

MINUTES OF ORAL EVIDENCE

taken before

**HIGH SPEED RAIL COMMITTEE**

On the

**HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL**

Wednesday 3 February 2016 (Morning)

In Committee Room 5

PRESENT:

Mr Robert Syms (Chair)  
Sir Henry Bellingham  
Sir Peter Bottomley  
Geoffrey Clifton-Brown  
Mr David Crausby  
Mr Mark Hendrick

---

IN ATTENDANCE:

Mr Timothy Mould QC, Lead Counsel, Department for Transport  
Mr Richard Turney, Counsel, Department for Transport  
Mr Alastair Lewis, Sharpe Pritchard  
Mr Edward Briggs, Bidwells  
Mr Reuben Taylor QC, Counsel, Berwin Leighton Paisner

WITNESSES:

Mrs Hilary Prince  
Mr David Neil Smith  
Mr and Mrs Michael Raffety  
Mr Richard Barnes  
Mr Peter Miller, Environment Director, HS2 Ltd

---

**IN PUBLIC SESSION**

## INDEX

Subject	Page
<u>Silklink (Grimstock Country House Hotel)</u>	
Submissions by Mr Lewis	3
Response from Mr Mould	9
<u>Robert Brown</u>	
Submissions by Mr Briggs	15
Response from Mr Mould	20
Closing submissions by Mr Briggs	23
<u>Mr and Mrs Raffety; Rafine Ltd (Trading as Turville Valley Wines)</u>	
Submissions by Mr and Mrs Raffety	25
Response from Mr Mould	39
Closing submissions by Mrs Raffety	48
<u>The Woodland Trust</u>	
Introduction from Mr Taylor	49
Evidence of Mr Barnes	50
Response from Mr Strachan	63
Closing submissions by Mr Taylor	34

(At 09.30)

1. CHAIR: Order, order. Welcome to the HS2 Select Committee. We start off with petition 410, which we heard some while back, Silklink, Grimstock Country Hotel.

**Silklink (Grimstock Country House Hotel)**

2. MR LEWIS: Thank you very much. Yes, indeed; 24 November 2014 was when I appeared before you last on this case with Hilary Prince, who you sir, and members who were around at that time, may remember, Hilary Prince being the manager of the Grimstock Country House Hotel in Gilson, Warwickshire.

3. Could I have A20992, please, just to remind the Committee why we are here. In italics we have in this letter an extract from your first special report, paragraph 102. ‘In some cases we have undertaken active monitoring or requested a report back. Examples include the petition of Silklink’, which is us, ‘whose staff deserve some certainty of outcome’. So, here we are reporting back. If we go to P970, please, to explain where we are for the benefit of more recent members of the Committee, where we are is in Warwickshire, as I said, on the outskirts of a little village called Gilson, which looks there on that map as if it is completely surrounded by infrastructure and couldn’t possibly be described as a rural setting, but if we go, please, to look at some photographs of the hotel, P974, that is an HS2 photograph. I am not sure it is one we would have chosen because it has the pylon in the background there which doesn’t really set it off very well, but that is the hotel. If we go to P978 there you see the countryside which surrounds the hotel. If we go to P979, that is looking out from the front of the hotel towards Gilson Road, which is the main entrance to the hotel. So, it is a country house style hotel in a semi-rural setting with a very good road infrastructure nearby. It is conveniently placed for the National Exhibition Centre and is used by people who attend events there but also by other local people and used for functions, in particular weddings or rather, should I say, it used to be, and that is one of the points we will come back to later.

4. How are we affected? Could we have P976 as a reminder, please? There you see the petitioner’s property outlined in red. The hotel itself I am pointing at here. So, you will see that the hotel is right up against the pink area. That area is mainly to be used for

the diversion of the pylons which I showed you, which are going to be moved nearer to the hotel and also for the diversion of Gilson Road, which is going to be sweep round like that. So, there will be some substantial works very close to the hotel. The period of those works is about two years and eight months in total. We also have the railway, of course, pretty close to the hotel as well.

5. Now, who are we? The owner of this hotel sits behind me. His name is Morteza Vakil. You heard a bit about him last time round. He came from Iran and built up his business from scratch. This is his only business. When he appeared before you in November 2014 he was 68 years old. He is now 69 years old and he wants to retire. His company is called Silklink Limited. They are the petitioners. Hilary is the manager of the hotel.

6. What do we want? As we said last time, we want HS2 to purchase the hotel, the main reason being Mr Vakil's personal circumstances. His hotel is his pension. He wants to retire and he can't. Just to give the Committee a reminder and an idea for new members of how much the hotel is worth, Mr Vakil said in evidence last time that he had it valued many years ago at £3.5 million but he had a more recent verbal valuation just before we appeared in 2014 of £1.5 million based upon the already impending effect of HS2.

7. What did the Committee ask us, or rather ask HS2 to do when we appeared last time? If you go to A2091, please, you will see there, Chairman, your suggested way forward: 'Go away and discuss with HS2 on these three points and come back to the Committee in three months' time'. They were happy for me to come and report back to the Committee and see how far we'd got, and then they would make a judgment.

8. In that interim period, there were some discussions, I think, about a way forward, in particular on whether HS2 would be willing to contemplate what is known as a claim for material detriment. A claim for material detriment, to remind you, under the Compensation Code is where part of your land is taken as it is in this case – it is the fields towards the back which are taken for the pylon works. If some of your land is taken under the Compensation Code and there are some circumstances where you can show that there is material detriment to the rest of your property, you can require the promoter of the scheme to acquire the whole lot. What we were asking for, really, in

terms which we are going to ask again today and remind you of the ask, is that we would like, because of Mr Vakil's special circumstances, HS2 to acquire the property now in advance of Royal Assent on full compensation terms.

9. If I could just go through what has happened since, I have already taken you, sir, to the wording of your special report where you asked for some certainty for the staff of the hotel. We had HS2's response to that report in June 2015. Paragraph 213 said, 'A report was commissioned to explore the issue of a material detriment compensation claim from the petitioner and further information has been requested from the petitioner regarding the use of the property to aid that work. A further report on the outcome of this work will be provided to the Select Committee in autumn 2015', which did not happen.

10. Then after that could we have P156301, please? On 3 December last year we had a letter from Mr Kidd at HS2 which in summary says that it does not provide good news for my clients. Mr Kidd said that HS2 will not acquire the hotel now because, as he says, 'I understand that your client has bookings at the function suite through 2016 and the business is not one that needs to be relocated prior to commencement'.

11. SIR PETER BOTTOMLEY: A catch 22.

12. MR LEWIS: One of the things I point out is that in fact to say that the function suite is booked through to 2016 is far from the truth. I wasn't intending to call Hilary to give evidence but she's told me in advance that they have one booking for a wedding this year. In 2014 when we appeared before you they had 15 and that was about the average. I have also seen a list of notes of telephone calls over the past year or so from people in the locality and other people who have come to the hotel and people who have not come to the hotel who believe either that the hotel is imminently going to close because of HS2 or because they think that it has closed already and we have missed quite a lot of bookings because of that.

13. What else has happened since we last appeared before you? As I've said, Mr Vakil has got older.

14. CHAIR: I think we all have.

15. MR LEWIS: Some have probably aged quicker than others. I think it is fair to say, though he will correct me if I am wrong, that there hasn't really been much further investment in the hotel or not as much investment as Mr Vakil would want to make, for two reasons: one, the turnover is down and two, HS2 is imminent and I guess there's a feeling of, 'Well, why should I bother?' As I said, the guests are making comments and the wedding bookings are down. I think it's fair to say that turnover generally speaking is well down. I think that is correct and Mr Vakil told me in the corridor just now that he has not taken a salary from the business at least for the past year.

16. So, that is a reminder of what it is all about and what we would like you to do. We would ask you, please, to require HS2 to purchase this business on compulsory purchase terms. We have a very special case here. Mr Vakil offered last time, and he will do so again, to help HS2 in transition if they were to purchase the hotel. He would help out in the management of the hotel for as long as it took to safeguard his staff.

17. SIR PETER BOTTOMLEY: To run it on in the way they think is possible?

18. MR LEWIS: Exactly. It could possibly be on the HS2 workforce in the interim period, but he just wants to retire. That is what this is all about. It's hearts and minds here. We want you to be brave, please, and go outside the normal compensation code and do the right thing. I mentioned the precedent yesterday from Channel Tunnel Rail Link. I am going to do it again. In the House of Lords there were similar cases, not involving businesses, I will say, but individuals. There are three or four cases reported in the Special Report of the House of Lords Select Committee on the Channel Tunnel Rail Link where the Committee took the view that the people who were outside the limits were so badly affected by the proximity of the works because of their age and for other reasons that the promoters should be required to acquire the premises under compensation terms.

19. SIR PETER BOTTOMLEY: Do you know if that happened?

20. MR LEWIS: Whether it happened I don't know but one would hope that if the landowners asked it to happen, then it would have done. If I could just read out very quickly what the report said, first in relation to Wing Commander Alton and his wife, Patricia, 'They are an elderly couple who would undoubtedly suffer great disturbance during the construction of CTRL. They petitioned that the promoters be required to buy

their property at Westwell Beacon near Ashford. In the Committee's opinion the exceptional nature of the petitioner's position, which we have here, makes this an entirely reasonable request and requires the promoters to buy their home on compulsory purchase terms.' Mr Ian Goldfort, Mr Robin Croker, the same thing, and residents of the Nashenden Farm group of buildings as well.' So, we have a precedent. I know, Sir Peter, that you don't necessarily like precedents.

21. One other point I was going to mention is that yesterday I was before you saying that a community would be decimated. I think it is pretty fair to say that Gilson is actually close to being eradicated. The reason you haven't heard much from the residents of Gilson is because most of them, I think, have taken up the offer to leave.

22. SIR PETER BOTTOMLEY: Voluntary purchase?

23. MR LEWIS: Yes, and that is another reason why we think we are a very special case. We are left with the one business in Gilson on the outskirts of this small village which is not in a position to ask for the same treatment.

24. SIR PETER BOTTOMLEY: Just help us. On page P971 Gilson is the properties to the left. Is that right or have I got that wrong?

25. MR LEWIS: Is that Gilson village there? No, I didn't think so. It is where I am pointing now, I think. Hilary is sworn and she can tell you herself but she is telling me that there are 51 properties, six left, not acquired.

26. MRS PRINCE: Even out of that six some of them were bought on ill health grounds as well, but I am sure they will correct us if we are wrong.

27. CHAIR: From memory, Alastair, I think they have taken the field as a last resort, but just to do the lines and put up a bund, there were some problems with access and trees being cut down. Was the option explored to see whether or not it was viable to ensure that access could be provided?

28. MR LEWIS: I am not sure that that is my recollection of events. We are not in any way obstructing HS2 from carrying out the works in this green area here. That's our ownership and, of course, in the grey area generally we have here the pylon diversion works. I am not sure if there are any problems about access. I don't think that

we are resisting HS2 in any way from carrying out these works. In a sense what we are asking you to do is to acquire us and we couldn't care less what they eventually have.

29. CHAIR: We had a discussion about tunnelling, again, and the noise, and visibility from the hotel.

30. MR LEWIS: We did discuss visibility of the railway from the hotel. To be honest, we didn't really make much of an issue of it. The real issue for us is that we have a period of construction works of more than three years close up to the hotel both front and rear. We have a perception from local people that the hotel is closing and is on its last legs, and that is really the sum total of it. We don't see how the way in which the railway can be constructed could be adjusted to make that perception any different and to make the effect on our turnover any different to be honest.

31. MR CLIFTON-BROWN: Is this just a question of timing because after the Bill has Royal Assent presumably you could submit a claim on the basis of severance and injurious affection which would be presumably so large that actually it would pay HS2 to compulsorily acquire the lot? So, is this just a question of timing, that they will eventually have to acquire you but you want them to do it sooner rather than later?

32. MR LEWIS: First of all they will not eventually have to acquire us. What would happen after Royal Assent, and Mr Mould made a suggestion to me just before I started speaking about the way in which HS2 might help with the timing – I am sure he will address you on that – is that even if we did wait until Royal Assent and then make a claim for material detriment in the way that I suggested, there is no certainty that that claim would be successful. In fact, HS2 have indicated that they don't think there's a case. So, that is why we are asking you to look at the very special circumstances of this case where I don't think, and Mr Mould will correct me if I am wrong, the age of the owner has anything to do with whether or not a material detriment case is successful. That is the difference in this case. Mr Vakil, I think, wants to retire as soon as possible. He said that a year and a half ago and the circumstances remain the same. So, if we have to wait for Royal Assent, that's possibly another year until that happens. I think Mr Mould's suggestion would help to bring the process forward a bit in terms of being able to go to the tribunal, make a reference to the tribunal and ask them for a material detriment decision. There is no guarantee that that would be successful in any event.

You are right that there would be compensation for severance. If they took that land we could make a claim.

33. MR CLIFTON-BROWN: And for injurious affection?

34. MR LEWIS: And injurious affection, absolutely. We could, but again it's too far down the line for Mr Vakil. That's the point.

35. CHAIR: Perhaps we can hear from Mr Mould.

36. MR MOULD QC (DfT): Yes, just to be clear, the point I made to Mr Lewis was that within two months of Royal Assent the Secretary of State will give notice of entry to this petitioner and for the avoidance of any doubt the Secretary of State will accept that upon receipt of that notice he should be able to make a reference to the Upper Tribunal *inter alia* claiming material detriment and asking the tribunal to order the Secretary of State to acquire the whole of the property under the material detriment provisions. Mr Lewis is also right that that is given on the basis that at the moment the Secretary of State does not believe that under the current law that claim would be justified and therefore one has to assume today that the Secretary of State would defend that claim and would say to the tribunal if the claim were made that the remedy that the petitioner would have would be for the financial compensation that was due to him for severance and injurious affection, which obviously would embrace also the impact on the business itself, because therein lies the real value of the land on which the hotel business operates.

37. So, it is partly a question of timing because clearly if that approach were to be taken I accept that it would leave the petitioner with probably a further year or so until he received that notice but, as Mr Lewis says, it would not be entirely a question of timing because there would still be the question as to whether the material detriment claim would be accepted. In the course of a year, of course, and following Royal Assent on review of the position, the Secretary of State may be persuaded to take a different view. At the moment the advice he has received professionally, having had a report by chartered surveyors, Montague Evans, who have looked at the merits of the case for material detriment, is that their recommendation was that this was not a case where material detriment would be made out, although they did acknowledge freely that the impact of the railway works upon the hotel would be to cause a substantial reduction in

its turnover and profits over the course of the works. But those who are familiar with the way in which the compulsory purchase code works in these kind of cases will know that money is available to compensate for that kind of loss. It doesn't follow automatically that the tribunal, if asked to determine the value of that claim, will also entertain and agree to an application that the entire property should be acquired by the acquiring authority.

38. So, we are left, as Mr Lewis says, with a very straightforward point here. I think it is fair to say that it is common ground that if one looks forward to a claim being made following service of notice tabled in a year's time, whether that claim would succeed is uncertain. It might succeed but equally, on the facts, it might not. Ordinarily with a business of this value, which is well in excess of the small business rateable value limit that you have already heard about, that is the remedy that the law provides to an affected landowner in this situation. The question for you is whether you feel that that is sufficient, with the accelerated notice that I have offered, or whether you feel that the decision should be made in advance of Royal Assent, effectively now to buy this property outright and relieve the petitioner from the ordinary risks that he would be subject to as any other compulsorily purchased business proprietor of his scale and time would be under the conventional compulsory purchase arrangements.

39. SIR PETER BOTTOMLEY: Saving both sides from legal costs.

40. MR MOULD QC (DfT): It would do that.

41. SIR PETER BOTTOMLEY: What is an estimate of what the costs would be if it were fought out?

42. MR MOULD QC (DfT): In the Tribunal?

43. SIR PETER BOTTOMLEY: Yes.

44. MR MOULD QC (DfT): That is very difficult to say but I would have thought if you assume a two to three day hearing with experts' reports, probably the joint costs would exceed £100,000, but perhaps not a great deal more than that. That is very much an off the top of my head assessment. But equally you bear in mind that whatever the legal costs, and I am conscious that legal costs can be expensive, the actual difference

between the cost of compensating for this business without acquiring the whole and the cost of acquiring the whole as a going concern on the advice we have had from chartered surveyors, is going to be very substantial. It would certainly be, I would think, considerably in excess of the legal costs.

45. SIR PETER BOTTOMLEY: I have no doubt about that. If the Secretary of State or promoter, and it doesn't matter which, did acquire the property now as a going concern either because they chose to or because we or the House of Lords instructed it, it is presumably open to them to remarket it straightaway and the difference between what they've paid for it and what they would get for it would be the detriment?

46. MR MOULD (DfT): Yes, clearly if they were to remarket it.

47. SIR PETER BOTTOMLEY: In effect, the Secretary of State has the responsibility of getting the most he could for the hotel as it is with the blight and with the uncertainty. If he got that in by selling it if he chose to rather than holding it, if he paid the present owner what it is worth as a going concern without the blight, then the whole thing is solved anyway.

48. MR MOULD (DfT): Yes, the Secretary of State would take whatever the hit was on that, yes.

49. SIR PETER BOTTOMLEY: Which, with respect, is the detriment, which is what in effect they are asking for.

50. MR MOULD QC (DfT): I accept that analysis as far as it goes but, of course, that still has to be set against my point that the alternative which the law provides is that that question remains unresolved.

51. SIR PETER BOTTOMLEY: I think the simplest thing is for us to have a working assumption that the safest thing is to go for certainty and let the Secretary of State take the risk rather than let the present owner take the risk. I am thinking aloud.

52. MR MOULD QC (DfT): If that were to be your view, I am not for a minute suggesting that it is not open to you – Mr Lewis has mentioned some precedents from the Channel Tunnel Rail Link and, indeed, my recollection is that there was at least one case of a similar kind on the Crossrail scheme – and I am not going to seek to suggest

that this would be breaking new ground, but if that were to be the view you take, I think it would be necessary to think very carefully indeed as to whether this were a case which was sufficiently exceptional that the remedy that I have suggested is not a sufficient basis for moving forward.

53. SIR PETER BOTTOMLEY: Do you particularly want to challenge what we have been told about the acquisition by HS2 of the other properties nearby?

54. MR MOULD QC (DfT): No. There is no doubt that I think the majority of properties in Gilson have either been acquired or are subject to bypasses.

55. SIR PETER BOTTOMLEY: I don't think there is much more information we need. May we have a reflection?

56. MR CLIFTON-BROWN: Are there any other properties up and down the line in a similar sort of category? Is this going to set any form of precedent?

57. MR MOULD QC (DfT): I am not aware that there is another hotel which has this sort of relationship with the works and where the owner of the hotel is at this stage in life.

58. MR LEWIS: Can I help? There is a sentence at the end of that paragraph in the House of Lords Committee report which I didn't read out which I should have done. Basically they were summing up by saying, 'We have exceptional circumstances here. They are not to be regarded as establishing a precedent. '

59. MR MOULD QC (DfT): That is fine. Obviously those words were no doubt very helpful and they would be helpful here if that was the view you took but, of course, one shouldn't assume that those who read those words will necessarily feel constrained by them because ultimately a future Committee would have to decide for itself whether there was a precedent and if it felt, objectively speaking, there was a precedent, the fact that you had said that they should not be seen as setting a precedent might not necessarily constrain it. So, I think that one needs to be a little circumspect about that. But your question was whether I am aware of any other premises on this railway and I am not aware that there is one which is directly comparable to this.

60. SIR PETER BOTTOMLEY: With quite these characteristics?

61. MR MOULD QC (DfT): Yes.

62. MR CLIFTON-BROWN: It is really a question of cash flow isn't it? You will have to pay these petitioners out at some stage in the next year or two a substantial claim of some sort.

63. MR MOULD QC (DfT): We are.

64. MR CLIFTON-BROWN: And with current low interest rates and the legal costs that Sir Peter has pertained, surely wouldn't it be fair to these petitioners to try and sell this thing as quickly as possible while it is still a going concern because it may not be a going concern in a year or two's time, and the Secretary of State to pay the blighted difference?

65. MR MOULD QC (DfT): As you know, my task is to lay out to you the position as I am instructed. I put forward the proposal to try to ameliorate the situation. I accept that it doesn't achieve the certainty that Mr Lewis is seeking and the Committee clearly may feel that in this case the circumstances are such that that certainty should be provided, and I take your point but clearly there is, countering that, the question of due diligence and the question of the public interest. If I may say, as the Speaker said the other day, you are particularly concerned in this Committee with the private interest because that is the function that you play and here is a classic example of the two coming up into conflict.

66. There is, nevertheless, the point – if you will forgive me I won't repeat it at length but it is important just to close with this thought – that there is a remedy provided by the compensation code. It doesn't provide the certainty that is sought now. It may provide it in a year's time or so. The crucial distinction from the public interest between that date and this date is that at that point the Bill will have received Royal Assent and there will be the certainty of delivery of the railway from that perspective, which will give a greater reassurance that spending money possibly outside the extent of the compensation code is an expenditure that can be justified.

67. MR CLIFTON-BROWN: Presumably the claim would be subject to the Bill getting Royal Assent anyway?

68. MR MOULD QC (DfT): The claim would be.

69. MR CLIFTON-BROWN: I meant the payment.

70. MR MOULD QC (DfT): Yes, but as I understand it, what is being said here is that the property should be bought whether or not Royal Assent proceeds. So, I think that that is the key difference so far as the public purse is concerned. There are two points. First, there is an uncertainty as to whether the project goes ahead so if that uncertainty eventuated the Secretary of State would own a hotel for no particular purpose but in the event that the railway did go ahead the Secretary of State on Mr Lewis's proposal may well be paying more than in fact the compensation code would require him to pay. So, there would be an additional cost to the public purse in that respect. As against that is the claim for exceptional circumstances and fairness and that that risk should pass from this petitioner to the Government. I think it is as straightforward as that, really, and I have to say that it is in your hands.

71. CHAIR: I think we will have to consider it in private a little later.

72. SIR PETER BOTTOMLEY: Can I just reflect in public first of all that for a successful hospitality enterprise to work it needs confidence and competence. I think we have heard that the present owner is prepared, if HS2 do buy it, to go on providing assistance and help – he might even start getting a salary again – on an interim basis, which I think would be a help. I think the uncertainty wrecks the confidence that can continue and I think the last reflection is that there are three ways things can happen. One is by law, which is the compensation code, and I am grateful to both advocates for the way they put their cases. The second is by the Secretary of State's own discretion and the third is by this Committee or another giving an instruction.

73. CHAIR: Yes. Brief final comments, Mr Lewis?

74. MR LEWIS: As ever, Mr Mould has put his side of the argument very fairly. I don't think I've got anything to say on that. I would just mention one point. As I said, Mr Vakil is 69 now. He will be 70 by the time the Bill gets to Royal Assent. Something which has not been discussed is how long it takes once a reference is made to the tribunal to actually get the case on. You have heard about that before. I will not say anything more about that, but he will be more than 70 by the time that happens.

75. CHAIR: Thank you. Any brief final comment from the manager?

76. MR LEWIS: I told Mr Vakil that he wouldn't have to say anything. If you want to say anything more, Hilary, please do.

77. CHAIR: Do you want to make any further comments? You gave evidence before.

78. MRS PRINCE: No, that's fine.

79. CHAIR: Thank you. We now move on to AP4178, Robert Brown represented by Bidwells.

### **Robert Brown**

80. CHAIR: We have the map up on the monitor. Welcome, Mr Briggs.

81. MR BRIGGS: Good morning, chairman. I am back again. I assure you that this will be my last time. Mr Chairman, we came to the Committee on 24 November in respect of Mr Brown and the Bertylib Partnership, and we will deal with both this petition and the following one together as we did last time because the landlords and tenants do work together in this respect.

82. You may recall, Mr Chairman, if we go to A21021, please, Hunts Green Farm, which has been tenanted by the Brown family for a number of generations.

83. SIR PETER BOTTOMLEY: If we look at A15646, we are north of Great Missenden?

84. MR BRIGGS: Yes, Great Missenden, near the Leigh.

85. SIR PETER BOTTOMLEY: Thank you.

86. MR BRIGGS: After the last hearing, Mr Chairman, we went away to have further discussion with HS2 because you recall the concern was the area of land that was to be taken on the farm for the temporary soil storage during the works. I am pleased to say that we have had some further discussions. We had a meeting with HS2 earlier in the year and we have made some progress but probably not enough.

87. Could we go to the next slide, please? This is probably a very useful plan to work to. Initially under AP4 the areas that were to be taken for the soil storage were what I refer to on this plan as areas C, H, E, F and G. We put forward a proposal to move the material to area A, which is to the west of the line if I have my orientation correct. We have subsequently had some further discussions with HS2 about area B, which is at the top of the plan. Subsequent to that, HS2 have come back and indicated that they are prepared to use, subject to obtaining the necessary planning consent, area B and area A, which would then remove the requirements for areas C and H, which you may recall were the areas of permanent pasture, which were of significant concern to us.

88. If we go to the next slide, there is a commentary there from the Berks, Bucks and Oxon Wildlife Trust in the third paragraph down about the fragile habitat in that grassland. If I go back to the previous slide again you will probably recall that our further concern was the bird reserve in area D which Mrs Stewart-Liberty had planted in memory of her late husband. We were very concerned about the proximity of the works to the birds that were undoubtedly thriving in that location.

89. Where we are now is that subject to getting the necessary planning consent there is agreement in place with HS2 that they would use areas A and B, which would reduce the need for C and H. If we can achieve the necessary consent, that is great. However, we still think that there is too much of a requirement in the areas E, F and G and we would like to explore with the Committee an agreement with HS2 to reduce these areas still further. Our preference would be to utilise areas A and B in a greater way than has currently been proposed and also to look at area I which you will see, which is in the bottom west area.

90. Area I is currently in the ownership of the adjoining property known as Cottage Farm. You may recall, Mr Chairman, that I came to this Committee in early January about HS2 purchasing Cottage Farm under the Need to Sell scheme. I am pleased to say that we have made progress in respect of that and whilst things are not yet finalised, we would put forward a proposal that if HS2 do acquire Cottage Farm under the ATS, that area of land will be available.

91. SIR PETER BOTTOMLEY: They can use their own land?

92. MR BRIGGS: Exactly. So that, hopefully, sets the scene for you in that respect.

Our concerns principally are these. The areas F and G are far better quality land than the areas of A and B and if we take those areas we will still be creating a great deal more storage for the topsoil because the topsoil areas are 400 or 500 millimetres thick, whereas areas B and A, being on a Chiltern escarpment, is probably only 150 millimetres thick. That creates a significant reduction in the spoil storage that we have need for, for the temporary topsoil. We therefore believe that by judicious use of areas A, B and I we can accommodate virtually all of HS2's needs for soil storage without going at all on the eastern side of the trace.

93. If I can illustrate the topography, which you may or may not be aware of, A21027 is looking from area A down to the A413. You will see that there is quite a slope there. If we also go to the next slide, you will see the reverse coming up and where those two little dots are – one of them is Mr Brown – is approximately the position of the trace running at the top of the hill. So, what we are talking about is putting spoil on a slope. We think that there will be far more scope to put volumes in there because of the natural topography.

94. SIR PETER BOTTOMLEY: So, the land that is good, if it is physically possible, and the capacity is great?

95. MR BRIGGS: Yes. This is more starkly illustrated in the next slide and the one after. So, if we look at the next slide, this goes to area B. Imagine that the trace is running to the right of the photograph on your left and you have a dip. If you go to the next slide you will see that this dip is actually quite a significant bowl where we feel that there is capability of taking a good deal of volume of soil there, far more than the three metres that HS2 are suggesting and we would ask that the Committee direct HS2 to perhaps be more ambitious with their plans in this respect.

96. Trying to talk about volumes in various pictures is more difficult and it is probably easier to do it on a couple of tables, one of which is the next slide. The current proposal from HS2 is to take what I would call A, B, E, F and G, which is 624,000 cubic metres. We agree with A and B although we do not feel that A or B have particularly identified the full potential of the capacity. In A there has been a reduction because of Grim's Ditch, apparently, which we find slightly amusing given that Grim's Ditch will be obliterated by the trace. We are not quite sure why there is a restriction of this volume

here. If we look at the next slide, we believe that by using area I and the full volume of A based on HS2's figures before the Grim's Ditch reduction and using HS2's figures for area B, we can get to 584,000 cubic metres, which is just 40,000 cubic metres short of HS2's volume requirements. HS2's requirements there have been overestimated because we do not think that full allowance has been taken because of the reduction in topsoil storage requirements. We come back again to the ambition of HS2 and their soil movements. If one looks at their figures, initially they start off with 15 vehicle movements a day rising up to 450 vehicle movements per day. We do feel that there will be a tendency just to use this as a permanent area for storage, and material will remain there for far longer than should be required. I used the analogy last time that if we were in an area of Central London or further constrained with this type of soil movement, HS2 would have found a way to have dealt with it. It just seems to me that this is something that is nice to have rather than a necessity.

97. That said, we are prepared to be flexible. If I go back to A21202 I can point out that there is an area between the woodland here running parallel to the trace there which we think is approximately about 50 metres in width, almost a sausage going down.

98. SIR PETER BOTTOMLEY: So, if you extend the green?

99. MR BRIGGS: For the little square planting at the top, running straight down to the bottom area, we think that that could easily take a capacity of 60,000 cubic metres.

100. SIR PETER BOTTOMLEY: So, it is the near track part of F and D?

101. MR BRIGGS: Yes, re-profiling and planting. We think that that would adequately accommodate the requirements. More importantly, it would save the farm because it's keeping the most productive areas of the farm and would allow the Brown family to continue to farm there as they wish to do. The areas that we are offering there are the poorer quality farming areas, the marginal areas, if you like.

102. SIR PETER BOTTOMLEY: What's the bit just to the north of B? If you put your finger on B, it is just above it.

103. MR BRIGGS: Yes, that's an area owned by the family. That is not in Mr Brown's tenancy but it's still owned by the family. That is in another tenancy.

104. SIR PETER BOTTOMLEY: We can't easily go through that land?

105. MR BRIGGS: As is area G, but it is still owned and controlled by the Stewart-Liberty family. I think that, in a nutshell, is our concerns, where we are and what we would like addressed. The one point that HS2 have also not identified or addressed is that in the bottom corner here in AP4 they have cited a mid-point autotransformer station – I think that is the technical term for it anyway. We still believe that that should be sighted to the west rather than the east. Again, we are trying to preserve as much as we can of this area E which is so important to Mr Brown. We haven't had a response on as far as I am aware.

106. MR MOULD QC (DfT): I think I dealt with that with the Committee last time you appeared.

107. MR BRIGGS: Well, we still have an issue with that, Mr Chairman, and we're still not convinced with the discussions. If we go back to the design on AP2, which was far less intrusive area of land in E and F, we are still not sure why that seems to be now inappropriate. What we effectively suggest, to make up the volume, is if we go back to the AP2 design, the promoter referred to further mitigation earthworks but we have never been given an explanation of actually what they are. Effectively we are offering now A, B and we think that I would work, plus going back to the AP2 plans, which may be – I don't know whether you still have them – on A1642-12. I don't know whether you would be able to find that.

108. MR CLIFTON-BROWN: If HS2 say that what you have offered is not enough – Peter asked about the area to the north west – what about the little tiny bit of area to the south east? It looks as though there is a hedge line there. Could it go down to the hedge line?

109. MR BRIGGS: The area in between A and B?

110. MR CLIFTON-BROWN: Yes, the little area going further south east.

111. MR BRIGGS: Yes, we have suggested that as a possible alternative.

112. MR CLIFTON-BROWN: It seems to me that there is a lot of logic in keeping all of the soil to the west of the line.

113. MR BRIGGS: Exactly. We have suggested that as a potential alternative. Our preference would be to keep everything, if we could, to the west of the trace rather than anything to the east. That is the whole principle because that is the most important part of our farm. Once the construction is built it will be far more difficult to get across the trace with the large agricultural machineries in the homestead. We are trying to be flexible and come up with ways of dealing with it, but certainly if the area between A and B could be used, we would be much more comfortable with that. I think that is all I have to say on it unless I've missed anything.

114. CHAIR: Mr Mould?

115. MR MOULD QC (DfT): There might appear to be a logic in putting it all to the west but that logic would leave the lands to the east with an unmitigated railway. So, for example, Mr Brown or future occupiers of his farmhouse would find that the noise from the railway was considerably greater than it would be because areas F and E are required permanently in order to provide landscape bunding and noise bunding by way of mitigation, so their use for temporary purposes is anticipation of the bunding works that are required. I can show you that on P15650 where you can see the extent of permanent earthworks that are proposed in order to mitigate this railway. Bear in mind that this is an area where you have been told by many, many petitioners that the visual landscape and oral impacts of the operational railway are a source of concern because we are running through the area of outstanding natural beauty. So, this bunding here corresponds, broadly speaking, to those areas.

116. SIR PETER BOTTOMLEY: That is the reverse of the argument we heard yesterday.

117. MR MOULD QC (DfT): Can you remind me of the argument we had yesterday?

118. SIR PETER BOTTOMLEY: We had the Oxford Canal and we were told there was not much point in providing noise mitigation because there weren't many people there and if they were they were walking and would be out of the area within 20 minutes.

119. MR MOULD QC (DfT): I have just made a landscape argument as well as a noise argument but I don't think that one should overlook the importance. This is not an

area which is devoid of residents. Mr Brown's farmhouse will presumably continue to be used residentially and I think the Secretary of State, whether the current incumbent would like him to or not, feels that he has an obligation to take such reasonable steps as he can in order to try and mitigate the noise impact, but don't misunderstand me. My point is not about noise alone. It is about landscape and visual impact because we are in an area which is statutorily designated for its landscape and visual qualities and this mitigation is required for that.

120. So, it would be a retrograde step of considerable significance to assume away a permanent landscape earthwork at that point. It would mean that the railway which, in other areas, was properly and proportionately mitigated here would not be mitigated. I don't think that that is a result that the Committee would wish to see being the consequence of the outcome of this petition.

121. SIR PETER BOTTOMLEY: C and H aren't a problem?

122. MR MOULD QC (DfT): No, exactly. I can come back now to Mr Briggs's slide because I think that there is room for further work here. I just want the Committee to have a sense of keeping this in proportion because I think that Mr Briggs started off with a proportionate proposal but with respect to him I think he then moved away from what is proportionate into something that is disproportionate.

123. If we come back to his slide, what we are able to do is to pursue proposals. We believe that we can give certainty that we will not take areas C and H if planning permission can be secured for the use of areas B and A for temporary storage of materials. Area I is, as you have heard, Cottage Farm, where the Secretary of State has accepted a Need to Sell application. So, that area also is a candidate for use for temporary storage which would increase the storage that is available and might enable us to refine the areas closer into the eastern side of the trace. But, as I say, one has to proceed on the basis that there will need to be substantial permanent earthworks in areas E, F and G for the reasons that I have just given.

124. As I say, that is subject to planning permission. The reason why that is important is because these areas, B, A and I, and indeed the lands in between are areas that are highly visible from elsewhere within the valley and if one is contemplating layering, stepping up the slope so as to create a manageable, substantial earth storage and material

storage facilities there for a number of years, one needs to be realistic about the visual impact of that. One also needs to be realistic about the degree to which it may affect other environmental factors. Grim's Ditch was dismissed, but Grim's Ditch is a scheduled ancient monument and this project has been at pains to limit its impact on Grim's Ditch because of the significance of that statutory designation. One cannot simply dismiss a further impact on that monument as being of no moment. It is something which this House has said is of moment; hence its decision during Victorian times to pass the initial Ancient Monuments Act. So, I think one needs again to be a bit careful about being too dismissive of these potential impacts.

125. That said it may well be that planning application made to the local authority for the use of these lands for storage, if it is put on the basis that firstly the project has a need for storage and secondly use of these lands, subject to appropriate environmental controls will obviate the need to take valuable and useful productive farmlands, that the planning authority will readily exceed to that application and if it doesn't it may be that on an appeal against a decision not to accede to that the Secretary of State for Communities and Local Government will see the matter differently and will see that if it is a choice between visual and landscape impacts on a temporary basis from spoil storage to the west of the line and impacts of the scale that we have been told will occur to Mr Brown's farm from storage on areas C and H, that the balance should be struck in favour of the former rather than the latter.

126. So, there is merit in the proposal that from a planning point of view areas A, B and I should be used for the purpose that is being put forward. HS2 is willing, as I think has been said, to support that proposal and to do so on the basis that that would enable us to avoid the need to use areas C and H and it would provide some further prospect of reducing the area or the intensity of temporary use of the other areas to the east of the line, but because those areas are required permanently to mitigate the railway it will not enable us to avoid earthworks and landscaping works in those areas. They are needed in order to mitigate the railway.

127. So that, I think, is the true nature of the position here. Let us now proceed to formulate proposals to put to the local planning authority with a view to persuading them that it would be in the public interest to allow areas A, B and I to be used for temporary storage of materials and in that way to minimise as far as we reasonably can

the need to deposit materials on the lands to the east that are, as he said, the most valuable and productive areas of his farm, but let us do so on a realistic understanding that that will not result in us avoiding substantial permanent deposits of material in areas E, F and G because that is needed in order to provide permanent mitigation to this railway.

128. MR CLIFTON-BROWN: That is helpful, Mr Mould. Maybe it is my misunderstanding of the situation. If you were to use A, B and possibly I, why does that require planning permission? Is it not within the powers of this Bill?

129. MR MOULD QC (DfT): No, it is not within the powers of this Bill because they don't fall within Bill limits and therefore we don't have permission or authority to do anything on those lands. Clearly, in terms of land ownership there shouldn't be a problem because we will, in due course, come to own area I and, as I understand it, areas B and A are owned by the petitioners and they are willing to make them available, but we do need authority to carry out development on those lands which we would not have under the terms of the Bill because they fall outside the scope of the Bill limits and therefore those works wouldn't fall within the scope of the deemed planning permission under Clause 19.

130. It may also be that to contemplate their use for fairly prolonged, albeit temporary deposited materials at the sort of volumes that we are talking about would give rise to a change in the significant environmental effects of the project in this area which would require a supplementary environmental statement as well. None of those things is an insuperable obstacle to securing planning permission and I have illustrated where the essential balance of advantage would be struck. Certainly, I think the project's view is that it is realistic, for the reasons I have given, to anticipate a positive outcome to an application for planning permission. It's not a guarantee but it is realistic to anticipate a positive outcome, albeit it may be necessary, as I say, to go to appeal. But given that the local authorities in this area, including the local planning authority, which I think is the Chilterns and given that Chilterns' case in response to this Bill and before this Committee has been one of looking to minimise impacts upon agricultural holdings one would hope that from a planning point of view they would be receptive to a proposal put forward both by a landowner and a farmer and supported by this project to reorganise arrangements at this point on the railway so as to reduce further the impacts on just such

a holding.

131. MR BRIGGS: Can I come back on those points?

132. CHAIR: Yes.

133. MR BRIGGS: We do not accept those arguments so eloquently put forward by Mr Mould. We fail to understand why AP2 seemed to be okay, which is effectively what we are suggesting if we have a bund running between the two woodland blocks on F and E. What Mr Mould also fails to comment on is the fact that we are having fundamental damage to the soil structure of what has been an arable farm on the Chiltern escarpment for many, many years and the damage that that reprofiling will do not only to that farm which is part of the landscape and the fabric but also to the area as a whole.

134. We have very little knowledge of the requirements of these so-called mitigation earthworks which seem to be some mystical quotation that is provided to us by the HS2 ecologists. What we think we are offering is a practical solution. My clients have owned and farmed these lands for many years. They have been in the Lee for many, many years. We are offering a practical solution here to deal with this.

135. What right does HS2 feel it has to deal with the re-profiling of the contours of the Chilterns? That is effectively what we are seeing here. We are offering a practical solution; we are talking about running a small bund between the two woodland areas on F and E, but what you see on the yellow area here is wholly unnecessary. We would like this committee to give some direction in that respect to enable us to have some further discussions – practical discussions – with HS2.

136. The further point, on the auto-transformer. Mr Mould said he dealt with that at the last hearing; in fact what Mr Mould did was he dealt with the need for it to be relocated on the farm because of the tunnel extension, but he did not say why it had to be to the east rather than to the west. All we are suggesting is to move it from one side to the other.

137. CHAIR: Thank you very much; we'll reflect on what you've put to the committee in due course.

138. MR BRIGGS: Thank you.

139. CHAIR: This is the last time is it?

140. MR BRIGGS: I hope so; I will give you that assurance!

141. CHAIR: I don't know who is more relieved, me or you! Okay, we now go to 58, AP4: 61, Mr and Mrs Michael Raffety, represented by Rebecca Clutton?

**Mr and Mrs Raffety; Rafine Ltd (Trading as Turville Valley Wines)**

142. CHAIR: Hello.

143. MR RAFFETY: Hello.

144. MRS RAFFETY: Hello.

145. CHAIR: Could you introduce yourself first?

146. MRS RAFFETY: Thank you for hearing our petition; Mrs Raffety, Mr Raffety. And we are also hearing representing Turville Family Wines, trading as Rafine.

147. CHAIR: Okay. We've got the map up to see where you are.

148. MRS RAFFETY: Right, so we've got the map up; you know where we are. I know you've been to see Potter Row, and I know you've heard an awful lot from our neighbours and how adversely and severely we are affected by the proposals of HS2. We've endured almost six years of worry due to this proposed scheme, being sited just a mere two metres of our boundary.

149. At last we now have the chance to express what it's like dealing with this company, HS2, wholly owned by government; and is in our view, a very poor example of democracy in action. We are the innocent victims along with thousands of others, who just happen to live in the shadow of this scheme. In order of preference, I'd like to say, in an ideal world – although Mr Mould did say on 19<sup>th</sup>, we don't live in an ideal world – that we would like to see HS2 scrapped. I know I'm not supposed to say that, but I'm going to anyway; and the money spent on something much better, which offers a better cost ratio benefit and a better benefit to the UK as a whole.

150. Secondly, we would like to see a full tunnel throughout the Chilterns area of outstanding natural beauty; and I would like to ask you to bring up exhibit A1964, exhibit (2) or (3) whichever you prefer, in which you will see that even Mr Mould agrees with this. Mr Mould said that the key reason why the tunnel is right for the Chilterns is because the Chilterns is a hilly area; and in order to maintain the horizontal alignment of the railway through a hilly area like the Chilterns, you have to either go over it, or through it, and it makes a whole lot more sense for a whole range of reasons to go through it in a tunnel than it does to try and go over the top of it.

151. I'd just like to draw your attention to the fact that under the current plans, this proposed railway is due to be tunnelled underneath Shardeloes Lake which sits at the bottom of Misbourne Valley. It will then rise to the top of the hills at South Heath, where it pops out of the tunnel, only to travel along the surface for just over a mile, before descending on a viaduct back down to the bottom of the valley at Wendover. I just wonder if the engineer would probably be better suited to a designer for Alton Towers.

152. The other thing we would like is a tunnel to Leather Lane, protecting Potter Row and parts of South Heath that are not currently protected. The other thing we would like is for you to move the haul road to Leather Lane, therefore avoiding the risk of a runaway lorry, which you all heard about, from Great Missenden Parish Council and Great Missenden School, to stop it ploughing into the school buses, the playground, and the traffic at Misbourne roundabout. It would also ease the traffic chaos on that roundabout.

153. But you've heard all this before, so really I want to concentrate on our personal experience, and what we're asking for here is for HS2 to pay what it says on the packet, which is the full, unblighted price of our property under the Need to Sell scheme. The other ask we have is for an independent assessor to assist in all cases where the owners of blighted properties can be assisted in tackling this culture which we have experienced from the top of HS2, i.e. Simon Kirby right down to the bottom, where the culture is, we are right and no negotiation is possible: here is your offer, take it or leave it. We just think that's plain unfair.

154. Exhibit A1964(5)? Right, you can see the hatched area and that is us. You can

see the boundaries of the scheme. This shows our location, and since HS2 was first announced our situation has become worse. The cutting at the rear of our property has diminished from 18 metres to 8.5-9 metres – that's without factoring in the two metre tolerance. The railway line has moved closer and The Firs now sits within the VPZ and all three homeowner payments. The house is approximately 200 metres from the centre line. The land for this project is being taken right up to our boundary, more or less.

155. We now have a haul road, carrying various HGV vehicles, 350 MOXY trucks a day will travel along this road, all within close proximity of our garden. Post construction we will have a high speed railway at the bottom of the garden, a permanent access road, and balancing pond. You can see we are really not in a very good position here.

156. Currently, we open the curtains and we enjoy beautiful views over open fields, lots of trees, we live in an area of outstanding natural beauty and we chose this area, so this sort of thing could not happen. We don't want to live with years of polluting construction vehicles travelling on our boundary, followed by the fastest train in Europe. Despite assurances that I've heard given by HS2 and its representatives, the construction and running of this railway will not be conducive to a relaxing environment. The very fact that we are here today proves we are both injuriously and adversely affected by this scheme. The fact that we have accepted on the Need to Sell scheme says we have an unreasonable burden placed on us.

157. If I could have A1964(8), it shows our house. As you can see, it's a lovely house, you can flick through them if you want to. We've lived here for 28 years, we've brought up three children, and spent many years renovating and improving the property. This has been hard-earned, taxed income, that we've ploughed back into our home – not because we want to make a quick profit, but because it's our home and we used to really love living there. Now it feels much more like a prison. We feel trapped; we no longer have the peaceful enjoyment of our home. When looking beyond the garden, we can only imagine the destruction and rape of the landscape we enjoy. The noise, dirt and pollution that will ensue. But this is not only our home; it's also our place of work. Our business has been compromised too. You'll hear more from Mr Raffety in a minute. We've been unable to invest in its future over the last five or six years, as we didn't know whether we would in fact have a future for our business here if we had to remain.

But that was all dealt with in our Need to Sell application.

158. I'm now going to ask you to bring up exhibit A1964(33)? Which documents the – briefly, this documents our attempts to sell the property. In March 2010, very shortly after HS2 was announced, we asked Knight Frank to come and value the property – we thought this would be a very good idea, because currently it was unblighted. They came along and as you can see, they suggested a price of £3.25 million. Now I know this is a lot of money, but we've worked really hard for that money; we've worked 11 hours a day, five, six, sometimes seven days a week. It's been hard-earned. You'll also notice that Malsdon End is there, which we'll come to later, because it's one of the comparables used by Carter Jonas.

159. So in 2010, Knight Frank said it was worth £3.25 million. On the other side of the exhibit, you will see that on 14 July, we had Hamptons value the property, and if you look at the bottom part of that, it gives you a price, 'Should HS2 not exist, we would suggest that a suitable price guide for the property is likely to lie in the region of £3 to £3.25 million, and with healthy competition, in a reasonable market, we would not be surprised to see this figure climb to £3.5 million.' They then go on to suggest that we put it on at £2.75 million due to HS2.

160. We also, trying to second guess what HS2 were going to be like to deal with, got a Red Book valuation done, Exhibit A1964(34) and (35). So that HS2 couldn't say, 'Oh, it was only a marketing ploy, you needed to have a Red Book valuation'. We paid the money, we had a Red Book valuation – yes, they always come in lower than a marketing appraisal, but they came in, in 2010 – what date was it? – June 2010, at £2.750 million. So we tried to cover all eventualities.

161. We waited until 2012 to market the property. This is because we thought, well, HS2 is such a ridiculous idea that maybe somebody was going to cancel it. Sadly they didn't, and that's why we are here today. So, in 2012, we tried to market the property. We put The Firs on with Knight Frank at £3.25 million, had lots of positive feedback from numerous viewers who loved the house, but no, not with HS2, sorry. So we reduced the price to £2.75 million. Again, lovely house, no, sorry, don't like HS2. We reduced the price to £2.5 million. Same scenario. Knight Frank then gave us notice, saying that The Firs was significantly blighted, and they no longer wished to act for us –

clearly having this house languish on their books was not good for their publicity.

162. We then put The Firs on the market with Chewton Rose in June 2014, at £3 million. They suggested this price; they sold a house much less impressive than ours for £2.8 million, which was blighted by a different project. But they were confident that we would get £3 million. Sadly this was not the case, and we had the same scenario of viewers coming to look, loved the house, but no thank you, don't want HS2 at the bottom of the garden. Eventually, we did find somebody who was willing to purchase our price. This was in November 2014 and that was at a price of £2.35 million. So we've established a blighted price for our house.

163. Now, we didn't know whether we would be accepted for the Need to Sell or not. We are in an awful position because we not only stand to lose the value of our house, but we also stood to lose the employees that my husband will tell you a little bit more about later; we stood to lose our business. So do we cut our losses and run at £2.3 million? Or do we wait? Well, we heard that Need to Sell was coming along; we thought we had a really good chance at it, because our situation was pretty dire. So we said to the prospective purchaser at £2.35 million, can you wait? Can you see if your application is successful? They agreed they would wait a few months and see if our application was successful. But unfortunately, the 12-week period as put out by HS2 turned out to be a lot longer; they got fed up with waiting, and went elsewhere.

164. So, in January 2015, the Need to Sell and the voluntary purchase was launched, and we applied to both. We were within the VPZ, but not 25% within the VPZ, so we were advised by HS2 to put in for it anyway; that was a delay. And then we put in for Need to Sell once we were rejected for that. Exhibit A1964(36) and (37)? We found the Need to Sell application arduous and off-putting. We felt we really needed help with the rigorous questioning which followed, and the whole experience was incredibly time consuming. We employed a barrister, Rebecca Clutton, who spent over 28 hours helping us to prepare our case. Now, I think I must have spent at least three-times that much just collating the sheer volume of information that was requested of us. Now, what I'd also like to say is that many of my neighbours don't have the time, are not computer literate, and do not have the funds to pay for this help. We were lucky, because we were both capable, relatively young, and able to put in the time and effort to get us the Need to Sell process. It should be made much more user-friendly. The

hostile responses are dressed up as questions, but they are nonetheless threatening. Financial information was asked for, despite it not forming part of our claim.

165. Anyhow, we were accepted on the Need to Sell scheme on 14 July. We were the 21<sup>st</sup> people to be accepted onto this scheme. I thought our problems were over, and my husband was much more sceptical and he said, I think we will just have to wait and see what sort of offer we get. So, we were accepted on the scheme, and we noted that out of the pool of five valuers, there was only one with any local knowledge of the Great Missenden area. So we chose Savills, who have an office in Amersham. We had grave concern over the other valuers because they had no local experience; I brought this up with Simon Kirby in a letter to him. He claimed that Carter Jonas and Strutt & Parker do have local experience, but I emphasise that all this experience is post-HS2. They have no experience of how the unblighted market worked in the Great Missenden area. They had lack of understanding of how desirable Potter Row, Great Missenden was, until it was blighted by HS2.

166. So we chose Savills, HS2 chose Carter Jonas. We had the valuations done by Savills on 25 August 2015, and Carter Jonas came out the day after on the 26<sup>th</sup>. Savills spent over two hours looking at the house and the garden, asking me questions, and genuinely being interested. Carter Jonas spent under an hour looking at The Firs. They were late; they told me they were late, they told me they were in a hurry. I had concerns when they left about their valuation as they were so quick – all they seemed to want to do is measure the rooms – they barely looked at the house, which is borne out by the various mistakes in the valuation that they made, which we have pointed out to them. I was very upset. As I told my husband, I thought they had already decided on the price before they even got there, by taking it just straight off the internet, which indeed was the price of £2.5 million. My concerns were borne out once we received their valuation.

167. There were mistakes in the description of the property; they left off rooms; they left off staircases; they left off three garages in their summary. I was not impressed. Because the valuations came in more than 10% apart – but actually it was £900,000 apart, so we are not talking small sums here – Strutt & Parker, we chose, to conduct a third valuation due to the 10% rule. Now, we wouldn't necessarily have chosen them, but they were the only ones left to us, because Bruton Knowles are commercial, and we didn't want the Valuation Office because they are part of government, so I was worried

about a conflict of interest, and it clearly says we can opt out of the Valuation Office.

168. Sarah Procter who conducted the valuation for Strutt & Parker, I phoned her shortly before she came, just how long she had allocated for her valuation of The Firs. She said, 'I've allocated 30 minutes'. Now, 30 minutes to value a house that size, Red Book, is not enough. I told her this would not be long enough, and she said she'd bring her colleague, a more senior valuer, which indeed she did. But I was quite surprised when he turned around and asked me what the valuations were that I had already received from Savills, and Carter Jonas, because clearly they'd been called in because it was more than a 10% difference. I told him I didn't know, and that wasn't how the system worked.

169. So, on 16 September, that's when Strutt & Parker came in. On 2 October, we got our offer from HS2 to purchase our property at £2.65 million. Now, bearing in mind that is less than the Red Book valuation that was conducted five years prior to that. We found out what the valuations were, Carter Jonas indeed had come in with the price off the internet of £2.5 million. Savills had come in at £3.4 million. Carter Jonas, interestingly enough, had come in a little over 10% over the Carter Jonas – sorry, Strutt & Parker had come in a little bit more than 10% than the Carter Jonas at £2.8 million.

170. On 9 October, Farrar's, our lawyers, responded saying we intended to raise a number of concerns. On 13 November, a full response to the valuations was sent to HS2. Now, this response is very long so I don't know whether you or the committee want to have a look at that?

171. CHAIR: We have all the paperwork anyway so we can read it.

172. MRS RAFFETY: Okay. So, that is exhibit A1964(45) onwards. I think there's 21 pages.

173. CHAIR: Okay.

174. MRS RAFFETY: So our concerns were that our house was seriously undervalued. The reason it was seriously undervalued is because nobody wants to buy it because of HS2; it's blighted. So, what I did was I set about looking at the comparables that Carter Jonas had used, and Strutt & Parker. Now, I was able to spot all the

deficiencies in the Carter Jonas valuation. I had spent a lot of time – I actually went and visited the comparables that they had simply pulled off the internet. I went and spoke to all the selling agents that they had listed as the selling agents. One of them was listed as Jeremy Swan, down in Great Missenden. He was listed as the selling agent for a property called Richmond House. Now, this was used as a comparable with ours. He denied being the selling agent but did say he'd sold that very property in the year 2006 for £2.3 million, but in 2015 it sold for a mere £1.96 million, despite the owner putting lots of money into it and renovating it.

175. Now, I would say that only goes to show that Great Missenden is blighted. It might be blighted with a little 'b' rather than a big 'b', but it's still blighted. He goes on to describe another comparable that they'd used, Flintfield as being tenuous. Now, his full letter, if you want to read that, can be seen from exhibit (45) onwards. Now, Malsdon End was another comparable, and Knight Frank used that and its 2010 valuation of The Firs. Then we were valued at £250,000 more. Carter Jonas just put The Firs as a mere 5% more in their valuation.

176. But I'm going to come onto the problems – and this is the main thing. The main problem with I have with Strutt & Parker valuation, which I believe is A2110(1) onwards, and if we can have a look at page (10)? This does not follow HS2's very own guidelines. If you see at the top there, it says, 'Actual evidence of completed transactions is required, including the asking price, sale price and the date, which should be summarised in the table'. It goes on to say, 'If a blighted property has been used, state what adjustments have been made to the subject property at its unblighted figure', and it also goes on to say, 'At least one clearly unblighted transaction should be used as part of the comparable evidence'.

177. So if we just look at these comparables, firstly we've got the Old Rectory at Saunderton. Now, they've used that – and it's only under offer. To this day, that property remains on the open market. It should never have been used as a comparable, one, for that reason. But not only for that, but because this property sits on a triangular shaped piece of land, and it has the Chiltern Line going down one side, London to Birmingham north; and on the other side, it has the Birmingham to London south bound on the other side. The house sits 120 metres between each. So that property would be eligible if it were on the HS2 scheme, for voluntary purchase. So why is that being used

to value The Firs? But anyway, it shouldn't be there in the first place; it hasn't sold, it's still on the open market.

178. If you scroll up, we'll have a look at the next comparable property? No, not that one, back down again? Next one. The Manor House. That one was not a completed transaction either; that was only exchanged. At the time of that exchange, that property sat within 1km of the portal that was popping out at Mantle's Wood. Now if we go to exhibit (52) briefly – we'll come back to the comparables afterwards – please? A1964(52), sorry? Right, here, number 35, this is what we wrote to HS2 about the Manor House, 'Further, at the time the contracts for sale were exchanged, the comparable was located approximately 1km from the tunnel portal. Research conducted by CBRE on behalf of HS2 in 2010 found that the values had weakened by an average of nearly 10% in Zone A locations near a tunnel entrance. The closer to the portal, the more negative the impact. Therefore we would suggest that 1km is a very modest distance, being well within the range identified for blight studies, including the Hamptons Blight Study of 2014'. So we would say, the Manor House was blighted, for that very reason that it's within 1km of the portal.

179. If we could go back to the list of comparables please? Scroll up again to 12? Right, The Garden House is the next one. Again, this one has only exchanged. Now, HS2 requires evidence of completed sales. The Garden House is described by Strutt & Parker as being blighted. HS2 runs underneath it. Now, some people say that's not blighted, other people say it is, but anyway, Strutt & Parker have said it's blighted and they have made no adjustment for that blight; they have not added any percentage for an unblighted price. If you could scroll up again please?

180. Right, Trackways, Chinnor. This is just bids; so this is nonsense. It should not even been on there, and to this day Knight Frank tell me it's still on the market and it hasn't sold. So that should be discounted.

181. MR CLIFTON-BROWN: Can I just ask you?

182. MRS RAFFETY: Certainly.

183. MR CLIFTON-BROWN: It would be really helpful: the greatest weight of the evidence you've presented to us is the Red Book valuation by Savills in 2010; it would

be then possible to do a simple extrapolation of how general property prices in the Chilterns have increased between 2010 and 2015 and work out what the true value of your property is?

184. MRS RAFFETY: Yes.

185. MR CLIFTON-BROWN: I don't know whether there's a page missing? I'm looking at Exhibit A1964(35), where I'm looking at the comparisons; what I want to know is whether there's any evidence on those comparisons that they were actually sold. So that page produces Beechwood Farm, Buckland Common; and then there's something, grounds of 23 acres at the top of that page, but we don't have it?

186. MRS RAFFETY: I don't have it either.

187. MR CLIFTON-BROWN: Do you know what the comparisons Savills used in doing that valuation?

188. MRS RAFFETY: I do have it but not as an exhibit. But what I do want to show you, which is pertinent to your question is, if we go back to the Strutt & Parker valuation, I was just going to say – if I could just finish with the comparables, I've only got one more to go, so if we could go back to the comparables? Molloway House, that one did sell – that's the only one that they've sold, and if we look at Exhibit A1964(55) and (56), this is a property in Dunsmore. Now, I know this committee has heard a lot from Dunsmore. Let's have (56) actually, next one? Here we go. (56). You heard from a William Lee about the blight in Dunsmore, and this is what he said: 'I'm a Fellow of the Royal Institute of Chartered Surveyors, I've worked for most of the major firms, I've worked for Savills, I've worked for Carter Jonas, I've worked for Lane Fox, which were then merged with Strutt & Parker', and he retired in 2011. He says that Dunsmore is blighted. Clearly – now, the fear of blight and the actual HS2 blight is very apparent in Dunsmore; it traps people, so again, we've got a blighted property used.

189. So, my problem with the Strutt & Parker valuation is two-fold. One, they didn't use completed transactions, and I ask, out of the three properties that are left, the one in Dunsmore; the one in Chalfont with HS2 going underneath it; and the one in Little Missenden, by the portal, which one of those is clearly unblighted? Is there one, clearly

unblighted property? I don't think so.

190. But if we go back to the Strutt & Parker valuation I will answer your question about the Red Book valuation. It is difficult to find out which one – if we could go back to the Strutt & Parker valuation please?

191. MR CLIFTON-BROWN: 1964(35)? It was at the top of that page that I was wondering –

192. MRS RAFFETY: No, not that one; it's the Strutt & Parker one –

193. MR CLIFTON-BROWN: Sorry, I was listing the Savills Red Book valuation?

194. MRS RAFFETY: Yes.

195. MR CLIFTON-BROWN: But it's the top of that page that I was looking for.

196. MRS RAFFETY: Okay, so what was your question here?

197. MR CLIFTON-BROWN: Well, I was wanting to know what comparisons Savills had used in that Red Book valuation, and I was wanting to know whether any of those comparisons had actually been sold in 2010 at an unblighted market value?

198. MRS RAFFETY: Well, I've got the whole valuation here if you want to...?

199. MR CLIFTON-BROWN: Could I just see it?

200. MRS RAFFETY: Certainly.

201. MR CLIFTON-BROWN: Have you seen this?

202. MRS RAFFETY: Yes they have.

203. MR CLIFTON-BROWN: I'm just checking; apparently under our procedures, the promoters need to have seen this.

204. MRS RAFFETY: They have seen it; they have dismissed this valuation as being out of date.

205. MR CLIFTON-BROWN: Thank you.

206. MRS RAFFETY: But Strutt & Parker go on in the market evaluation here, if we could scroll up – I think it's scrolling up? Right, actually, if you need to scroll back, before the table of comparable evidence, keep going, page (9), that should be it. It says – this is the Strutt & Parker valuation. It says, 'in relation to housing stock' – where is it now? Here we go, shows the growth rate. Sorry, I've lost my thread.

207. Well, anyway, in light of all this information, and the fact that Strutt & Parker say that house prices in HP16 have increased by 23.7% in the five years, if you take the Red Book valuation that was done five years before, add the 23.7%, we are up to a figure of £3.3 million, roughly. We also can work the figures back a different way by saying, okay we've established a blighted price for our price for our house. Somebody was actually willing to come along and endure 10 years of mayhem at the bottom of the garden and pay £2.35 million for it. Now CBRE and PWC, Deloitte, have all done various different blight studies, and in our zone, if you can sell, they've come up with a figure of 30-40% depreciation. Now, we all know, also, that the more expensive the house, the bigger the percentage of loss. If you add 35% to £2.35 million or 40% it takes it up to the figure of £3.3 to £3.4 million. So, we're feeling decidedly cheated off that HS2 are not doing what it says on the packet, by offering us a fair, full, unblighted price.

208. We have spoken to HS2; we have put in a 21 page letter; we've put in numerous letters, and everything has just been batted off, and we have come up against a brick wall. We've asked for meetings with HS2; we've asked if Strutt & Parker now that they've opened a local office, could come and re-do the valuation, in accordance with HS2's own guidelines. Brick wall, no we can't do that. We've spoken to Mr Mould in the corridor, who said it would be more appealing to have a fourth valuation, but when it comes to it, Mr Simon Kirby has said no. Our offer has been increased – because Carter Jonas have admitted their mistakes, after all my hard work, they've increased their value by £300,000 – without actually giving us an explanation why, although it's very welcome obviously – whereas Strutt & Parker are unwilling to move. Now, we have tried to speak to HS2; we have tried to have a meeting. Our lawyers have tried to have a meeting, but the offer is, now £2.8 million: take it or leave it. We feel deeply aggrieved at this.

209. HS2's derisory response of four pages to our 21, did not adequately deal with all

of the points we've raised; and Mr Simon Kirby acknowledged that not all these matters had been addressed. They are particularly dismissive of the relevance of the 2010 valuation, which I think is highly relevant because at that point, the house was not blighted, and Savills knew the local market. We've taken this to the highest level, but I'm afraid we don't seem to be getting anywhere. So I've come to you, the Select Committee to see if you can help.

210. The lack of any independent oversight, overseer, or complaints seems to just be batted off. We've got nowhere to go with this; this is the offer, take it or leave it. We still don't know which is the unblighted property that Strutt & Parker used in their valuation; and we still believe that they should have used completed transactions. So our ask is that HS2 honour its commitment to offering the innocent victims of HS2 a full and fair unblighted price; as I said, we're only number 21. I can only see this situation getting worse and worse as it travels up the line. I don't know what's happened about the interim report, on the Need to Sell and whether any recommendations have been put forward –

211. CHAIR: A response was published yesterday on the Department for Transport website –

212. MRS RAFFETY: Oh right, well I haven't seen it. Did it make any recommendations?

213. CHAIR: Some changes to do with valuations, yes.

214. MRS RAFFETY: That might affect us?

215. CHAIR: I wouldn't like to make any individual comment to any individual, but I'd have a look at it.

216. MRS RAFFETY: Okay.

217. CHAIR: I think the points about valuations have been well-understood.

218. MRS RAFFETY: Okay, well I just want to say, how I am very deeply saddened that this company, HS2, wholly owned by government does not behave in a democratic way. I feel this whole experience shows government itself not to be trusted; and there's

no way we can hold them accountable for their actions. In the words of David Lidington in front of this committee last week, he said, there have been too many cases of downright incompetence and a refusal to acknowledge mistakes. Now, I put it to you that HS2 have refused to acknowledge the mistakes of both Carter Jonas and Strutt & Parker, and I feel they have used those mistakes to their own advantage and I feel we are being done out of what is rightfully ours – which is the full, fair, unblighted price of our property. I think that's all I've got to say, so thank you.

219. CHAIR: Does your husband want to say something as well?

220. MR RAFFETY: Yes I want to say a few words. I've been running my wine company, Turville Valley Wines for 36 years, 28 of those from The Firs. It's a lifestyle business: we like to work in the countryside, I like to work from home, work with the community. We work in pleasant surroundings. I have four employees; they all enjoy the location. In the summer, we have the doors and windows open. They've worked for me for 27, 23, 12 and 10 years. I appreciate their loyalty.

221. We sell wines all around the world, and pride ourselves on a personal service. Customers often make contact 24 hours a day. The stress of the last six years has been intolerable. I've been unable to plan, expand or reassure my staff. New computer systems have been put on hold; everything has been put on hold. I feel I've been robbed of my house, my business and my lifestyle. I have not asked for any compensation for the business; just a fair price for our home.

222. I cannot begin to describe the stress of the last six years for us and our neighbours. Would we lose our houses? Would we just walk away? Or would we have to live in intolerable conditions? I honestly fear for the health of my wife and many of my neighbours, who have been under tremendous strain. It's all so unnecessary. My wife has spent an enormous amount of time over the last year preparing our Need to Sell request, and since we were accepted in July, we've had to fight to get a fair price. Mr Mould: two weeks ago, you said in this room, HS2 are not trying to cheat people. It doesn't feel like that. Our valuations were £900,000 apart. I was told by an HS2 representative at an AP4 roadshow in Ballinger that even HS2 were surprised by those differences. The high estimate was in line with the valuations given by local agents Knight Frank, Savills, Hamptons and Jeremy Swan, many of whom did not agree with

the Carter Jonas and Strutt & Parker valuations. Surely, HS2 smelt a rat? But they ignored the local evaluations, and said that the Red Book valuation done by Savills in 2010 was out of date.

223. Even when we supplied all the information to dispute the valuations, they ignored them. Many of our queries have never been answered. I feel the valuations of Carter Jonas and Strutt & Parker are inaccurate, amateurish, and I would say, flawed and unreliable. Mr Mould, it really doesn't feel like we're getting a fair deal. Two weeks ago, you suggested that we write to HS2 suggesting another local valuation. I'm afraid they rejected that out of hand. Despite approaching the Chief Executive, Simon Kirby, we have still come up against the same brick wall. He did acknowledge in his initial reply that all points should be addressed. Well, they still haven't.

224. HS2 are not interested in helping us; they just want to buy our property as cheaply as possible. We resent their unsympathetic, take it or leave it attitude. I feel this is unfair, undemocratic, and daylight robbery. We should not have to be here today, pleading our case. We should not have to go to the added expense of employing counsel to help us with our Need to Sell application. The Need to Sell scheme is flawed, one-sided and not fit for purpose. We have nowhere else to go. There is no independent overseer of complaints, for dealing with valuations: just a take it or leave it attitude. How do we get justice? All we want is a reasonable, unblighted price for our family home that we are being forced out of. If the government want to build this railway, they should pay for it, not the people who are being forced out of their homes. That's really all I've got to say.

225. CHAIR: Thank you, Mr Mould?

226. MR MOULD QC (DfT): The first thing I would say is this: of course, I acknowledge that the petitioners harbour a strong sense of grievance about the price that has been offered to them for the purchase of their property, the purchase of which has been accepted under the Need to Sell scheme. But of course, it is not enough that there is a strong sense of grievance. One has to look at the underlying facts to see if that sense of grievance is justified. The overarching point here – and I will deal with this in a little more detail but I hope not too much because the matters can really be expressed relatively shortly – the overarching point here is that the Need to Sell scheme is a

published scheme, it followed a process of public consultation, and in that scheme, the process for valuation is made very clear. There will be valuations undertaken by valuers who are selected from a panel. Two valuations will be undertaken. In the event that there is some – a lack of satisfaction with the output of those valuations, a third valuation will be undertaken and the Secretary of State will pay a price, which represents the average of the two closest valuations.

227. That is what has been done in this case. Three valuations have been undertaken from the panel of valuers. The valuations provided with detailed valuation reports, by professional and experienced valuers, and the valuations that were provided were, in turn, Savills at £3.4 million; Strutt & Parker at £2.8 million; and Carter Jonas at £2.8 million. So applying the published policy, the Secretary of State's offer has been made at £2.8 million. That's representing –

228. MR CLIFTON-BROWN: Carter Jonas I think were lower than £2.8 million –

229. MR MOULD QC (DfT): Their revised valuation. Where we are at the moment, they revised up, having been asked to review the matter. So the current position is £2.8 million, and that reflects the approach which the Secretary of State has indicated he will follow. Those valuations have been challenged – those two valuations at £2.8 million, as you have heard. In response to that challenge, the Chief Executive of HS2 Limited has asked that the matter be investigated. He has responded personally to the petitioner's lawyers, having carried out that investigation, and earlier this week, HS2 provided a detailed response to the detailed complaints, criticisms made of both Strutt & Parkers and Carter Jonas' valuations in a letter that has been sent to, again, the petitioner's lawyers. In particular, that letter responded to the concerns about the reliability of a number of the comparables that you've heard about, and explained the response to that from the valuers who carried out those valuations; and also a response was given by Mr Kirby, the Chief Executive of HS2 in his letter to the concern that the valuers in question did not have sufficient local knowledge.

230. If I just show you P14914(1), just to see how that process came to a head, as it were. If we just scroll down to the bottom of the page, you can see that having been approached by the petitioner's solicitors during the middle part of last month, Mr Kirby CEO wrote to the solicitors and said that he – if you just scroll over to page 2? – that

HS2 Limited were reviewing the letters and asked for a little time to enable that to be done. Then a response would be made and matters could then take their course.

231. If you then go back to the first page, you can see the response to that from the petitioner's lawyers, 'Thank you for your email, keeping you updated... Mr and Mrs Raffety are incredibly grateful that Mr Kirby is taking the time to personally look into this matter, the process has been incredibly stressful to them.', then reference to Mrs Raffety suffering from alopecia, continues to suffer from insomnia and so forth. And, 'My clients appreciate that it is an unusual step to contact Mr Kirby directly, but this really was their last resort... they've engaged with HS2 staff, and they feel it's not been met with a fair and reasonable offer that would enable them to move forward', and so forth.

232. So that's the grievance in a nutshell. Then we go to A21091? We have Mr Kirby's letter in response. You can see from the second paragraph, since the petitioner's letter, a review of the valuation reports has taken place and a review undertaken by a senior chartered surveyor within HS2 Limited, whose name is given, who has not previously been involved in the case. He has concluded that the valuation reports are at an appropriate professional standard, and Mr Kirby confirms that there doesn't appear to be any material deficiency in their reports. He points out that valuation is ultimately a matter of professional opinion and he is satisfied that the opinions given were to an acceptable standard –

233. MR HENDRICK: If it was just £100,000, fair enough. But we are talking a lot more than £100,000.

234. MR MOULD QC (DfT): Well, we are talking about a divergence of opinion of £0.6 million in overall values that range between £3.4 million –

235. MR HENDRICK: Well, £0.6 million is a significant percentage of the price.

236. MR MOULD QC (DfT): It is in the nature of valuation that these discrepancies arise, and they –

237. MR HENDRICK: Well, we know they arise; it's the magnitude.

238. MR MOULD QC (DfT): And they are particularly rife – they are particularly

likely to arise in relation to high-end, high-value properties, where the market is more difficult to judge, and where the impact, for example, in changes in stamp duty and that kind of thing can give rise to differences of view.

239. But to those who are experienced in the valuation world, those sort of variations in the context of the high-end value property that we're dealing with, I would suggest are not surprising, and they are reflected in the fact that we were told back in 2010 the range of valuations that the petitioners received from their own valuers ranged between £3.25 million from Savills, down through £3 million from Hamptons, and Red Book valuation at £2.75 million. So again, their own valuations displayed a similar range. This is the nature of valuation of this kind of property. You can't just go and pick off – it's not like valuing a terraced house where you can go and pick any number of comparable properties, comparable transactions off the shelf and have a pretty clear view of where the price is going to be, within the range of a few hundred or a few thousand pounds.

240. MR HENDRICK: No, but as a percentage of –

241. MR MOULD QC (DfT): Dealing with a property that is to a significant degree not susceptible to direct comparability because you saw the nature of the property, you saw the photographs. It's a property with substantial land; there is a strong element of judgement here. That is why the Secretary of State's policy provides for no less than three valuations so that he can make a judgement based upon that range and he has said that his policy is to select the average between the two closest valuations, to introduce a measure of objective reliability into the process. That is the output here.

242. The point is that, understandably, the petitioners would like to be paid the highest of those valuations. We understand that. Or they would like to see, failing that, they'd like to see an average drawn between all three valuations, so that they have a sum between £2.8 million and £3.4 million. But that is not the process that has been laid down under the Need to Sell policy. That is not the point. If we're going to be fair across all applicants, we can't just accede, ad hoc, to the - the Secretary of State can't just accede, ad hoc, to the grievances of one particular applicant for the Need to Sell scheme who would prefer to see the highest of the valuations as the price paid to them. The Secretary of State would then be faced with the same application being made from

every applicant where there is a range of values that come back. He has got, in the public interest and in his duties to the public purse, to stick to the procedures –

243. MR HENDRICK: Mr Mould, nobody is refuting the procedure. The process to me seems to be a fair one.

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

245. MR HENDRICK: What doesn't seem fair is the magnitude of the divergence between the prices. And the fact that a valuation has now been revised upwards tell a tale in itself. Now, what is the reason for that increased valuation?

246. MR MOULD QC (DfT): What, from £2.65 million to £2.8 million?

247. MR HENDRICK: To £3.1 million.

248. MR MOULD QC (DfT): That isn't the increase, Mr Hendrick.

249. MR HENDRICK: Sorry £2.5 million to £2.8 million.

250. MR MOULD QC (DfT): Yes. The valuer was asked to review that valuation to see whether there were –

251. MR HENDRICK: So there were mistakes made?

252. MR MOULD QC (DfT): Not mistakes made but there were points that were made that there were concerns about whether aspects of that valuation merited review, and the valuer agreed to undertake that review. That same process has been gone through in the last two or three weeks in relation to the outstanding concerns of these petitioners. Mr Kirby has asked for a review. That review has been carried out. It has involved both an internal review by a senior HS2 surveyor who has not been involved hitherto in this case, and it has also involved a review by the two valuers whose valuations are criticised by the petitioners. Those criticisms have been put to those valuers and they have responded to them, and that is the subject matter. And their responses are set out in the letter to the petitioners' solicitors of 2 February.

253. So the process that you have just identified, that process has continued and where we are today is that the concerns that have been raised, the substantive concerns about

the reliability of the valuations, have been answered.

254. Now, my position is to say that the Secretary of State can see nothing more that he should do in the light of that in order to address this sale. He has made an offer which reflects the procedures under which the scheme operates and he has, in response to concerns about the reliability of that offer, had a review carried out and he has provided an answer to the concerns that led to that review. That is where we are. As I say, I can understand the grievance that the petitioners have because they believe that the price that they should be paid is a higher price within the range. But I'm afraid that is an inescapable consequence of the scheme that the government has decided is appropriate following public consultation and which the Secretary of State judges to draw the right balance between his desire to provide some discretionary relief to those affected by the railway and his obligation to the public purse to ensure that he is able to justify the price that he pays for these properties if he's called upon to do so, for example by the Public Accounts Committee. If he pays out a sum which is significantly above that which he is told by the valuers he should be paying, then he will have difficulty in justifying that extra expenditure. That is the reality of the situation here.

255. So, you know, I think I've said all that I can.

256. MR CLIFTON-BROWN: I think the reality of the situation is that HS2 should be paying proper value for properties.

257. MR MOULD QC (DfT): Which is exactly what is being offered.

258. MR CLIFTON-BROWN: That is the basis on which the Need to Sell scheme can operate. I have one or two questions. I'd like to ask the petitioner, firstly, that Savills valuation carried out in 2010, I've reviewed it. It looks to me to be a highly professional document. It is the only really cast iron document we've got because it is a red-book valuation and it goes into substantial detail. And it looks to me as though it establishes a very good basis for their valuation in 2010 of £700 per square foot. Now, you tell us on reliable information that the property values between 2010 and 2015 on an unblighted basis have increased by 23%, I think you said.

259. MRS RAFFETY: 23.7%.

260. MR CLIFTON-BROWN: I haven't got a calculator. If you applied that 23.7% to 2.75 what value does it give you?

261. MRS RAFFETY: I think it comes out at about 3.3. But maybe somebody with a calculator can –

262. MR CLIFTON-BROWN: 3.3? So that is a very good basis of where we're likely to be. Mr Mould, in my view it is very rare, and somebody's not doing a professional job if they come back and alter their valuation.

263. MRS RAFFETY: Yeah, hear, hear.

264. MR CLIFTON-BROWN: So I think that we can have reasonable grounds for suspicion that Carter Jonas' valuation in the first place was flawed.

265. MR MOULD QC (DfT): Well, they have reviewed it and they have provided an increased figure.

266. MR CLIFTON-BROWN: And from the petitioner's evidence, how do we know that it's not still flawed?

267. MRS RAFFETY: Exactly.

268. MR MOULD QC (DfT): Well, we can be confident that it is not still flawed, as you put it – though I wouldn't choose your words – because not only have they reviewed it themselves and increased it but also there has been a further internal and a further external review of that valuation to take account of the criticisms which have been made of it; and those criticisms have been investigated and they have not been accepted.

269. MR CLIFTON-BROWN: Investigated by who?

270. MR MOULD QC (DfT): By a senior valuer within HS2 who has –

271. MR CLIFTON-BROWN: Who has a vested interest.

272. MR MOULD QC (DfT): No, he doesn't have a... He has a professional duty to fulfil his –

273. MR CLIFTON-BROWN: He has a professional duty –

274. MR MOULD QC (DfT): Mr Clifton-Brown –

275. MR CLIFTON-BROWN: Let me pursue my questions. He has a professional duty to try and produce a price which is favourable to HS2.

276. MR MOULD QC (DfT): Not at all. I wouldn't accept that for a minute. And I think that – not yourself – things have been said in this room over the last half-an-hour –

277. MR CLIFTON-BROWN: Can I make a suggestion?

278. MR MOULD QC (DfT): Can I just finish this point? That in a less febrile atmosphere than perhaps has been generated over the last few minutes, people might have reflected on whether they were things that they should have been saying. Because we are dealing here with people from your own profession who are used and experienced in carrying out these works. They exercise their professional judgement. I know from my professional experience, because I as a lawyer have spent a good deal of time over the last 25 to 30 years working in this field, and I know that a very great deal of dispute can arise in relation to valuation because it is an inherently uncertain and judgemental process. And the figures that we have seen here are by no means unusual in terms of the differences, in my experience, and I have no doubt that the same is true in your experience as well.

279. And so to suggest that professionals who are engaged honestly in their duties... and that is an assumption which I would invite all those who are engaged in this debate to make because it is a reasonable assumption to make and there is no evidence to support any contrary view that those professionals engaged in honestly and diligently seeking to fulfil their role have come to the views that they have. Now, that is not satisfactory to these petitioners because they believe that they should be paid more. But I have explained the process.

280. If you require an answer to the technical question that you put about the Savills valuation in 2010, I can call Mr Smith to deal with that.

281. MR CLIFTON-BROWN: Valuers can argue. I accept entirely what you say. Different valuers will come up with different values. But can we agree between us that

what the Need to Sell scheme should do is provide any applicant of the Need to Sell with a fair value?

282. MR MOULD QC (DfT): If you mean by 'a fair value' a value that reflects the unblighted open market value of their property, yes. And that is what it does. And that figure here, and the process and the mechanism whereby that figure is arrived at, is the mechanism that has been followed in this case.

283. MR CLIFTON-BROWN: Right, so we do have agreement across the Committee that what the Need to Sell scheme should do is to provide a fair unblighted value. What we have here is a dispute as to what the fair unblighted value should be.

284. MR MOULD QC (DfT): Yes.

285. MR CLIFTON-BROWN: So we have to come up with a mechanism. I would suggest that the mechanism that is in the scheme so far is not correct for these petitioners. They could take HS2 to judicial review and ask a judge to review the evidence. It would cost them but they could do it.

286. MR MOULD QC (DfT): Yes.

287. MR CLIFTON-BROWN: And maybe that's what they should do. But I don't think that they should have to go to all that trouble and expense to do that.

288. MRS RAFFETY: Or stress.

289. MR CLIFTON-BROWN: So what I would suggest we do is effectively establish an arbitration process in this particular valuation because the values are so far apart. Clearly it's very unusual unless you can point to other schemes in the very low number of Need to Sell schemes that are actually successful where the values have been so far apart. I think you should establish some form of arbitration scheme with two disinterested valuers putting their case to an arbiter and coming up with a fair value.

290. MR MOULD QC (DfT): Well, whether the Need to Sell scheme, or indeed the other discretionary schemes including the voluntary purchase scheme, whether there should be an arbitration element to those schemes was something that was canvassed by the Secretary of State and he received public consultation on that; and for the reasons set

out in his decisions document he said that he did not consider that that was appropriate. He felt that the arrangements that I have put to you were satisfactory in relation to a scheme which was a discretionary scheme and which has been put forward as a matter of policy to extend the established statutory regime for allowing compensation, including blight for example.

291. If the Committee is to make the recommendation that you have just canvassed, I have to say to you that that will be received with some concern by the Secretary of State because hitherto I know that he has been, and the government has been, very resistant to –

292. MR CLIFTON-BROWN: Well, equally, Mr Mould, you wouldn't want to sit there and think that your client, acting on behalf of the government, had acquired a property below its proper value.

293. MR MOULD QC (DfT): But I have no reason to believe that it will have.

294. MR CLIFTON-BROWN: You have no reason to believe. You don't know. I don't know. But that's why I think this should go before an arbitration process.

295. CHAIR: I think we're going to have to discuss this later. Of course, we're seeing the Under-Secretary of State who's responsible for NTS later in a private session to ask him some questions about his response. So that would be quite a good opportunity, Geoffrey, for you to question Mr Goodwill. I'm not sure we're going to get much further forward at this point. We're going to reflect on it later. Could we have some brief final comments from you, Mrs Raffety?

296. MRS RAFFETY: Yes. I think Strutt & Parker have not adhered to HS2's own guidelines of having comparables that have contributed their... of having comparables that have contributed their transaction, one of which is clearly unblighted. Mr Mould has not addressed that at all.

297. The other thing I would like to say is the only true comparable property to us is one known as Berry Farm in Potter Row. It's the same size as ours, although HS2 have come back and said it's bigger. But they refused to look at that as a comparable. Now, Berry Farm is called Berry Farm House. I asked HS2 for information about this.

Initially, the response came back from HS2 'we have not bought it'. My response to them was, 'Oh, yes, you have. It's number 151 on your list of properties bought.' I then asked them if they could send me the valuation on that property. I was told it was not in the public's interest for me to have that because of some confidentiality. So I went back and asked, 'Well, could I just have the overall square footage and the particulars?' They said, 'Yes, I'll send you the valuation summary but we don't have the particulars.' Interestingly enough, when they sent the valuation summary it said 'the property is described in full in the full sales particulars attached herewith'.

298. MR RAFFETY: Which they didn't attach.

299. MRS RAFFETY: Now, they had said, a) they hadn't sold it, b) I couldn't have the information. Then they said they didn't have the sales particulars. And yet they send me the summary which it says 'sales particulars attached hereto'. They are being obstructive. They are acting as judge, jury and executioner.

300. MR MOULD QC (DfT): Sir, you did say that you didn't want to hear any more about the details of this just now. I have more I could say. I'm not going to.

301. MR HENDRICK: He asked her to sum up and she's summing up.

302. MR MOULD QC (DfT): Yeah, well this isn't summing up, is it?

303. CHAIR: I think we've had a good airing of the topic. Thank you very much to you both for coming.

304. MRS RAFFETY: Thank you.

305. CHAIR: And clearly these are matters we're going to have to reflect on later, but also in our final report it's important that NTS works well. Thank you very much to you both.

### **The Woodland Trust**

306. CHAIR: We now move on to 1508, AP2:66, AP4:182, the Woodland Trust represented by Berwin Leighton Paisner.

307. MR TAYLOR QC: Good morning. I'm Reuben Taylor QC. I'm instructed on

behalf of the Woodland Trust to assist in presenting their petition. And to my right I have Mr Richard Barnes, who's an ecologist who's here to give evidence.

308. The Trust is a woodland conservation charity with some 500,000 members and supporters. And it's here today to voice concerns relating to the loss of ancient woodland as a result of HS2. Ancient woodland is accepted in national UK government policy as an irreplaceable habitat. In other words, ancient woodland, when it is lost to development, cannot be the subject of successful mitigation or compensation. The result is that it's policy that developers must therefore avoid primarily the loss of ancient woodland. HS2, however, causes the loss of over 30 hectares of ancient woodland.

309. With that in mind, the Trust is here asking the Committee to note the extent of the loss of the woodland; the way in which that loss came about; to acknowledge that HS2 will therefore not result in a position of no net biodiversity loss, which is the stated aim of the scheme. We are asking the Committee to acknowledge that best practice has not been followed in respect of the loss of the ancient woodland, and there are a number of other matters which Mr Barnes will come to relating to the use of buffer strips to protect woodland during the course of construction and through operation. Matters relating to translocation proposals and compensatory planting.

310. So with that brief introduction I would like to introduce Mr Barnes to the Committee. If we can turn to slide 2, please, of the presentation.

311. MR BARNES: Thank you. Yes, my name's Richard Barnes. I'm an ecologist with over 25 years' experience, and the full details are in the full evidence should you wish to review that. Mr Taylor has already introduced The Woodland Trust as the UK's woodland conservation charity and the membership. We do have a significant estate as well. We've got about 25,000 hectares and nearly 1,300 sites. So we're very much a practitioner as well.

312. We are a national authority on ancient woods and trees, consulted by Defra, Natural England, etc. And we do run major projects on woodland protection, woodland restoration and woodland creation.

313. If we can move to the next slide, please. Just a quick reminder of what ancient woodland is. The definition for England is that it's existed since at least 1600 and has

had largely uninterrupted tree cover. Many of them date back as far as 1,000 years. It's the 'wild wood' in many cases it's sometimes called. And it's about the continuity of tree cover and the undisturbed soil that's particularly important in that.

314. SIR HENRY BELLINGHAM: Can I just ask a question?

315. MR BARNES: Of course.

316. SIR HENRY BELLINGHAM: It's possible to have ancient woodland without any ancient trees basically?

317. MR BARNES: Yes.

318. SIR HENRY BELLINGHAM: It's possible to have woodland that could be made up of either regenerated trees or newly planted species but it's still categorised as ancient? Although if you were looking at it you'd say 'that's a very young plantation'.

319. MR BARNES: Yes, as you point out, there are categories within that. In that case, it's quite often managed woodland. And, yes, you often find that, through the process of coppicing or pollarding, those individual trees might be old. But if you've actually felled them for wood purposes for timber production then, yes, that will mean you won't have any old trees. But it's about the continuity of tree cover and the undisturbed soil. Those are two of the more important points about what makes it. It's the fact that the soil has had time to build up and the inter-relationships with microorganisms in the soil is particularly important in ancient woodland.

320. SIR HENRY BELLINGHAM: Right. And what happens, for example, if historically going back maybe hundreds or thousands of years where it's been established that there obviously was woodland on an area maybe like common ground or even margin agricultural ground or semi-natural ground but was wooded and forested in the past? If the landowner or an organisation like yourselves wants to replant that, would that then be categorised as ancient woodland or has there got to be continuity of trees and woodland on the site in question?

321. MR BARNES: There has to be continuity and no evidence of a particular land use change such as to arable or farming. It is about the continuity of the soils. There's generations of trees will go on through so, yes, as you mentioned, you won't necessarily

get ancient or veteran trees on the site, particularly if it's been managed positively for wood or coppice products.

322. SIR HENRY BELLINGHAM: And what would happen for example if you take an area near my constituency, the famous Brecks in Norfolk, that are going to be part of The Brecks but are mainly heathland now, but which in the past would have had woodland on them? They couldn't be categorised as ancient because there's been a break in the actual existence of trees on that ground.

323. MR BARNES: That's right. Those wouldn't be ancient woodland. I mean, most of England was at some stage ancient woodland and it's been cleared and there have been other habitats that have been produced as a result of that which are valuable for different types of wildlife. But what we're talking about is the residual... as in one of the bullet points here, it covers less than 3% of England now is ancient woodland when in fact it was probably in the 80% to 90%.

324. SIR HENRY BELLINGHAM: Thank you. And, just for the benefit of the Committee, how old is the oldest tree in Britain?

325. MR BARNES: I believe the oldest one is the Fortingall Yew in Scotland and the estimates are around 5,000 years old. But there are a number of contenders for that crown in terms of age. The yew is known to be one of the longest lived. There's others that tend to be long-lived through coppicing or pollarding and there are some famous oak trees that are 600 to 800 years old.

326. SIR HENRY BELLINGHAM: Thank you. Sorry to digress, Chairman.

327. CHAIR: That's alright.

328. MR BARNES: As Mr Taylor has already mentioned, ancient woodland is an irreplaceable habitat so it's impossible to recreate with newly planted trees, which perhaps reiterates Sir Henry's queries. They've made a huge contribution to the historic and natural landscape of our nation and they're often described as our natural castles and cathedrals. And a lot of them are under threat.

329. Moving on to the next slide, please. Under the objectives for HS2, they have said they're committed to being an exemplar project, and that's appropriate for a major

infrastructure project of large scale that's promoted by the government. HS2 adopted a no net loss to biodiversity approach and HS2 should have demonstrated best practice. Because ancient woodland is irreplaceable, best practice is to assess the options and ensure no net loss or impact through avoidance of harm.

330. If we can move on to the next slide, please. And this summarises some of the impact of HS2. We know there's a loss of over 30 hectares of ancient woodland which is comprised of direct effects on 34 ancient woodland. And some of these woodlands are actually severed to create small disconnected woods. So the actual impact on the biodiversity is greater. The scheme also indirectly affects a further 29 ancient woodlands, and the indirect effects are things like noise, dust, construction traffic, artificial lighting causing disturbance and collateral damage. In the original scheme there was a lot of proposed loss of ancient woodland for temporary works but as a result of our meetings and discussions with HS2, a lot of those have been addressed. But, again, that was a flaw in the original scheme.

331. Next slide, please. And we feel, talking about HS2 outcomes, that these impacts have come about because the scheme has failed to identify ancient woodland. The wrong approach means the wrong answers. 14 additional ancient woodlands have been discovered on the route. We know through our evidence with Natural England that they told HS2 to survey for ancient woodland less than two hectares which wouldn't otherwise be on the ancient woodland inventory. HS2 told Natural England that there wasn't any, and that's something that Natural England believed unlikely. We submitted evidence to Natural England on a range of woodlands and 13 of those were adopted and put on the ancient woodland inventory; and another one through another process themselves was put on the inventory.

332. The result of this was that HS2 didn't avoid ancient woodland when assessing their route. And, subsequent to that, many ancient woodlands were unsurveyed. Now, this is far from best practice. And, going back to evidence you heard earlier this week from Jo Treweek, a loss of irreplaceable habitat means, by definition, a net loss to biodiversity. Now, much of this loss and harm could have been avoided through early collaboration with the Ecology Technical Group. This was a working group established in 2013 by Warwickshire County Council. You've heard from their witness, Mr David Lowe, who's the Chair of that Group and some of the other petitioners here today are

also part of that group.

333. Next slide, please. One indication of indirect effects and how you could mitigate them is through buffers. We believe planted buffers must be required to protect ancient woodland, and we seek commitment that the Code of Construction Practice must contain a presumption that planted buffers should be provided for all ancient woodlands along the route unless there's compelling evidence for that not to be needed. And this is particularly pertinent in the case of Long Itchington Woods where the tunnel portal is right on the boundary of the wood. And therefore we've actually added that to our list of woodlands directly affected because we find it difficult to believe that there won't be any impact on that woodland.

334. Next slide, please. In terms of mitigation and compensation, again just to reiterate the point that a loss of ancient woodland will be a net loss to biodiversity. And Natural England say that compensation measures are always a last resort because ancient woodland veteran trees are irreplaceable and these measures can only partially compensate for damage. And so it's true that you cannot offset loss and therefore that compensation needs to be at a large scale. And that by definition there will be a residual loss to biodiversity, and that's what this compensation has to address. And it's also true that translocation does not produce a 400 year old habitat, but I'll be dealing with that in a little bit more detail in a second.

335. Next slide, please. In terms of the no net loss calculation, we got a full report about how this came about or how this is being used by HS2 a few weeks ago, on 11 January, I believe. But the current metric used by HS2 Limited assumes that the loss of irreplaceable habitat and ancient woodland can be offset; and that doesn't reflect government policy nor what Defra or Natural England have suggested. Also, plantations of ancient woodland sites, which is the type of habitat where some of the trees have been cleared but the soils have not been disturbed and then other trees have been planted on that site, these are given a lower evaluation which contradicts the national planning policy guidance. And, furthermore, in the report of 11 January the figure for loss of ancient woodland is actually wrong. Even if you take a maximum six-and-a-half hectares that should leave 24 hectares of ancient semi-natural woodland in their assessment. But they've got 14 hectares in their report. So it just goes to show this represents a fundamentally flawed approach and we know that Natural England

weren't happy with the methodology. The impacts on the irreplaceable habitat should be considered separately and the scale of compensation proposed should use a bespoke metric that reflects the likelihood of success. And, again, you heard from Jo Treweek on Monday that that was the case that it should be treated separately. So basically, for no net loss, you'd look for them having a caveat that what they're doing for no net loss doesn't take into account the actual residual loss of ancient woodland.

336. Next slide, please. In regard to HS2's additional woodland planting, one of the things to bear in mind is that the no net loss calculation hasn't been used to influence or to come up with the woodland planting suggested by HS2. And, in fact, the basis of deriving the planting proposals is unclear. They stated continually that it's professional judgement. The planting does appear to be constrained by the Bill limits and no additional powers are sought for more planting once the additional woodland I mentioned earlier was identified. So we don't know where the compensation for this will go. And since planting is intended to compensate for loss of something irreplaceable, it should be at a high ratio – namely 30:1 – and the rationale for this figure is in the full evidence, and it's based on the uncertainty of time to establish the woodland that's going to come up as a result. A kind of precautionary principle.

337. MR HENDRICK: Sorry, just in a nutshell, how do you get such a large figure as 30?

338. MR BARNES: The metrics and the Defra guidance would have come up with a figure of 24:1, and indeed that's a figure that Natural England suggested to HS2. We've had a precautionary principle because there's a lot of uncertainty in assuming you'll have a high quality woodland in 32 years, which is the figure they have as the maximum figure in the Defra metric. Because ancient woodland is such a long... it would take such a long time to create or... Well, you can't create it. It would take such a long time for the woodland to establish and to begin to provide homes for birds such as nuthatches and treecreepers that would be looking for niches in that habitat. 32 years is just insufficient to produce a reasonable habitat so we added this precautionary principle that we thought 30:1 would be a reasonable one. That's building on the Natural England suggestion of 24:1.

339. MR CLIFTON-BROWN: But there's a balance to be struck here, isn't there?

Because the higher your ratio, the more valuable agricultural land is being taken to compensate. So there has to be a balance in a country with relatively limited agricultural land as to how much we plant woodland and how much we use for agriculture.

340. MR BARNES: I will be addressing that in my next slide, if I may. If I can defer that a little bit and then I'll come back and answer you on that one because I'll be showing in the next slide some information about that. Because, indeed, that's one of the things we're saying: that the commitment should be given to pursue options outside the Bill limits that would provide better connectivity and landscape resilience. And I'll just say that our comments about woodland planting taking time, that's coming from an organisation that does an awful lot of woodland planting. We've got some big sites where we are doing that, including a 350 hectare site in Hertfordshire called Heartwood where we're establishing woodland there. But we recognise – and there's a picture on that slide of that site – that it takes a long time for those sticks in the ground to even begin to provide those niches and habitats for the birds and insects that have had their ancient woodland taken away.

341. MR HENDRICK: In practice, this figure of 30, does it mean for every tree that was lost you plant 30?

342. MR BARNES: It's an area basis so that for every hectare of ancient woodland lost you'd have a hectare of planting, or 30 hectares of new planting. Sticks in the ground, as in the picture.

343. MR HENDRICK: So it's the area rather than the number of trees?

344. MR BARNES: It's an area rather than a number, yes. And the next slide, please. What we and many other people are proposing is landscape scales compensation outside the Bill limits. And this is through voluntary agreements. Now, this is a slide that you may have originally seen in Mr Lowe's evidence for Warwickshire County Council about ecological connectivity within Warwickshire and letters for that woodland with the best areas for promoting woodland connectivity. And basically they've got real landowners who have either registered as an offset provider with the Environment Bank or AB Agri. And these are voluntary agreements. And this is about using conservation covenants or other such voluntary, but legally and financially binding, agreements that

are entered into by landowners. And this is just an example that illustrates the potential. There's other interests such as Country Land and Business Association. But it's just showing that compensation at landscape scale is possible and that it's going to maximise the benefits of where that woodland is created. Does that answer your question, sir? It's the voluntary nature where landowners sign up to the scheme.

345. MR CLIFTON-BROWN: I understand that but, as a country where land resource is a very precious asset, I think we have to be careful how we mix that resource. And if your figures are 30:1, which seems to be a very high figure, and I've got form in this: I've planted 250,000 trees on my farm and taken out quite a lot of agricultural land so I know what it's like to plant woodland and I've now got some woodland that's nearly 40 years old that I've planted. But there does have to be a balance. I'm sure you would admit that and I just wonder. Mr Hendrick's queried the figure of 30:1. 30:1 does seem to me to be a very high figure.

346. MR BARNES: Well, in terms of ancient woodland loss, that would come up with a figure of 900 hectares of tree planting, of new planting. The government's ambition for England alone is 3,500 hectares per year of new woodland planting to get up to the tree canopy cover that we're hoping for. And, as I say, we've had experience of Heartwood as a 350 hectare site. Langley Vale in Surrey is 270 hectares.

347. MR CLIFTON-BROWN: I must say I do like your voluntary approach much better than HS2's compulsory approach in some areas.

348. MR BARNES: Well, we feel that they're constraining within the Bill limits both in terms of the quality and, as you say, we agree that you shouldn't be taking up prime agricultural land for the compensation for HS2. We feel it's better done and you'll get better results for biodiversity, and better results for farming, if you are to do it through voluntary schemes such as this. And this map just illustrates there are a number of already registered voluntary offset providers that have registered either with the Environment Bank or AB Agri to that very effect. So we're not going to do HS2's work for them but we would like to show that this is one example of a scheme that could provide that without taking up prime agricultural land, and yet deliver at the scale that we're suggesting. It's not unrealistic for 900 hectares along this stretch of the route within the counties affected to be delivered. And, as I say, the government is looking at

3,500 hectares per year.

349. On to the next slide, please, about translocation. I'd just like to reiterate that translocation cannot recreate ancient woodland, which is a 400-year-plus-old habitat. For ancient woodland, the term 'habitat translocation' is inaccurate really; it doesn't reflect the partial nature of what is being moved. It's been described as a salvage operation by Natural England. And I'd also like to say that it's not done like an archaeological dig with a trowel and a brush. It's very much an engineering operation, as the image shows. So really the term more accurately covers removal of soil and possibly some small vegetation from one site to another. And I believe, although Sir Peter Bottomley's not here at the moment, there was an exchange between him and Mr Miller over a year ago – January 2015 – and I would refute the words used by Mr Miller there where he was saying that they'll be taking the biodiversity with them and 'we've been moving these soils carefully to a receptor site'. Even with the best care, it's done with a digger and dumper trucks and then spread again with diggers. So I think that translocation being done is a very cosy operation; it's an engineering operation.

350. MR HENDRICK: What's the significance in an engineering operation? Is it any less effective in transferring that biodiversity from one site to another? Could you tell me what gets damaged in that process and how would you rather have it done and what would be the benefits of that?

351. MR BARNES: It's the amount of effort put into doing translocation rather than doing large scale compensation that is part of the issue. When you dig up the soil, the main thing is the complex biodiversity within the soil, as I mentioned earlier, that has been established over hundreds of years. So it's particularly some of the moulds and bacteria and microorganisms in the soil.

352. MR HENDRICK: But they're still going to be there when it's transferred so what's the benefit?

353. MR BARNES: Well, it is largely disturbed, especially if it has to be piled, if it's done at the wrong time of year. And the main things you do get across are the bulbs, you know, the wood anemones, bluebells, etc. Those are the ones that, on the schemes that we've looked into, seem to fare best through translocation. But I would just say, I

mean, the research report that the Woodland Trust produced – and the colleague who wrote it is in the room at the moment – that was a review of all the research and evidence on translocation. And although it concluded that translocation as a process wasn't proven, bizarrely that's actually been quoted in the ancient woodland strategies and methodology when in fact it's not at all; it's a critique of the research available.

354. MR CLIFTON-BROWN: Can I just ask you? I accept that the perfect solution is not to disturb the soil at all. But, given that we've got the scheme and we're going to have to disturb the soil in certain areas, isn't the important thing to keep the topsoil separate from the subsoil?

355. MR BARNES: Yes, and if the full method statement would detail that sort of activity and show how it's done with each individual site... and that's one of the things that we've been asking for, to see what the detail is of the translocation. Because, you're right, if you're doing it and you decided that the conditions are right at both the donor site and the receptor site to do that then, yes, it's about stripping the appropriate layer off and not mixing the subsoil with the topsoil and transferring that. But, again, it's quite an involved process and it's just that the total merits for the amount of investment in doing that isn't necessarily proven. And it's also not always possible to salvage the proportional material from the donor site. I know other schemes have shown that they get that but really we can only use about 20% in an area of soil actually to translocate. It's not a hectare per hectare that you'll take a hectare of soil off and create a hectare of new woodland site and plant within that.

356. MR HENDRICK: Are you saying though that certain species don't transfer very well and others do?

357. MR BARNES: It tends to be the bulb plants that do best under the translocation. Mr Miller mentioned the Cossington Woods example in his evidence where the bulbs took up quite well after 10 years of establishment. That's on the A2/M2.

358. MR HENDRICK: Yeah.

359. MR BARNES: But the trouble is there have been no more surveys done of that site in the last 10 years. We just don't know if it's been a success. There was early indications that those species have taken quite well but there's no proof. And we've

gone through with the Channel Tunnel rail link –

360. MR HENDRICK: Yeah. What you're saying is that there's no guarantee that that translocation will recreate the exact conditions that were there before it was moved.

361. MR BARNES: Yeah.

362. MR HENDRICK: But as my colleague, Mr Clifton-Brown, has just said, given the fact that you've got to move it anyway, isn't this making the best of a bad deal?

363. MR BARNES: It is. What you'll be getting is the bulbs and you'll get what I call an inoculum of some of the microorganisms. But I think the trouble is it's being sold –

364. MR HENDRICK: It's being sold as if it's like for like.

365. MR BARNES: As if it's like for like, plopping it somewhere else in the same state. And it's just the amount of effort put into that with no proof that it does actually produce the benefits that are indicated or suggested.

366. MR HENDRICK: Yeah.

367. MR BARNES: Thank you.

368. MR TAYLOR QC: Before you move on, can I just ask you one question? How many woodlands have been created by translocation that have the characteristics of ancient woodland such that they should be included on the ancient woodland inventory?

369. MR BARNES: None. You cannot create ancient woodland from translocation.

370. MR HENDRICK: It wouldn't be ancient woodland by definition. This can't be ancient woodland. All it is is a facsimile.

371. MR BARNES: Yeah. And none of the sites where translocation has occurred have been suggested that they are ancient woodland.

372. MR CLIFTON-BROWN: Isn't the real point here that extra care should be taken with the translocation of soil from ancient woodland sites? Because the soil at ancient woodland sites, as you've pointed out, has characteristics that maybe ordinary mono-cultural woodland doesn't have: this inoculum in the soil, bulbs, the seeds from

mature trees. So isn't the real answer that extra care ought to be taken with the translocation of soil from ancient woodlands?

373. MR BARNES: It certainly should but that has to be done very carefully and you have to stick to the process prescribed in the best practice if you are going to do that. And perhaps if I could turn to the next slide. One of the issues we've raised is about the timing of translocation and that if you are going to do it, as well as having this process, that the translocation timing should dictate the engineering programme. Because there's a narrow window of opportunity and in fact it's different for the ancient woodland soil than it is coppice stools, if you're doing coppice stools. Coppice stools are best done between December and February. The soil should be done in the autumn period – by 31 October is typically in most method statements. Unfortunately, our experience is that that doesn't happen: the engineering operation happens and the translocation is done at the time that is convenient for the engineering operation, not vice-a-versa. And there's plenty of examples of that, unfortunately.

374. But, yes, you're right: it's a salvage operation but the timing is critical and the method statement is very crucial that it's actually followed if you're going to do that. But, again, the difficulty is that even with all that there's no guarantee that you're going to get anything like the ancient woodland that was lost.

375. Okay, thank you. If I can move to the next slide, please. The Woodland Trust are particularly concerned that HS2 mustn't create a precedent. We believe that HS2 has fallen woefully short of adopting best practice towards ancient woodland by poor assessment, little avoidance, continued indirect effects and poor compensation with no transparent rationale; and that this leads to a net loss of biodiversity by definition. We would like the Committee to state that it accepts that this is the case because it's vital to ensure that HS2 does not set a precedent and is not held up as an example of best practice, especially for the next phases of HS2. And this is also important because major projects are often held up by developers as examples of best practice. And inappropriate application of this already flawed approach will put many more woodlands at risk where The Woodland Trust is already dealing with over 500 cases of ancient woodland under threat at the moment in the UK. For example, you've probably been told quite a few times about how Crossrail did something in a particular way or HS1; and I just refer back even with that, that for the Channel Tunnel rail link, of the 15

woodlands translocated, none of those have been surveyed and all of them have been presumed as failures. They haven't been surveyed and the results published. Since then we've done a Freedom of Information request on that.

376. MR HENDRICK: I mean, you say they haven't been surveyed or there's not been research done or there's not the evidence. I mean, have you got the personnel to be able to do that type of thing? Or would you leave it to universities or academic institutions to get somebody working on a PhD project doing that sort of stuff?

377. MR BARNES: Well, it's one of the issues, going back to slide 82103(12), the last point, which I think I might have overlooked. My apologies. That commitments required from the nominated undertaker to manage and monitor new woodland created with translocated soil in perpetuity. That's one of the issues. So often you hear about a project and then –

378. MR HENDRICK: So who would do it? Somebody like Natural England?

379. MR BARNES: Well, we don't know but we think it should be done for 50 years. We believe it should be the nominated undertaker that does that. They've suggested 50 years. The EAC Committee suggested 60. Because one of the issues is, yes, the monitoring tends to get dropped, the management gets dropped, especially if it's –

380. MR HENDRICK: But if it's a private company it might be taken over or it might go bust.

381. MR BARNES: Well, that's why the other system I mentioned in the slide about the Environment Bank, that has offset providers and they enter legally and financial agreements – the conservation covenants suggested by The Law Society.

382. MR HENDRICK: Over 50 or 60 years they could get pretty much watered down. But if you've got a government agency that is willing to take some responsibility for monitoring, like Natural England, then is that not a better solution?

383. MR BARNES: That would be another solution, yes.

384. MR HENDRICK: Yeah.

385. MR BARNES: So back to... I think we'll skip to A2103(15) now. And those are

the undertakers we'd like to ask the Committee to look into. Firstly, to direct HS2 to avoid destroying ancient woodland where possible, such as by tunnelling at the locations noted in our full evidence, and by moving haul routes. And the tunnels suggested are extending the Chilterns tunnel, tunnelling under South Covington Woods, Sheephouse Wood and, in particular, Broadwell Woods. We'd also like to ask you to direct HS2 Limited to compensate for the remaining destruction on an appropriate; and we've suggested 30:1 in the case of tree planting in hectare for compensation of ancient woodland. And to do this in the wider landscape of the route using conservation covenants or equivalent and including the monitoring as appropriate. We'd also like you to state in your final report that the approach taken by HS2 Limited to identifying and assessing ancient woodland and hence determining the route was seriously flawed, and that the best practice should be adopted for subsequent phases of HS2. We'd also like you to direct HS2 Limited to set up the Ecological Review Group at the earliest opportunity; and I think you've heard from Warwickshire about that suggestion as well.

386. So the next slide. Just to go through the conclusions or the summary. Ancient woodland is a precious heritage of irreplaceable, environmental worth and is a fundamental part of our national culture. And we all have a responsibility to be its guardian for future generations to enjoy. The HS2 approach to the protection of this irreplaceable habitat has been woeful. And the Committee is asked to record this so as to ensure best practice is adopted for other developments and projects. We can't risk this being repeated for subsequent phases and other developments. And we also ask the Committee to require the undertakings and assurances sought to better protect ancient woodland going forward. Basically, we want HS2 to be an exemplar of sustainable development, taking the country forward with the countryside we value, including the ancient woodland at its heart. Thank you.

387. CHAIR: Do you have any questions?

388. MR STRACHAN QC (DfT): No, I think it's easier if I just deal with this by way of telling you what we are doing.

389. CHAIR: Okay. Have you finished?

390. MR TAYLOR QC: Indeed. That's the end of the presentation.

391. CHAIR: Ok, thank you.

392. MR STRACHAN QC (DfT): I'm going to make some points just to explain the approach to ancient woodlands. I've got Mr Miller here as well to answer any particular questions you might have about the approach. But if I just go through the key points and then you can see whether you've got any outstanding questions.

393. Can I just show you P15814(2)? Just to show you the policy approach in terms of national planning policy, so you can see that as a matter of national policy, when we're dealing with development under the National Planning Policy framework, you can see one of the factors is that planning permission should be refused for development resulting in, for example, loss and deterioration of irreplaceable habitats including ancient woodland unless the need for and the benefits of the development in that location clearly outweigh the loss. And that reflects what obviously has been applied in this scheme approach of a balanced judgement that has to be made of the nature of the project, the route selection and then, where there is to be any loss of ancient woodland, obviously considering the compensation that's provided. But, as a matter of principle, it's recognised that loss of ancient woodland, although clearly undesirable and to be avoided where it can, is as a matter of policy something that can occur for these sorts of projects.

394. And you'll see reflected in a number of documents – and I'm just going to give you a flavour of it – that that recognition of the effects on ancient woodland has run through the project throughout its gestation. If I take you to P15815(2), in the 'Appraisal of Sustainability' document, you have to go down towards the bottom. You can see at 7.4.13 that ancient woodlands as part of the biodiversity assessment were recognised at an early stage in the process; and indeed their greatest abundance in this particular phase across the Chilterns. And if you carry on, in developing the project the concerns of the effects on ancient woodlands, having recognised their presence, has fed into the decisions that have been made about the line of the route.

395. And you can see that in P15815(8). No, you don't have that? Well, we're in the 'Decisions and Next Steps' document. And in that document – I don't think we can get up page 8 of that document – but you'll see, as part of the decision of the next steps, in making decisions about the project the effect of ancient woodland was identified as one

of the key factors. I can probably read it out from 6.3.3: ‘Concern was raised in relation to potential impact on ancient woodlands. The government recognised that these form an important part of our natural heritage and, as such, need to be protected wherever possible.’ It’s come up on screen now. ‘The EIA process will identify in detail the true scope of any impacts and offer appropriate mitigation solutions, for example to transplant woodland to an adjacent site or to use narrow cuttings wherever possible to avoid unnecessary land take.’ And without, of course, going in detail to the environmental statement document, you will be well aware that the identification of ancient woodlands, the effect on ancient woodlands, has formed a key part of the Environmental Statement, the route having been selected in the way it has. So there’s no doubt, on any inspection of these documents, that the recognition of ancient woodlands has been a key part of the decision process and that efforts have been made to minimise the effects on ancient woodland; and, where there are effects, to put in place compensation measures. I’m going to come to those next.

396. We recognise – and we’ve never said to the contrary – that you cannot recreate an ancient woodland through, for example, translocation. That’s never been our position. It’s not reflected in any of these documents. We recognise that, where one takes ancient woodland, you cannot simply place it onto another parcel of land and therefore create ancient woodland. But if one recognises the principle, very much as the Committee was debating a few moments ago, that a project of this nature inevitably will have some impacts on ancient woodland, the proper approach and the one that’s been identified in the Environmental Statement – and the approach we’ve taken forward – is to do what we can to mitigate for that effect. And that includes, of course, the process of translocation that Mr Miller explained in evidence earlier to this Committee. The process of translocation is to take the soils of affected ancient woodland and to place them in a suitable alternative location to do one’s best to conserve the features of the soil that created the ancient woodland for future generations. Of course it’s not a perfect remedy and we haven’t suggested that it is, but it’s clearly a desirable thing to do, even recognising that there are no guarantees as to the outcome.

397. We’ve also heard – but I’ll just summarise it and Mr Miller can explain it again – that of course (and in response to Mr Clifton-Brown’s observations) the critical thing is to exercise care in that process in the management of the soils to ensure that the process

can be as successful as possible. And that is something that does form part of our approach. Mr Miller has explained it in terms of soil management. It's not one that is actually limited to ancient woodland, of course, because the same approach applies to conserving agricultural soils; but it applies with special force to ancient woodlands. And we have in fact, as I understand it, already discussed a method statement with The Woodland Trust about translocation of soils. So this is all clearly work that can carry on and a dialogue or debate can occur as to how best to do it. But we have already taken forward the idea of a method statement which takes into account representations by those who can offer valuable assistance in comments in taking forward the method statement to achieve the best outcome.

398. So I think I just wanted to explain in terms of the other mitigation effects. The Committee has heard an awful lot about both the selection of features of the route, or indeed haul roads in the construction, which seek to minimise ancient woodland effects. The classic example would be the link road that goes, for AP4, up to the South Heath area. We selected a route in that particular location which avoided the ancient woodland. There are some who wanted us to take a different route. Likewise, in the Harvil Road area, the proposal for a haul road there, we're in discussions about the optimum route where, in fact, the ancient woodland might be a better route than the SSSI that's affected. These are clearly part of the project's ongoing processes but they already feature strongly in our selection of the route and our selection of the haul route.

399. And to give you a flavour of what has been achieved already, it is just worth looking at the table of the impacts that we provided in respect of ancient woodland: P15669(2). We have sought to identify where there's any effect on ancient woodland as well as woodland. And we've identified where there are losses, which then comes up with the total figure you've heard about. I think it's more than 30 hectares but not much more. That figure has varied, of course, as the project has gone on. So, for example, AP4 produced the effects on Mantels Wood in a way the Committee knows about. So there was a gain in that respect. There have been changes throughout the project in terms of designation of ancient woodland, so that sometimes affects the calculation. But, broadly speaking, we're talking of a figure of approximately just above 30 hectares.

400. But if you go down on this slide, slide 3, you can see, just to put that in perspective bearing in mind the size of this project, within a 5 kilometre area around the

route, around the Bill footprint, there is actually a direct impact on only 0.4% of the total ancient woodland in that area. And that, whilst of course I'm not seeking to suggest it's desirable to affect ancient woodland, is an indication of the care that's gone into –

401. MR HENDRICK: Mr Strachan, I don't think anybody's suggesting that you've gone out of your way to go through ancient woodland. I know you've done your best to avoid it. But I think the point being made by the petitioner is that the way in which translocation has taken place, which was described as an engineering operation, has been in some ways quite crude and insensitive. I wasn't quite clear what the petitioner – apart from the fact they wouldn't want you to go through the area – wanted you to do that you haven't done. Can you say in a nutshell what you have done that makes the way that you've done it defensible and justifiable in the circumstances?

402. MR STRACHAN QC (DfT): Well, what we have done is agreed that we would translocate those soils in a careful manner and that we have already discussed the method statement –

403. MR HENDRICK: You said 'a careful manner' but we saw pictures of diggers. Now, how careful is a digger?

404. MR STRACHAN QC (DfT): Well, in the case of soils it may not matter that it's done by a mechanical digger. What is more important, for example, is how you manage the layers of soils, the times you take them and the way you then obviously put them back into the earth. That is best covered by a method statement of the type that we are seeking to develop in consultation with The Woodland Trust. And that was what I was trying to bring out: that we have already started that process. But I think, in fairness, what we haven't heard is anything we're not doing that needs to be done. Parking on one side the desire not to affect ancient woodland at all. But once one recognises that that is necessary, what we're doing is to take forward a best practice approach to maximise the effects of translocation.

405. MR HENDRICK: And what's your position on this ratio of 30:1?

406. MR STRACHAN QC (DfT): We don't accept the replacement ratio.

407. MR HENDRICK: So you've gone with the Defra figure?

408. MR STRACHAN QC (DfT): What we've done is we've identified specific areas where we think ancient woodland translocation could occur. You've heard about replacement planting with other woodlands to create connectivity. Just to give you a flavour, a 30 times replacement for a 30 hectare loss would result in over 900 hectares of new woodland, which would have to be found obviously on other people's land.

409. MR HENDRICK: Okay, but what figure are you going for?

410. MR STRACHAN QC (DfT): We haven't calculated it as a figure.

411. MR HENDRICK: Or are you going 1:1?

412. MR STRACHAN QC (DfT): We don't calculate it in that way. What we have done is, in each area where ancient woodland is affected, identify appropriate mitigation in that area to reflect the losses. In some cases it will be more than 1:1. Probably considerably more in terms of woodland planting to connect up with ancient woodland. In some localised places it may be slightly less. I can't do the exercise. What we have done is identify, in all of our compensation measures, in specific areas where there are effects on ancient woodlands, planting to address the loss. I can give you practical example, or Mr Miller will be able to give you a practical example.

413. MR HENDRICK: Rather than an example, I'm trying to get an understanding of the magnitude of the planting that will be going on in order to mitigate or compensate for what is being lost. Now, you said you're not going for a figure of 30. Presumably, you're disregarding Defra's figure of 24. You know, can you not give any indication such that we can get our head round, rather than an individual example, how much planting will be done?

414. MR STRACHAN QC (DfT): What we can do is identify the amount of total planting that we're proposing.

415. MR HENDRICK: Just for –

416. MR STRACHAN QC (DfT): Well, it's woodland planting. The point the petitioner is making is that you can't plant ancient woodland. And we recognise that.

417. MR HENDRICK: We all accept that.

418. MR STRACHAN QC (DfT): Yeah. So what we're doing –

419. MR HENDRICK: Just for ancient woodland, how much will you be trying to compensate for the loss? He said there's 30 hectares. How many hectares will you be putting in in terms of compensation?

420. MR STRACHAN QC (DfT): Well, for hectares of planting I can give you a figure because –

421. MR HENDRICK: For ancient woodland.

422. MR STRACHAN QC (DfT): Well, we wouldn't be comparing the two because if we lose 30 hectares of ancient woodland – and I think it may be something in the region of 200 hectares of other woodland – if you work out the total amount of planting that we're currently proposing, I understand that the figure... I might get these figures wrong but I'll be corrected. In the region of 600 hectares or more as a total.

423. MR HENDRICK: Yeah.

424. MR STRACHAN QC (DfT): So what we're doing... And I readily accept that for The Woodland Trust they wouldn't accept the planting we're putting in is a replacement for ancient woodland because you can't replace it. But the amount of planting we're providing in terms of total tree planting –

425. MR HENDRICK: We know that and we've heard that figure many times before where it comes to tree cover generally. What we're trying to get at here is what special measures are you taking, other than a degree of translocation, to get the sort of volume of plantations that are needed to compensate just for the ancient woodland, not the general loss?

426. MR STRACHAN QC (DfT): Let me show you P15670(3) because I don't think I can give you a global figure. What we have done is, for each ancient woodland that's affected, we have identified a strategy for what we're doing to deal with the loss. So if you choose any particular woodland, in this document you can see what our strategy is to mitigate that loss. In many cases the overall global figure is more tree planting than we're taking out. In many cases.

427. MR HENDRICK: The question is how much, and if you can't tell me just say you don't know.

428. MR STRACHAN QC (DfT): Well, I do know but you'd have to do it for each one. I'll give you slide 9 as an example.

429. MR HENDRICK: Alright.

430. MR STRACHAN QC (DfT): ... slide 9 as an example

431. MR HENDRICK: Alright

432. MR STRACHAN QC (DfT): So Ranston Covert and Battlesford Wood, there's a description of the ecological quality. Measures taken to reduce loss. Then we have the original scheme. Over the page you can see here, for example, 'As a result of changes in the boundary of Ranston Covert and Battlesford Wood, the area recognised as ancient woodland within the land required for this scheme increased by approximately 0.7 to total 1.7 hectares. Consequently, there was a commitment to additional measures to address the loss of ancient woodland –'

433. MR HENDRICK: That's not even a ratio of 2.

434. MR STRACHAN QC (DfT): But if you carry on below, that's the area of loss. 'Further design development in the land required for construction by approximately 2.6 hectares to reduce the extent of the ancient loss by approximately 1.6 hectares. As such, the scheme results in the removal of approximately 0.1 hectares, and a small 0.2 hectares of unnamed woodland was added to the ancient woodland in an area of approximately 25 metres squared of this ancient woodland to within the CCB.' And then you can see we've reduced it further in AP4. Revised scheme resulting in loss of 0.08 hectares. And then you get to the compensation measures below. 4.1.9, you get additional planting to link Juniper Wood, Little Havens Wood and Great Havens Wood with approximately 17 hectares of new lowland mixed deciduous woodland west of Tower House Lane. So it carries on. What I can't tell you off the top of my head is, for each area of woodland that's affected, precisely –

435. MR HENDRICK: Well, it's clear you're not using it as a strategy. What you're using as a strategy is clearly to try and bolt it onto existing woodland.

436. MR STRACHAN QC (DfT): Correct. It's additional planting connected to existing woodland where possible to create overall a habitat which won't replace ancient woodland but will be a well-mitigated form of woodland. And it carries on over the page. So what I can't do, because time doesn't permit, is go through each example.

437. MR HENDRICK: But it's clear it's nothing like the scale... I know you said you can't give me a figure, but from what you're saying –

438. MR STRACHAN QC (DfT): No, we're not doing 30 –

439. MR HENDRICK: Not even 24. I wouldn't say you're in double figures, from what you said.

440. MR STRACHAN QC (DfT): Well, I haven't got a calculator.

441. CHAIR: Right, thank you.

442. MR CLIFTON-BROWN: Can I ask you something that might be helpful to HS2 and it might be helpful for the country? I was very struck... Is it Mr Barnes?

443. MR BARNES: Yes.

444. MR CLIFTON-BROWN: Or Professor Barnes?

445. MR BARNES: Richard Barnes.

446. MR CLIFTON-BROWN: Richard Barnes' approach to establishing more woodland in the country and doing it by voluntary agreements. And we've had lots of petitioners come before this Committee complaining about land to compensate for land that HS2 is acquiring from them. Does HS2, as a matter of course, adopt Mr Barnes' policy of trying to find landowners that actually would be more than happy to have planting on their land and therefore requiring less compensatory land to be compulsory acquired against the owner's wishes along the line?

447. MR STRACHAN QC (DfT): Can I answer that by showing an assurance we've provided to The Woodland Trust? A2104(33). There are a number of assurances. I was going to show you more of them but you can see here, item 4: 'Provided it doesn't increase project costs, and subject to obtaining the necessary consents and permissions,

the nominated undertaker will consider any reasonable and timely opportunities that arise to undertake enhancements of existing ancient woodland outside the Bill limits as an alternative to providing compensation as authorised by the Bill and consider new opportunities where reasonable practicable to maximise biodiversity gain.’ So that has to be viewed alongside what will be done specifically for particular landowners where there’s the opportunity to discuss compensation measures in one location and potentially transferring them to other locations within their own landownership. Here, this is a more general assurance that we will look to opportunities – particularly ones that are being suggested – which lie outside the Bill limits, where there may be an opportunity to put in measures to achieve the same effects without the land that’s being identified in the Bill.

448. What’s important, however, is that this Bill, as it’s enacted, contains a sufficient mitigation to be a mitigated scheme. We’ve got the fallback but we’re open to these discussions. So your suggestion is a constructive one but it is one that we are reflecting.

449. MR CLIFTON-BROWN: So, to try to be more constructive, have you said to some of the petitioners who have come before us and been objecting to the amount of compensatory land that’s been taken ‘you go away and find land elsewhere where we might plant woodland and we’ll take less of your land as a result’?

450. MR STRACHAN QC (DfT): Well, I think what we have said – and you’ve seen this in action in some cases – is where, for example, we’ve acquired farms through compulsory purchase we have actually considered translocation of mitigation where it’s possible onto those farms. I think there was an earlier example before. Burton Green and the Clayton Estate – I think those discussions have already taken place and are probably ongoing. And we have also, of course, in some cases, identified where the loss is localised and there’s a local impact that needs to be addressed in that location where it’s not possible to look at another site. That’s less applicable, perhaps, to ancient woodland and more applicable, for example, to protected species and concentrated habitats.

451. But I’m slightly straying away from The Woodland Trust concern. But the short answer to your question is: yes, we have. There’s no doubt more discussion that will continue. So I hope that those two responses addresses your question.

452. I think those are the key points. There are a number of other assurances. While I've got this on the page, it's the monitoring position. We have already identified that the Ecological Review Group will provide independent advice on the ecological mitigation measures, including monitoring. And so the point that Mr Hendrick was raising about who's best placed to do that, that will emerge through the Ecological Review Group.

453. CHAIR: And the formation of the Ecological Review Group?

454. MR STRACHAN QC (DfT): Yeah, we've provided an assurance on that. At Royal Assent.

455. MR HENDRICK: Will it be operating in 50 / 60 years? Mr Barnes was saying that this stuff needs to be looked at.

456. MR STRACHAN QC (DfT): The monitoring of woodlands which we put in, I think the period is for up to 50 years that we've identified.

457. MR HENDRICK: 50 years?

458. MR STRACHAN QC (DfT): Up to 50 years.

459. MR CLIFTON-BROWN: I think that's really important in view of the evidence that Mr Barnes may not be aware of, but the shocking evidence about HS1 really of 30% of the new plantings failing. I think much more attention needs to be paid –

460. CHAIR: Can I just... before that runs away, that was one person giving a view which I don't think has been substantiated or not substantiated. I would be quite interested to see whether HS2 could find out what the situation is in terms of woodlands on HS1.

461. MR CLIFTON-BROWN: But if it's true, Chairman, I do think much more attention needs to be paid to this ongoing monitoring.

462. MR STRACHAN QC (DfT): I will find out more about it but I just want to be clear that the evidence that was given, which was given by the petitioner, as I recall it was evidence that of the initial planting that went in 30% had to be replanted. So it's not a 30% loss. At the point you made is a perfectly valid one of trying to limit the

expenditure of having to replant trees. But if there is a loss of that kind, then of course it results in replanting to ensure that the overall effects are still mitigated.

463. MR CLIFTON-BROWN: But just to put on record again the seriousness of that, if it's true. HS1, as we were told, planted 2 million trees. A loss of 30% is round about 600,000 trees. That is a huge resource that should be –

464. MR STRACHAN QC (DfT): Well, I think the figure needs to be checked.

465. MR CLIFTON-BROWN: Yes, but if it's true –

466. CHAIR: Let's have the figure checked, Mr Clifton-Brown. Right. Brief final comments?

467. MR TAYLOR QC: Thank you. The simple fact here is that, notwithstanding my learned friend's pointing to the balanced judgement that needs to be struck, the balance of judgement was not struck on the basis of full information before the route was selected. HS2 failed to identify, despite being asked by Natural England to do the work, 14 ancient woodlands. The route was then selected. Then the Trust did the work and identified those 14 that were then put on the ancient woodland inventory. As a result, when the balance was struck identifying the route, the loss and the benefit, the loss was undervalued because it omitted those 14 woodlands. And that is important because that does not reflect best practice. And the Trust is asking you as a committee to state in terms that best practice was not followed.

468. Having said that, in relation to the other matters that the Trust wishes the Committee to consider, in relation to translocation I believe my learned friend has acknowledged that translocation cannot mitigate or compensate for the loss of ancient woodland.

469. In terms of other matters that are sought, the key aspects are the Trust's ongoing involvement in the translocation process. At the moment there is no document which sets out any commitment that The Woodland Trust would be involved on an ongoing process into the future, notwithstanding its obvious knowledge and evidence in this field.

470. In addition, my learned friend hasn't touched on the point that Mr Barnes raised

about the need for the translocation programme to dictate the engineering programme and not the other way round, despite examples that can be pointed to the other way. We would ask that the Committee make a statement in relation to that.

471. In relation to the issue of the extent of compensatory planting, the Trust has been concerned for a number of years about the approach that HS2 has been taking to compensatory planting. If we can turn please to A2109(2). Have I got the wrong note? Sorry, A2104. Sorry. Wrong reference. Can't read my own writing, as usual. Yes, it's A2104(21). At paragraph 87 – this is the proof that Mr Barnes has submitted to the Committee – he explained that, 'HS2 Limited has never published a comprehensive set of figures showing how much planting is proposed for each woodland lost despite repeated requests from the Trust. Therefore it's impossible to be certain what the ratio of planting is proposed. However, as previously stated, we have estimated it to be around 3.4:1. Natural England also considered that the planting ratio was between 3.1:1 and 4:1 and told HS2 that that was unacceptable.' So that's the evidence that we have. The Trust has been asking for over 18 months for a schedule on a wood by wood basis of what the loss is and what the proposed compensation planting is for that loss, and has not been provided with that table.

472. MR HENDRICK: Can I ask, Mr Strachan, the figures you showed me and the plans for each of those woods, when was that published?

473. MR STRACHAN QC (DfT): It's dated...

474. MR HENDRICK: And was it made available to The Woodland Trust?

475. MR STRACHAN QC (DfT): Well, they've got it. I think it was published this year. Beginning of this year. January.

476. MR HENDRICK: Can I ask the Trust then: are you satisfied that... I mean, clearly they're not using a ratio; that's been said. But are you satisfied that that's the information that you were after?

477. MR BARNES: Not completely. We got this, I believe, on 11 January, a Monday, and we haven't had the time to go through it thoroughly. But that's the ancient woodland strategy and we're told it's not been published, but we're seeing it. So the

first time we've seen it published was in this document sent to us on Friday in terms of being able to comment fully on it. We were given it as an 'early sight' I think was the description after I was asking 'could it be on a website?' so I could send it round to people. I was told 'no, please don't; there is no website available for it to be on'. Having said that, we've gone through and the table of impact –

478. CHAIR: Let's get back to... We were trying to get back to brief final comments rather than re-open the argument again.

479. MR BARNES: I'm sorry.

480. CHAIR: You made your point anyway. You ought to be a professor.

481. MR HENDRICK: But it was one of the comments.

482. CHAIR: Yeah.

483. MR TAYLOR QC: The central point is that the information to enable an understanding of the rationale behind the compensatory planting for the loss that the project brings has never been articulated. And it would appear, even from the commitment that we've achieved which my learned friend took us to in relation to looking at other ways of providing the planting, there is no commitment to increase the amount of planting. If you read the wording very carefully of that assurance, what it is is a commitment that if one hectare effectively is taken away from planting within the Bill limits it'll be replaced with one hectare outside the Bill limit. But there's no commitment to increase the amount of planting beyond that which is already within the project. And in particular there's the limitation about not increasing cost.

484. So that commitment does not meet the Trust's concerns, which is one of the reasons why we're here today. We say that this project has not been brought forward on a basis which has even looked at compensation in the right sort of way, simply because 14 additional ancient woodlands were identified. We've not been provided with any indication as to how the project has changed to increase the compensatory planting as a result of that.

485. So it becomes pretty clear, in my submission, that the approach that the project has taken to the loss of ancient woodland is one where they have sought to provide

compensation within the Bill limits; but the scheme itself was not designed incorporating that compensatory planting in mind.

486. In relation to other matters, I think you've got the assurances that we're seeking in the presentation so I won't trespass upon your time any further.

487. CHAIR: Okay, thank you very much to you both. It's been an interesting discussion. Order, order. We're going to come back at 2 o'clock.