RSWT a caveated assurance, as suggested in our hearing. Correspondence has continued and we are encouraged by this progress. Shortly before agreeing this report we heard that RSWT had accepted the assurance.

#### **Parish Council of Ingestre with Tixall Parish Council (Petition 18, heard on 29 July)**

130. We heard from Councillor Nicola Woodhouse and Councillor Sue Haenelt about what they felt were threats to their area. It is rich with historic assets, including Ingestre Hall and especially the Church of St. Mary the Virgin in Ingestre. This is the only Wren church outside London. It is much visited by tourists and is also a significant venue for concerts and weddings. The petitioners were particularly concerned about the effects of noise and vibration on the church and its stained glass windows, problems about access

to it during construction and the potential loss of much needed revenue to the church. It has recently suffered loss of lead from the roof and the organ too is in need of repair.

131. We noted with sympathy the love that the petitioners clearly have for their local area and their deep concern about the impact that HS2 might have on their community. However, Mr Thornely-Taylor was confident that there was no chance of the HS2 works causing any damage to the historic buildings mentioned in the petition in terms of ground-borne noise and vibration, and there is already an assurance that the nominated undertaker will be required to keep construction traffic in the vicinity to a minimum so far as reasonably practicable.
132. We could not agree to the petitioners' request for direct compensation for the church, as the anticipated loss of revenue would be hard to quantify and the repairs for which funding is needed would be difficult to ascribe directly to the impact of the works. However, on a suggestion from Mr Mould, we encouraged the parish councils to apply to the Community and Environment Fund when it is established. We trust that, given the historic and architectural significance of the buildings mentioned in the petition and their significance to the local communities, the Fund will look kindly on any such application if it were to be made.

#### **Ingestre Park Golf Club (Petition 29, heard on 2 September)**

133. The Golf Club had previously appeared before the Commons Committee to state their case on the original Bill and on AP2. The proposed line of the track, and associated work to redirect utilities, would result in the golf course losing several holes. As a result of AP2 it would be possible for the promoter to purchase land nearby which, together with the adjoining remnants of the existing course, would replace the lost holes.
134. While the Bill was in the Commons, at the time of their petition to us, and for some time after, the Golf Club opposed the AP2 plan and argued that the better course of action would be to relocate the course entirely. But by the time of our hearing they had accepted the proposal to replace the lost holes nearby. Their main concerns were that the Club should continue to exist and maintain 18 usable holes throughout the works.
135. The Club made five requests: that the promoter rule out the option of “extinguishing” the Club, that HS2 delay the start of work on Golf Club land to January 2023, that the promoter use “best endeavours” to purchase the land required for the replacement holes ahead of Royal Assent on the bill, that the promoter confirm a budget for the work (which the Club had estimated at around £6 million, excluding the cost of land) and that the promoter confirm heads of terms to ensure implementation of the AP2 proposals, associated compensation claims and funding for associated legal and consultancy costs.
136. Request 1 as noted on the petitioners' evidence slide A10(7) was no longer a live issue, as it was plain that HS2 were working to keep the Golf Club in existence as directed by the House of Commons Committee's Second and Third Special Reports. The promoter wishes to retain the theoretical option of extinguishment, but we are persuaded that this is merely to retain some control over the costs of redevelopment and the future use of the Club as a community asset.

137. Request 2 was reformulated, so that we were now being asked to direct that the carrying out of the diversion of the Cadent Gas pipeline be delayed to 1 January 2023. But to do that would have major implications for the overall programme of works for Phase 2a, in terms of both delay and cost, which would be wholly disproportionate to such assistance it might give to the development of the reconfigured course. Mr Alan Walker, the promoter's expert witness on golf clubs, suggested some ways in which the course could be put to effective use during the works. While he did not agree on these matters with the petitioner's witness, Mr Bob Hunt, it seems to us that the proposals put forward by Mr Hunt, contingent as they were on delaying the work on the Cadent pipeline, are not workable. We encourage the petitioner to work with the promoter to produce the best viable scheme under the circumstances.
138. Request 3 asks for a direction to use "best endeavours" to secure the third party land prior to Royal Assent. That would place an unacceptably strict obligation on HS2 to use every effort necessary to secure that result. HS2 indicated that they were seeking to achieve this result as soon as possible. That is as much as can reasonably be expected of them, so no direction to do that is needed here.
139. As for requests 4 and 5, the results that are being looked for here depend on active and meaningful cooperation between the parties. Given the directions already made by the House of Commons in that regard, there is nothing that we can usefully add. On the whole, we consider that HS2 are doing as much as they reasonably can to accommodate the Golf Club.

#### **The Woodland Trust (Petition 24, heard on 3 September)**

140. The Woodland Trust asked that compensation planting take place at a ratio of 30:1, in terms of hectares, for any ancient woodland lost to the scheme; that no ancient woodland or veteran trees should be lost to temporary works; that all trees planted should be sourced within the UK or Ireland; and that all assurances offered should be secured in a binding undertaking.
141. We are not persuaded that there is a sound basis for the 30:1 ratio, as it does not seem to be based on any scientific evidence: see also Chapter 3, Planning and the Environment, para 57. In any case, according to the promoter's witness Mr Miller, 9.8 hectares (ha) of ancient woodland lost under the scheme will be replaced by 78ha of new woodland planting and 13.4ha of woodland enhancement. The community development fund, enhanced by a further £2 million biodiversity fund, will enable up to a further 170ha to be planted outside the bill limits by farmers who are more receptive to doing that than those who are already losing land under the scheme. We consider that this is a sufficient response.
142. On veteran trees which may be encountered anywhere along the line of route, we encourage HS2 to look carefully at the impact of temporary works to preserve as many of them as reasonably possible as, indeed, Mr Miller suggested in his evidence would happen during the detailed design stage.
143. We do not think the Woodland Trust and HS2 are in a position to conclude the sort of legally binding undertakings sought by the petitioner, as none of the land directly affected by the scheme is in the Trust's ownership. However, on the source of seeds and planting stock we have more to say.

144. The promoter had already offered an assurance to the Trust that the Secretary of State would require the nominated undertaker to grow all trees for the proposed scheme in the UK, and to seek to use planting stock for ancient woodlands compensation measures that is sourced and grown within the UK: see assurance letters dated 5 June 2018 and 25 October 2019.<sup>52</sup> But the Committee notes with some concern Mr Miller’s evidence that the promoter seeks to follow a seed mix of  $\frac{1}{3}$  of seed from the same region of provenance,  $\frac{1}{3}$  of seed from sources up to 2 degrees south of the growing site and  $\frac{1}{3}$  of seed from slightly warmer climate sources from 2 to 5 degrees of latitude further south than the site. Although this is the strategy that was established for Phase 1, it appears to us to be a departure from the assurance in the assurance letters that the nominated undertaker will be required, when sourcing tree seed stock for the purposes of the proposed scheme, to use reasonable endeavours to secure such seed stock from the United Kingdom, whilst recognising that, in line with planning for future resilience to climate change, “some” seed stock is to have a origin and provenance from 0 to 5 degrees latitude south of the planting location. The word “some” does not suggest that a majority of the seed stock would come from there, let alone as much as one third from 2 to 5 degrees of latitude further south.
145. The Committee accepts that the use of a portfolio approach and the proposal to source one third of seed from the same region of provenance is in line with the Forestry Commission’s recommendations supported by Natural England. It notes too that it is not necessary to go outside the United Kingdom and Ireland to find sources for seed stock up to 2 degrees south of the planting location. But looking for sources further south than that will mean that the seed stock would have to be imported from the Continent, with all the well-known risks that this would involve. To derive as much as one third from that area of provenance seems to the Committee to be excessive in view of the risks, notwithstanding the precautions that are referred to in the promoter’s evidence. The promoter should therefore provide Natural England with a fresh assurance stating that it will use reasonable endeavours to secure that at least two thirds of the seed stock will be sourced from the UK and Ireland. It should also review, and if necessary amend, its strategy for procurement of the remaining one third in consultation with HS2 Working Group before any final decisions are taken about that source.

#### **Staffordshire Wildlife Trust (Petition 33, heard on 7 September)**

146. The petitioner, represented by Kate Dewey, referred to a number of sites within Staffordshire which had not yet been identified as Local Wildlife Sites but which the Trust suspected would represent irreplaceable habitats. These included Bower End Lane and Dawson Lane, narrow public roads bordered by hedgerows which would need to be widened to allow HS2 vehicles to access work sites, and Pool House Wood, a wetland due to be bisected by the railway. The petitioner argued that, in considering irreplaceable habitats, HS2 had taken account only of ancient woodland and veteran trees and had neglected other sites. Their main request was that HS2 should survey and identify such sites that were likely to be affected by the scheme in order to consider mitigating measures. It appeared that, while some sites such as those drawn to the Committee’s attention had been identified by SWT as

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<sup>52</sup> Slides P29 (33) and (40) in the promoter’s evidence: <https://committees.parliament.uk/publications/2323/documents/22837/default/>

potentially irreplaceable, no comprehensive survey had been carried out by either HS2 or SWT themselves.

147. Mr Miller, the promoter’s witness, argued that, while the biodiversity record for Staffordshire was incomplete, HS2 had been considering what records there were and had been surveying sites along the route. They were taking a precautionary approach where the situation was not clearly able to be established, and had made provision for mitigations and compensation on that basis. He also pointed to an assurance given on 8 May 2018 to Staffordshire County Council that HS2 would require the nominated undertaker to explore and, where reasonably practicable, implement options that would reduce the impact on hedgerows<sup>53</sup>. Ms Dewey asked whether, if SWT produced a list of irreplaceable habitats, HS2 would consider those sites further. Mr Miller said that HS2 would consider a list of irreplaceable habitats as agreed by Natural England.
148. We thought that HS2 was doing a reasonable job with respect to biodiversity and habitats and noted the commitment by both the petitioner and the promoter to continue discussing these issues in a constructive manner alongside Natural England and the Ecology Review Group, of which Staffordshire Wildlife Trust is a member. It did not appear that there was anything further that we could do to assist that process.

**Anthony, Jane, Sam and Sarah Parrott; Messrs Richard and Colin Smith; Messrs J S Madders and Sons (Petitions 4, 8 and 10)**

149. These petitioners had settled with HS2 before the hearing and a statement agreed between them and HS2 was read out by Ms Lean on 9 September. We encouraged the quick finalisation of the agreements in time for our report. We have since heard that heads of terms have been agreed for the acquisition of land and that solicitors for both sides are taking forward the legal agreements. The promoter issued an assurance on 3 September that they would continue negotiations in good faith to complete documentation as soon as reasonably practicable prior to Royal Assent. We understand that the documentation was very close to being completed at the time we agreed this report.

**Edward Nield (Petition 7, heard on 9 September)**

150. Mr Nield owns land near the site of the southern portal of the Madeley Tunnel, adjoining the A525 Bar Hill Road. Part of his land would be compulsorily purchased to allow the creation of a cutting at the approach to the Madeley Tunnel. The majority of it would be temporarily used by HS2 during the construction phase for the storage of materials and then returned to him. In order to cross the nearby cutting Bar Hill Road would be permanently relocated a little to the east, with the effect that Mr Nield’s land would no longer adjoin that road.
151. Access to Mr Nield’s land is via a private lane off Bar Hill Road. It also provides access to a larger area of land to the north which is being actively promoted for residential use. HS2 would create a junction with Bar Hill Road to maintain access via this lane.
152. Hoping to develop his land for housing alongside development of the larger area to the north, Mr Nield is keen to retain the opportunity of creating

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53 See exhibit R109: <https://committees.parliament.uk/publications/2381/documents/23895/default/>

a direct access to it from Bar Hill Road. Mr Nield's representative, Roger Bedson, said that, in the absence of HS2, Mr Nield's land could be used in that way to create better access from Bar Hill Road to the proposed housing in both areas. He wanted to have the same connectivity to the highway that he has now. That opportunity would be denied to him by the relocation of the road.

153. We noted that, while Mr Nield would lose the opportunity that was mentioned, access to his land by means of the private lane from Bar Hill Road would be maintained in approximately the same manner as at present. As for his plans for housing development, we did not feel that there was anything we could do, due to their speculative nature, to meet his concerns.

**Messrs B & R Deane (Petition 9, heard on 9 September)**

154. The Deanes occupy about 165 acres of farmland on the edge of Stone. The property includes a number of livestock buildings including a calf rearing facility. HS2 would require to take a portion of the land within the bill limits in order to build the line and install various environmental mitigations. These works would mean that the calf rearing facility would not be viable in its current location. HS2 have agreed, despite the facility not falling within the bill limits, to acquire the land occupied by the facility together with the portion of the Deanes' land within the bill limits early, in order to release compensation as soon as possible to fund the relocation of the facility.
155. Negotiations have continued for some time, and HS2 have made several offers to buy the land. Those offers do not match the sort of values the Deanes feel they might receive had the land been sold for housing development, due to its location on the edge of Stone and recent developer interest in the site. Furthermore, in order to fund the relocation of the calf rearing facility, the Deanes need to receive payment from HS2 earlier than is customary. So HS2 have agreed to buy the land by means of an early acquisition agreement, following a model that has been used in other cases, in order to release the payment of monies under the compensation code. But their offer for this land is based on its market value at the time of the transaction, rather than that (expected to be higher) at a later time when HS2 fully takes possession of the land it needs for the scheme.
156. We appreciate that the timing of the payments and the valuation of the land are key issues for the Deanes, but we do not feel that we can intervene on the matter. Instead we urge HS2 to make further efforts to reach a resolution as soon as possible. We must stress that any disputes about the final purchase price which cannot be resolved by agreement are a matter for the Upper Tribunal and not this Committee.

**Theo Clarke MP (Petition 37, heard on 10 September)**

157. Theo Clarke is the MP for Stafford. She petitioned the Committee on behalf of her constituents, appearing before us on 10 September. Her petition effectively replaced that of her predecessor, Jeremy Lefroy MP (Petition 20), which had been submitted during the July–August 2019 petitioning period. As Mr Lefroy stepped down as an MP at the 2019 general election, Ms Clarke submitted a replacement petition in early 2020. This was accepted as a late petition by the Standing Orders (Private Business) Committee on 13 March.

158. Ms Clarke’s petition was wide-ranging, covering a number of issues, including some that had been raised by other petitions before the Committee (see the petitions of Yarnfield and Cold Meece Parish Council etc. and the Ingestre Park Golf Club). We have covered our responses to those petitions elsewhere.
159. Ms Clarke also raised the issue of the Hopton cutting which had, at a previous point in planning, been envisaged as a cut-and-cover tunnel. Her petition suggested various cut-and-cover and bored tunnels as alternatives to the current proposal. It seemed to us that this matter had been settled and that any variation at this point would require an Additional Provision. We therefore concluded that there was nothing we could or should do about it.
160. Ms Clarke argued that there was some uncertainty over the traffic impact of the scheme across the whole route and how the various individual traffic impacts would interact. We would encourage HS2 to work closely with stakeholders to ensure that the full impact is well understood. We requested further information from HS2 on the timing of the Local Traffic Management Plans and on the route wide traffic management plan. That information was provided to us on 14 September and has been published on our webpages.<sup>54</sup>
161. A further issue raised by Ms Clarke was the length of time taken to resolve compensation claims. On 17 September the promoter provided us with details of unsettled claims in the Stafford constituency. Of 39 statutory cases, 22 had been resolved, blight notices had been accepted in 12 cases and blight notices received but not yet accepted in five cases. For non-statutory cases, 52 had concluded, 13 were undergoing the valuation process and a decision was pending on 4 cases.<sup>55</sup> We fully appreciate the anxiety caused to those left in an uncertain situation by delays in the settlement of claims, and we urge HS2 to act as quickly as possible to resolve outstanding issues.
162. We note that the mechanism to allow Ms Clarke to petition on behalf of her constituents was not ideal, requiring the intervention of the Standing Orders (Private Business) Committee and leaving Mr Lefroy’s petition in limbo, neither withdrawn nor able to proceed. When the Private Business Standing Orders of both Houses were changed to allow MPs to petition it was perhaps not envisaged that an MP might cease to be an MP while their petition was still live. We make no particular recommendations in this area, but suggest that this might be an issue to be considered in any future review of hybrid and private business procedures.

### **Woore Parish Council (Petition 13, heard on 14 September)**

163. The petition was presented by Councillor Althea Allison, who called Councillor Gaynor Irwin and Mr Alan Melville as witnesses. The petition focused on the impact of construction traffic in the Woore area. The proposed routes for such traffic primarily servicing the works at the Madeley Tunnel site would run through the A51 and the A525 which meet at a crossroads in the village of Woore itself, and would entail widening of those roads and other works at certain points.

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54 HS2 Ltd, *Select Committee Ask*, 14 September 2020: <https://committees.parliament.uk/publications/3003/documents/28514/default/>

55 The promoter has since provided updated figures. Of statutory cases, one of the cases in which a blight notice had been accepted has now been resolved. Of non-statutory cases, there has been progress on 10 of the 13 undergoing the valuation process. Figures correct as of 9 October 2020.

164. The petitioner’s primary argument was that the construction traffic should be re-routed. By the time of the hearing they had abandoned a previous proposal to re-route the traffic via Manor Road. However, they persisted with a proposal to create an exit from the M6 at Keele Services and route the traffic partly via the disused Stoke to Market Drayton rail line. We could not consider either of these options, as they would require an Additional Provision or a Transport and Works Act Order, a position we made clear in our ruling on 29 July.
165. As the traffic could not be re-routed, the question became how best to deal with the traffic that would inevitably be directed through Woore. The petitioner expressed concern about the effect on the village of the volume of traffic during the construction period, including reduction in air quality, risks to the safety of pedestrians in all age groups and the effect on local businesses.
166. We were shown an air quality report monitoring report prepared by Ove Arup & Partners Ltd<sup>56</sup> which satisfies us that no significant effects would be anticipated during construction and operation of the scheme. The promoter’s witness, Mr Smart, told us that there would be an ongoing process throughout the project to reduce the flow of traffic through the village by measures such as improvements to the site haul routes. A number of local road safety measures have also been proposed by the promoter, including reductions in speed limits, the upgrading of an existing pelican crossing to a puffin crossing and the provision of a traffic warden to assist children needing to reach the primary school. These are important matters affecting the safety of the public that need to be discussed between the Parish Council, HS2 and Shropshire County Council, and we urge all parties to have those discussions as soon as possible. We note that the Commons Committee<sup>57</sup> directed HS2 to fund the provision of a traffic warden. We were told that Shropshire Country Council were not disposed to provide one when asked. It seems to us, however, that this proposal has obvious merit and that it too should be taken seriously.

**Yarnfield and Cold Meece Parish Council, Stone Town Council and  
Chebsey Parish Council (Petition 23, heard on 15 September)**

167. The petitioners had appeared before the Commons Committee with a proposal to relocate the Stone IMB-R to Aldersley’s Rough. That Committee, which heard evidence from the promoter’s witness Mr Smart, did not consider Aldersley’s Rough to be a viable solution.<sup>58</sup>
168. The same proposal was brought before this Committee. However, our ruling of 29 July on Additional Provisions (see Appendix 2) precluded our hearing argument about the relocation, and we made it clear that we would not consider recommending relocation by means of an order under the Transport and Works Act 1992. Nonetheless, we were presented with extensive argument about why the petitioners considered Stone to be an unviable location for the IMB-R. They made it clear that they were sceptical of HS2’s plans for

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56 Document R90 in the evidence presented to us: <https://committees.parliament.uk/publications/2517/documents/25028/default/>

57 House of Commons Select Committee on the High Speed Rail (West Midlands–Crewe) Bill, *Second Special Report of Session 2017–19* (HC 1452), 23 July 2018, para 36

58 House of Commons Select Committee on the High Speed Rail (West Midlands–Crewe) Bill, *First Special Report of Session 2017–19* (HC 1085), 24 May 2018, para 21

its construction and the engineering assumptions underlying them, and that they thought them unfeasible.

169. We are in no position to judge that issue, but we can see no reason why we should not accept the evidence of Mr Smart which was given in good faith to our Committee. If it subsequently proves unfeasible to locate the IMB-R at Stone as the petitioners contend, it will be for HS2 to resolve the issue within the powers of the Bill. The argument on both sides can be found in the transcripts of the hearing of 15 September which, together with the associated evidence, are on our website.
170. The petitioners made three other requests, for traffic safety measures in the area, two of which were largely the same as those proposed by Cycling UK. We refer readers to our account of the hearings in that case and our response.
171. The third request related to an access road to the IMB-R compound, within the bill limits, which the petitioners argued would create an unsafe junction. Mr Mould argued that final authorisation for the junction would rest with the relevant highway authority, who could oppose it on grounds of safety. We are satisfied that this is a matter of detail best left with the appropriate local authority within the framework provided by the bill. That is sufficient to ensure the safety of the junction for our purposes.

#### **Newcastle Road Residents, Hanchurch (Petition 22, heard on 15 September)**

172. The petition was presented on behalf of the Newcastle Road Residents by Brenda Morris-Goostrey. Newcastle Road lies near Junction 15 of the M6 and is currently a two-lane road with 16 houses along one side. On the other side of the road is an Eddie Stobart truck depot. The exit from the M6 leads to a roundabout—the Hanchurch interchange—and Newcastle Road at its north end joins this roundabout.
173. HS2 plans to widen Newcastle Road to four lanes and to alter the roundabout to allow for construction traffic to use the route. The residents are concerned about the safety of this proposal, given that they feel that the road layout is already unsafe. They are particularly concerned about exiting their own properties onto the proposed four lane road into what they fear will be fast-moving traffic, especially when they intend to turn right to access the M6 or their local shops.
174. The Committee has a lot of sympathy for the residents, whose lives are likely to be heavily affected by the proposed changes. The proposed works do appear to be necessary, but we urge HS2, Highways England and Staffordshire County Council to engage positively and swiftly with the residents to ensure that whatever traffic calming measures are possible are incorporated into the plan.
175. We heard that it would be difficult to create a roundabout at the southern end of Newcastle Road, where it joins Whitmore Road, due to the layout of the roads there. But we consider that some means of allowing a U-turn there to avoid the need for residents to turn right on leaving their properties, or to create spaces in the flow of traffic moving along Newcastle Road towards the roundabout by the use of traffic lights, would help enormously and should be seriously pursued.

**Sharon and Martin Mawbey (Petition 34, heard on 16 September)**

176. The Mawbeys run a canal boat mooring business, alongside other related enterprises. Their land is in an area proposed for considerable and prolonged construction activity, and HS2 will require temporary possession of part of the land adjacent to the canal. The Mawbeys are concerned about the impact this would have on their businesses. A number of their moorers have already left because of uncertainty about the programme, resulting in a loss of income.
177. They have been negotiating with HS2 for some time in order to achieve clarity on how, and when, the scheme would affect them. They are entitled to compensation under Schedule 15 of the Bill for losses they may incur as a result of being disposed during the construction period. The main focus of attention has been on arrangements for early funding by means of an advanced mitigation agreement to meet the cost of relocating facilities and business losses resulting from the proposed scheme. By the time of the hearing the Mawbeys appeared to be well on the way to resolving their issues with HS2. We urge both sides to continue to negotiate constructively in order to reach agreement.
178. We strongly counsel the Mawbeys to seek professional assistance in those negotiations, the reasonable costs of which HS2 has said it would fund.

**William Murray (Petition 36, heard on 16 September)**

179. Mr Murray lives in a property on Whitmore Heath near the top of a private road off Snape Hall Road. The Whitmore Heath tunnel is due to be bored fairly close to his property. While his land is not within the limits of the bill, the works are likely to have a considerable impact on his quality of life. Snape Hall Road is to be widened for use by some construction traffic and to provide permanent access to a rescue area at the northern portal of the tunnel in the event of an emergency. Mr Murray uses Snape Hall Road to walk to Baldwin's Gate from where he can catch a bus. As he is elderly and not in good health, he believes that the works will mean he will no longer be able to walk to Baldwin's Gate and that he will become isolated and a prisoner in his own home. He is also concerned about the effect of tunnelling works on his property. He feels that his life has been blighted, and he wants to move to get away from HS2.
180. There was some discussion in the hearing about the level of compensation available to Mr Murray. Because his property is not within bill limits, it is not subject to compulsory purchase. But HS2 has offered to buy the property at its unblighted market value. It has also offered to pay Mr Murray his removal costs up to a cap of £10,000 plus VAT. The value of the property has yet to be set as, at the time of his hearing, Mr Murray had neither accepted HS2's offer nor made a counteroffer. Had his property been within the bill limits and subject to compulsory purchase he would have been entitled to a home loss payment under section 29 of the Land Compensation Act 1973, equivalent to the greater of £6,500 or 10 per cent of the open market value of his property.<sup>59</sup> Mr Murray is seeking a similar payment on top of those already offered, which he described as a settling in allowance for the move to his new home.

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<sup>59</sup> The payment operates within lower and upper limits of £6,500 and £65,000, as set out in the [Home Loss Payments \(Prescribed Amounts\) \(England\) Regulations 2020 \(SI 739/2020\)](#), which came into force on 1 October.

181. Mr Murray finds himself in exceptional circumstances. Due to health reasons he cannot tolerate the HS2 works and his current way of life will be severely compromised. While he is not entitled to receive anything more than the unblighted market value of his property, HS2 has gone further in offering to pay his relocation costs, including for professional advice. We think they should go even further. In recognition of the very specific circumstances in which Mr Murray finds himself, as he is in effect being forced to move, we consider that HS2 should provide Mr Murray with an additional payment of £10,000 akin to the home loss payment. We wish to stress, being conscious not to set too wide a precedent, that we consider Mr Murray's circumstances to be exceptional.

**David and Sian Froggatt (Petition 28, heard on 16 September)**

182. The Froggatts operate a diversified farming operation on several sites. They are engaged in arable and livestock farming. They breed and break in horses commercially, and also have a fish farm business. Part of the land occupied by the main holding is to be acquired permanently for the railway, which will extend across its north eastern section. This will separate the main holding at Quintons Orchard Farm from the Froggatt's north drive, which is on land that they own. It gives access to their farming operations which extend over eight holdings on the other side of the proposed railway. They raised several issues with us.
183. One of the Froggatts' chief requests was for the construction of a bund between the railway track and their property to mitigate noise. Of particular concern to them is the impact on horses using a manège on one part of the property. Mr Thornely-Taylor, the promoter's witness, gave a persuasive explanation of the likely noise impacts, drawing on his experiences as a breeder of thoroughbred racehorses, and of the relative ineffectiveness of a bund because of the distances involved. We accept his evidence, and do not recommend any further noise mitigation to address this issue.
184. The Froggatts are also concerned about the proposed construction of an accommodation bridge over the railway and the proposal that HS2 should acquire ownership of their north drive. These proposals are intended to overcome the problem of severance and to provide for the realignment of a public footpath which will also be severed by the railway. They are concerned about other users having access rights over their north drive, and whether the current design of the bridge is of a specification that would make it safe and sufficient to accommodate modern farm machinery, both now and in the future. They have no objection to the acquisition of that part of the land that is needed for the footings of the bridge, but they wish to retain ownership of their drive.
185. The construction of the bridge is a large undertaking likely to be of benefit to others in the area, including users of the public footpath and in particular the owners of Woodhouse Farm, Mr and Mrs Daw, as this is their only means of accessing a proposed reed bed system on part of their property to the west of the railway line. We agree with HS2 that, having regard to the various private and public rights involved, it is more appropriate for the road to be publicly owned. However, it is clear that HS2 must work with the Froggatts and the Daws to establish how access rights will be controlled and on the detailed requirements of the bridge. HS2 had given an assurance to take the reasonable requirements of the petitioners into account in

specifying the width and load-bearing capacity of the bridge so that it is able to accommodate their present and foreseeable future needs. We are pleased to hear that a further assurance, dated 23 September, has now been given addressing both the construction of the bridge and the granting of access rights over it and the north drive to the petitioners.

186. The Froggatts are concerned about the security implications for their fish farm of greater access to the site, as well as other impacts of the works. They are asking for security fences and CCTV to be provided and for the regular and frequent monitoring of water quality, dust, noise and vibration. Mr Mould recognised that special arrangements needed to be made. He gave a commitment in the hearing that a working group to discuss these matters would start meeting well before 31 December 2020. We expect that commitment to be honoured by both sides. Any further requests relating to the fish farming business should be settled in that forum. We note that the assurance letter of 23 September commits to a risk assessment of impacts on the fish farm.
187. A further request relates to roof-mounted photovoltaic panels on the Froggatts' property. The petitioners are concerned about the effect of dust from construction work and a nearby borrow pit on the effectiveness of this equipment. They seek an assurance or indemnity in the case of reduced capacity, increased cleaning requirements and reduced life expectancy. Mr Mould suggested that these issues could be dealt with by means of the HS2 small claims scheme. We are satisfied with that response.
188. Lastly, they object to a proposal to acquire a new wayleave to install a BT line to serve Quintons Orchard Farm, as this risks further narrowing their already narrow south drive and because they believe that the existing BT line along their north drive is perfectly satisfactory and offers better broadband connectivity. They asked for a direction that this proposal should be abandoned. The promoter indicated that it was able to agree to the alternative routing that was asked for, and pointed out that it has already undertaken in the House of Commons to engage with the relevant Department to understand how the construction of Phase 2A may provide opportunities for superfast broadband. There is no action we need take on this issue other than to encourage the parties to conclude their negotiations as soon as possible.

## APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

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### Members

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

### Declarations of interest

Lord Brabazon of Tara  
*No relevant interests declared*

Lord Goddard of Stockport  
*No relevant interests declared*

Lord Haselhurst  
*Lord Haselhurst's son knows the daughter of Colin Smith, the promoter's witness on compensation issues. Lord Haselhurst has never met Mr Smith, or had any contact with him, direct or indirect, other than when they were both present during public Committee hearings.*

Lord Hope of Craighead  
*Member of Scottish Wildlife Trust*

Lord Horam  
*No relevant interests declared*

Lord Liddle  
*No relevant interests declared*

Lord Snape  
*No relevant interests declared*

A full list of members' interests can be found in the Register of Lords' Interests:  
<https://members.parliament.uk/members/lords/interests/register-of-lords-interests>

## APPENDIX 2: ADDITIONAL PROVISIONS

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### Transcript of the High Speed Rail (West Midlands–Crewe) Bill Select Committee meeting on Thursday 29 July 2020 (Morning), paras 3–9

3. **THE CHAIR:** Before I come to today’s petition, there is a matter of general interest with which I must deal and this is the question of additional provisions. It’s a matter which does affect today’s petition but also a number which we have yet to hear. We’ve been asked to give a ruling on how we propose to deal with additional provisions and I’m now going to read out what that ruling is.
4. The Committee has been asked to give a ruling about additional provisions for the guidance of all parties appearing before it in these proceedings. As Lord Walker of Gestingthorpe explained when he was delivering a ruling on this issue by the House of Lords Select Committee on the High Speed Rail (London–West Midlands) Bill, the expression, “additional provision”, has a technical meaning in relation to private bills. It refers to an amendment giving to the bill’s promoter powers which go beyond the scope of the original proposals and which may potentially have adverse direct and special effects on particular individuals or bodies over and above any effects on the general public.
5. The question that this Committee has to decide is whether it has power in the case of this hybrid bill to consider, and indeed should consider, matters of that kind which have not been the subject of an instruction from the House of Lords. Two additional provisions were submitted and considered by the House of Commons. Under the rules governing private bill procedures in this House, the introduction of additional provisions is expressly forbidden. Paragraph 2 of Standing Order 73 of the House of Lords Standing Orders Relating to Private Business states that no such provisions should be received in the case of a bill brought from the House of Commons. Paragraph 9.24 of the Companion to Standing Orders and Guide to Proceedings in the House of Lords 25th Edition 2017 is to the same effect.
6. The bill with which this Committee is dealing is a hybrid bill and the standing orders say nothing about hybrid bills. Reference was, however, made in the discussion before Lord Walker’s Committee to passages in Erskine May’s 24th Edition of 2011 at pages 947 and 985. See now pages 116 and 776 of the 25th Edition 2017 which make it clear that the practice in relation to hybrid bills precludes additional provisions in the House of Lords; it is the second chamber. That applies here as we are sitting in the second house. Hybrid bills are invariably first introduced in the House of Commons.
7. It was pointed out in the hearing on this issue by Lord Walker’s Committee that simply as a matter of timing an instruction may be given by the House of Lords in the case of a hybrid bill, not only immediately after the second reading debate, but also on a later occasion. But as Lord Walker noted in his ruling, for the House of Lords to give an instruction for an additional provision to be included in the bill would be contrary to well settled practice. As he said, a hybrid bill adversely affects many interests and fairness requires that those affected should have the opportunity of presenting petitions against the bill in both houses of parliament. Those adversely affected by an additional provision ordered in the House of Lords as the second house would be denied

that opportunity in the Commons as the first house unless the bill were to be returned to a Select Committee of the House of Commons with all the delays and additional expense that this would give rise to. As a matter of practical reality, almost every additional provision which solves or mitigates difficulties for one group of residents along the line raises new difficulties for another group. That is why petitions against additional provisions are permitted and why parliamentary practice regards it as unfair for additional provisions to be introduced in the House of Lords as the second house.

8. In what we see as the very unlikely event of our receiving an appropriate instruction from the House, we will of course hear all relevant evidence and submissions and any petitions against the additional provision but it would be fanciful to suppose that at this late stage any such instruction will be given. It would be a waste of time and resources for us to hear evidence and submissions in support of an application for an additional provision that has not been considered in the other house. So we decided to follow the precedent set by the ruling made by Lord Walker's Committee; any applications of that kind will not be admitted in these proceedings.
9. We are aware that certain petitioners have suggested that changes similar to those that might be made by additional provision might instead be effected through an order under the Transport and Works Act 1992; that would involve a process which is separate from the parliamentary process on this Bill, and it is highly unlikely that we could be persuaded that there was any recommendation that we could, or should, make in respect of such an order. That is the end of our ruling.

## APPENDIX 3: AMENDMENTS TO THE BILL

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Note: Page and line references are to the bill as introduced on 3 March 2020 [HL Bill 103]

### Clause 58

Page 25, line 23, leave out “, 22(6)(a)”

### Schedule 2

Page 61, line 43, leave out from “paragraph” to “but” in line 44 and insert “5(1) of Schedule 3A to the Communications Act 2003,”

### Schedule 4

Page 73, line 8, at end insert—

*“Roads constructed as highways*

15A (1) This paragraph applies where under this Act the nominated undertaker constructs a road as a highway.

(2) The resulting highway is created on the date on which the road is first open for public use.

(3) For the purposes of sub-paragraph (2), the date on which the road is first open for public use is the date on which the resulting highway is taken to be first open for public use for the purposes of paragraph 16(2).

(4) Where the resulting highway is a temporary highway, it ceases to be a highway on the day after the date on which the road is last open for public use.

(5) For the purposes of sub-paragraph (4), the date on which the road is last open for public use is to be taken to be the date notified by the nominated undertaker, in accordance with sub-paragraph (6), to the highway authority as being the date on which the road is to be last open for public use.

(6) The notification must be given to the highway authority by the nominated undertaker at least 28 days before the date on which the road is to be last open for public use.”

### Schedule 27

Page 194, line 20, leave out sub-paragraph (3)

Page 195, line 19, leave out sub-paragraph (6)

### Schedule 32

Page 219, line 21, leave out from “the” to the end of line 23 and insert “code set out in Schedule 3A to the Communications Act 2003”

Page 219, line 27, leave out “paragraph 23” and insert “Part 10”

Page 219, line 29, leave out “Paragraphs 21 and 23” and insert “Parts 6 and 10”

Page 219, line 39, leave out “paragraph 9” and insert “Part 8”

Page 220, line 4, leave out “paragraph 23” and insert “Part 10”