MINUTES OF ORAL EVIDENCE
taken before the
HIGH SPEED RAIL BILL COMMITTEE
on the
HIGH SPEED RAIL (WEST MIDLANDS – CREWE) BILL

Wednesday 6 June 2018 (Afternoon)

In Committee Room 5

PRESENT:

James Duddridge (Chair)
Sandy Martin
Mrs Sheryll Murray
Martin Whitfield
Bill Wiggin

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IN ATTENDANCE:

Timothy Mould QC, Lead Counsel, Department for Transport
Roger Bedson, Petitioner Representative

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WITNESSES:

Richard Smith and Paul Macer
Robert Parkinson
Tim Smart, Chief Engineer, HS2 Ltd

IN PUBLIC SESSION
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(At 2.00 p.m.)

1. THE CHAIR: Mr Bedson, over to you.

2. MR BEDSON: Thank you. The first petition this afternoon is on behalf of RJ Smith and Son, Richard and Colin Smith. Richard Smith as well is here today as is their agricultural consultant Paul Macer. Now we have the petition to present. Richard Smith would like to introduce the farm first and some brief impacts on it if he may take to witness, Chair?

3. THE CHAIR: Yes, absolutely.

4. MR BEDSON: Thank you.

Richard Smith and Colin Smith

Evidence of Mr Smith

5. MR R SMITH: Thank you. Mr Chairman, ladies and gentlemen, thank you for the opportunity to bring this petition this afternoon. I’d just like to give you a very brief introduction to our situation that we face with regard to HS2. Starting with our very brief history of our farm, which our family came to in 1900. I’m the fourth generation. My son is the fifth generation, who is now farming with me. We have maintained the same core enterprises over the years which is basically potatoes and dairy enterprise with some arable cereals as well and forage maize or seed rape, really making it quite a mixed farm.

6. The economics of modern farming dictate that most businesses have had to expand to remain viable. And we faced a situation recently and came to a point in 2012 where we had to decide where we were going to go in the future. We decided to – my son wanted to specialise in the dairy herd and our existing milking facilities were 30 years old and needed replacing, which we decided to do.

7. When the HS2 was announced in January 2013, we realised it would have a major impact on our business as it cut right through the middle of the farm, right across our main block of land where we raise the dairy herd, across our best quality land next to the River Trent. At that stage, it was going to be on a viaduct, which was varying from 8 10 metres high depending on the final decision. We were told with our initial meetings
with HS2 back in 2016 or ‘13 the first one, I think it was, that we would be able to farm and carry on underneath it. We’d even be able to drive tractors underneath and the cows would be able to go underneath. The issue at that time seemed to be getting the dairy herd across the railway line during the construction phase.

8. So that was concentrated our minds at the time. We thought it was going to be inconvenient but we would have to live with it and just get on with what we were doing. So during 2013, we obtained planning permission for some new dairy buildings and starting putting in a new milking parlour. This was before the main impact of the borrow pit, which was announced in July last year. That was going to be a major impact for us. So we’d started on our expansion programme for the dairy herd on the basis of what we knew at the time and didn’t know anything about the borrow pit which was announced in July of last year.

9. So we have these new dairy buildings, a new milking parlour which we’re just about to start using. The system is designed for winter housing based on loose housing of straw based yards rather than cubicles, which are what we consider to be a welfare friendly system.

10. THE CHAIR: Would it be possible to get up an appropriate map so we can see?

11. MR R SMITH: Yes, well we can bring A145(11). We can start with that one. Just to sort of finish off the bit about the new buildings, we spent about half a million to date on them. The unit is capable of milking and housing about 400 cows, of which we are just over 200 at the moment. Having bought mature heifers, cows, and young stock from the Continent last year with the view to increasing the numbers up to 300 and then potentially 400 at some time in the near future.

12. The thing about our farm is we farm around about 1,000 acres. Some of that is on an annual cropping licence for growing potatoes. So we have about 800 acres which we have control of all the time. But if you look at this plan that we have at the moment then you will see the main part of the farm is down at the bottom in Pipe Ridware, which is where the arrow is now. And then we have plots of land dotted around sort of three to four to five miles away. There are others. Another block of land to the east, which is on the next plan but we don’t need to find. There’s another one up to the northwest as well. Each block is around, they’re varying sort of 50 80 acres of land we’ve added to the
holding over the years. But the main holding is where the red spot is at Pipe Ridware. That’s where the dairy unit is. There’s about 118 acres to the east of where the arrow is now and then 50 acres to the west up to the road going north/south, slightly to the left of the arrow. That’s the road.

13. THE CHAIR: Sorry I’ve only just caught up, so it’s the green area?

14. MR R SMITH: The green area is our holding. Yes, and it’s dotted in – well the main area is one. Then there’s another block at 2, 3 and 4 on that map. There are two other blocks, which are shown on other plans as well. But that just serves to illustrate the layout. So you can see the line of the railway, A/B there. That cuts through and severs most of our grazing land. The land to the west of the farm, underneath the words ‘Pipe Ridware’ there’s about 50 acres there. Where the arrow is circling now, that all floods. There’s about 25 acres, which floods on a regular basis there. So we have half of that block available for reliable grazing but half of it isn’t. I’ve seen it flooded in June and it stays yellow then for the rest of the year if we do get a flash flood in the summer. But it floods regularly in the winter.

15. So we have the block of land to the east of the farm, which is where we normally graze the cows. It’s good quality land, irrigatable, light, workable land, which we also grow potatoes on so we tend to have a field of potatoes on that block each year and then the rest is grass. So we don’t have to cross any roads with the dairy cows at the time. The road I mentioned earlier on, the north/south road, we do have land on the west of that. Under the amended proposals of HS2 that is going to become a major haul route. So although we haven’t crossed the road with the cows up until now we certainly won’t be doing it in the future with all the amount of HS2 traffic movements that are proposed.

16. MRS MURRAY: Can I ask a question?

17. THE CHAIR: Yes.

18. MRS MURRAY: Is it possible to have more detailed maps so that we can actually see what you’re talking about?

19. MR R SMITH: Yes. There’s a map on 14, A145(14). So that shows really our main issue is with – that’s the borrow pit. You can see the farm holding where the dairy
unit is in point C. Then the wet flooding land where the arrow is now and then the borrow pit to the west. So that borrow pit is taking about 60 acres of our grazing land. It is also severing land to the west there, the three lots there. And there’s a small amount just below the word ‘borrow’ which the HS2 have for some reason are not taking. We don’t know, we’ve never been able to find out why that is. So that is going to be severed by the railway line during construction phase, as is the one where the arrow is now. So we have some photographs which are at A145(15) if we could look at that please? That is the picture of the dairy unit from more or less where the borrow pit is going to go. The railway line would be going diagonally in front of you on an 8 or 10 metre viaduct where those cows are standing. If we could go to A145(16) that’s a slightly closer view. So these buildings have been put up in the last four years, which we see on the left hand side. This is our dairy herd at the moment, grazing outside, as you can see.

20. As I mentioned earlier, just to set the scene, at the moment we do house the cows during the winter on what we call a loose housing system which, if you go to photograph A145(17) which is on its side but that shows the herd being housed during the winter period bedded on loose straw rather than cubicles which is the other option which we’ll come to later on. The next one is page 18, another view of the same building. So that basically sets the scene for what we’re talking about. That was a very brief sort of overview of what we’re doing. I’m going to leave it to Roger to bring you some more detailed information on how that’s going to affect us. Thank you.

21. MR BEDSON: If we go to 145(20) please? This demonstrates the severance of the farm. The borrow pit is the grey area marked number 1 exactly there.

22. MRS MURRAY: Could you speak up please?

23. MR BEDSON: Yes sorry, 145(20), it’s the borrow pit that you can see there, that edged grey. It causes in itself quite a severance issue because there’s no way to get from the farm buildings here around the back up here. So by the time they finished and the construction is underway, we’ve essentially written off about 110 acres of land going off that way. Now this of course means that the farming system has got to change because at the moment those cows that are inside in the winter, when they go out in the summer they spread their own dung. If there’s nowhere for them to graze, they can be
kept inside all year round, that’s absolutely fine but you can’t keep them on loose housing all year round.

24. MR WIGGIN: Isn’t this just simply a case of opportunity costs? So land that would be growing wheat or potatoes will now have to grow grass?


26. MR R SMITH: No it’s not because the key issue here is that the only land which is of any use for a grazing dairy herd is that which is next door to the farm. In other words, accessible for the cows to walk to. So it’s not a case of substituting land elsewhere.

27. MR WIGGIN: There’s nowhere else they can walk to?

28. MR R SMITH: No there’s nowhere else they can go.

29. MR BEDSON: There’s nowhere them for them to walk to, it’s severed by roads, etc., etc., so if it were nearby yes. So the issue is that cows that are housed inside all year round cannot be housed on loose housing because keeping them on loose straw yards in summer months is not a good idea. There’s a lot of mastitis, there’s a lot of infection, etc., etc., so if they’re housed inside all the time they need to be housed in cubicles to cut down on disease, mastitis, etc. The other issue is of course if cows are housed inside year round they have to have grass brought to them and feed brought to them, which means that we have to make more silage. Now that’s, from Mr Wiggin’s point, is where that can help because you can bring grass from elsewhere back to the farm. But nonetheless you’ve got to have somewhere to store it and the farm only has enough storage for a small period of the year because the cows are out for the rest of the year. Likewise with slurry and manure, when the cows are outside they’re spreading their own dung. When they’re inside, you’ve got to collect all that, put it in a store, manage it, spread it. So it becomes a real issue. Now the farm has thoughts. We have thought about how to deal with this. The one enterprise that we don’t want to have to shut down is the dairy herd. They’re half a million pounds already including significant investment. They’re forging ahead. They bought cattle from Europe, high quality cattle, especially sourced from Europe for the system that they’re doing. That’s what they want to carry on with. They’re growing and they don’t want to stop. The only way
that they can do it in is in this particular…

30. THE CHAIR: So we’re looking at mitigation rather than compensation?


32. THE CHAIR: Sandy?

33. MR MARTIN: Yes, Mr Bedson or Mr Smith, at point 14 on this map it occurs to me that there’s a small parcel of land, which doesn’t belong to you, Mr Smith. I’m sort of not quite sure who it does belong to or what they might be able to do with it given that there’s no access apart from your land.

34. MR R SMITH: It’s land blocked. They do have a right of access from the points where point C on the map is.

35. MR MARTIN: Ah, right, okay.

36. MR R SMITH: It’s a historical anomaly really on land ownership. The same family have had it for years.

37. MR MARTIN: Right.

38. MR R SMITH: I guess we may get the chance to buy it one day but that hasn’t happened yet.

39. MR MARTIN: Right, so you don’t get the chance to use it?

40. MR R SMITH: No, no.

41. MR MARTIN: But at the moment it doesn’t look, from the map, as if there’s going to be any access between the borrow pit and that piece of land. Would it help you if there was access? Would that make a difference? I mean the land north of that.

42. MR R SMITH: Well the borrow pit does severe a reasonable amount of land to the northwest of it. If we could have access to it then the cows could graze a certain amount of it, certainly. But it depends on how, we’re assuming that HS2 are going to do the proposal that they put forward. We can only assume that they’re going to take the whole lot and that’s what we based our response on because we’ve not had the
opportunity to discuss and find out anything to the contrary.

43. THE CHAIR: Back in your hands.

44. MR BEDSON: Just on that point, it’s been the same engagement with HS2 as in other cases, very few meetings. The last one was last October/November I think and we’ve heard very little since then despite trying to deal with these issues since the Bill went into Parliament.

45. THE CHAIR: Hasn’t there been the normal flurry of activity in the last 72 hours?

46. MR BEDSON: There has, a letter, which is half helpful, which we’ll come to, which I hope we can use and I hope we can build on.

47. THE CHAIR: Good.

48. MR BEDSON: Could we ask Paul Macer to give a little bit more detail about the farm in terms of the infrastructure required? I’m mindful of time but Paul will be able to do that a little better.

49. MR MACER: Good afternoon. I’m going to be fairly brief with this part of the petition. The detail has all been in the submission because in light of the letter that you’ve mentioned and Roger has in front of him, some of the detail that I’ve put in here is probably surplus to the argument this afternoon.

50. THE CHAIR: Could we just ask Mr Bedson to introduce you so we all have a shared understanding?

51. MR BEDSON: Oh I beg your pardon.

52. THE CHAIR: To make sure we’re all on the same page as it were.

53. MR BEDSON: Paul is from Kite Consulting. He is the farm business consultant and manager. He’s guided the farm through a lot of its development over the last few years and is continuing to do that. So he knows all there is to know about dairy.

54. THE CHAIR: Thank you. Is that your question, Sheryll?

55. MRS MURRAY: I’m just wondering whether it might be useful for us to see the
letter from HS2?

56. THE CHAIR: Can we have that up?

57. MRS MURRAY: Thank you.

58. MR BEDSON: So the letter of assurances that we got that was sent out on 1 June, what it does is it recognises that we’ve got issues here that we will need some other infrastructure. We think that’s what they know recognise, which is great. What it does is it suggests that we go away and talk about that, which we’d love to do. But it refers to a number of anomalies really in it and it refers to our having to make a business case to prove the point, which is absolutely fine. But it refers to a business case in consequence of permanent land acquisition. Now most of the issues here are around the borrow pit and the severance it causes. I don’t think that’s going to be permanent acquisition, although a conversation with one of HS2’s surveyors the other day suggested that it might be permanent land acquisition. We just don’t know. So you know, we need to firm up on that.

59. THE CHAIR: I mean I think Mr Mould might be able to…

60. MR MOULD QC (DfT): Well, I’m happy to come in if you want me to.

61. THE CHAIR: Yes, please. That’s helpful. Yes.

62. MR MOULD QC (DfT): It seems to me to be impossible to proceed in this case on the basis that it’s anything other than permanent acquisition. We’re talking about the excavation of one million cubic metres of material over a period of several years. In reality, the impact on the farm will be as if permanent. So I’m happy to say that this assurance will be adjusted in order to make clear that the process of negotiation that is here envisaged should proceed on the basis of permanent acquisition.

63. THE CHAIR: Thank you for the clarity of intent. I’m not sure whether that’s good news or bad.

64. MR BEDSON: I think that rather changes the perspective. The plans that we have within the environmental impact assessment show that land as reinstated agricultural land post scheme with the hedges back up, as if it’s returned.
65. MR MOULD QC (DfT): Can I just come in on that?

66. THE CHAIR: Yes, you can.

67. MR MOULD QC (DfT): I’m not to be understood to say that therefore the land will not revert back to the farmer afterwards. I’m to be heard to say that in assessing the impact of disturbance on the farm holding through the loss of the large area that you have just referred to the farm undertaking for a period of I think four years or more, that that should be assessed on the basis that it is a permanent impact.

68. But the restoration of the farmlands, after the borrow pit has been worked and restored, that should be based on the usual assumption which is that the farm will be restored to its previous use, namely agriculture and that it will be available for restoration to the farmer. The financial and commercial implications of that are not matters that we can go into today. They will obviously need to be worked through but the purpose of this exercise is to ensure that this farmer is able to survive this process with his holding, as far as possible in tact as a functioning commercial enterprise rather than having to go to the wall and accept compensation for either the total or the very substantial closure of what is obviously a thriving and longstanding family business.

69. THE CHAIR: I’m conscious, just a second Sheryll, I’m conscious I don’t want to particularly question Mr Mould because he’ll get his time the next time around.

70. MRS MURRAY: No, I understand that but I just want to be really clear, what Mr Mould is saying is that they will permanently acquire the land for the borrow pit and once it’s reinstated, in about four or five years’ time, would the farmer then have to buy that land back?

71. MR MOULD QC (DfT): No, what I’m saying is that in assessing the degree to which the loss in practice of four years’ worth of use of that land on a farming enterprise, that should be assessed for the purposes of making accommodation to limit the impact of that on a business, that it is a permanent acquisition. I’m saying that how the land is dealt with following the completion of the borrow pit should be dealt with on the basis of a sensible commercial negotiation which can take place as part of the negotiation.
72. MRS MURRAY: So could the farmer have to purchase it back?

73. MR MOULD QC (DfT): If that was the approach that would work best for him in terms of limiting the financial cost to him and us limiting the compensation exposure to the government then that would be one option. But it may very well not be the sensible approach here. It may be sensible that an arrangement is made whereby he retains title to the land but the disturbance compensation is assessed on the basis of the actual losses that he incurs over the course of the four year period. That is something that the law that is before you is able to accommodate because if it is a permanent acquisition it is dealt with under the compensation code. If it’s a temporary use then it’s dealt with under the bespoke compensation right that is created under Schedule 15 to this Bill, which is a very wide compensation right which essentially mirrors the concept of disturbance compensation which applies under the compensation code.

74. MRS MURRAY: Thank you.

75. MR MOULD QC (DfT): So in principle, there is complete coverage here to enable a sensible commercial arrangement to be worked through which works best for the farmer but also limits the overall compensation bill to the government. That should be the shared objective.

76. MRS MURRAY: Thank you.

77. THE CHAIR: Very, very helpful. Apologies, Mr Bedson, you kindly introduced Mr Macer before we started questioning him. The floor is yours again.

78. MR BEDSON: I’m probably suffering from being a bit dense myself at the moment because I’m still not entirely sure if you’re going to buy it or you’re not going to buy it.

79. THE CHAIR: Can I say what I think is the case?

80. MR BEDSON: Please.

81. THE CHAIR: Then I can be corrected. That it’s likely that the land will remain in the ownership of the farm however, all the compensation will be the same as if they had to purchase it because they’re going to have to have it for so long it would be
similar to purchasing. So they would retain title and get the maximum amount of compensation. There may be other bits that they find inadequate but that strikes me as a fair process. Have I misspoken?

82. MR MOULD QC (DfT): You’re right and the reason for that is because by far the greatest element of loss here will be through disturbance of the farming enterprise. And that is common to whether the land were acquired or whether it were simply used on a temporary basis.

83. MR BEDSON: Okay. So may we have an assurance in that regard? Because this doesn’t quite give that.

84. THE CHAIR: I think if you’re happy for Mr Mould’s words but I’m sure he’ll be happy to write to you saying what he’s just said.

85. MR MOULD QC (DfT): I think that needs following up anyway because of some of the points Mr Bedson has made to be outside in the corridor.

86. MR BEDSON: There’s a few other points in there that are an issue. May we raise those now? Is that the appropriate time?

87. MR WIGGIN: You’re on a roll. You’d better keep going.

88. MR BEDSON: I was conscious I was told off earlier on.

89. MR R SMITH: So just to clarify, there’s two ways…

90. THE CHAIR: Sorry, you can say whatever you want. Come up next, Mr Macer, then you’re taken by the audio and so forth.

91. MR R SMITH: As I see it there were two ways which we could be paid, whether the land was taken permanently or taken temporarily and there would be a timing issue on that as to the… I think that’s what we’re trying to nail down here because obviously if the land is treated as being taken temporarily we would not get the same payment we would as if it was taken permanently. That payment will be crucial in enabling us to move forward.

92. THE CHAIR: I think Mr Mould, when you look at the transcript, it will be clear
that you’ll be paid as if it’s taken.

93. MR R SMITH: Yes.

94. THE CHAIR: So you’ll get the maximum amount of money while still retaining title to the land. I think that’s it.

95. MR R SMITH: At the right time as well?

96. MR BEDSON: Timing is crucial. The letter goes on. ‘Compensation will be paid in advance of entry after Royal Assent.’ Well we can’t wait till after Royal Asset. I did get a bit of clarification on that by an email late last night. But I still want to make absolutely sure that if we get compensation to build the new infrastructure to keep going after Royal Assent, it will be too late.

97. MR WIGGIN: Sorry, you want to be compensated before anything has happened? I don’t think you can do that, can you?

98. MR R SMITH: Well we’re going to have to build buildings, silage clamps, slurry stores, 18 months ahead. We’re going to have to get planning permission 18 months ahead of when HS2 take the land.

99. THE CHAIR: Just a second, I’ll come you in a second.

100. MRS MURRAY: Chair, I think we’re mixing up Royal Assent and start of works?

101. MR MOULD QC (DfT): Shall I respond once you’ve heard the filler points? Because I think I can help you with that.

102. THE CHAIR: Do you want to respond?

103. MR MOULD QC (DfT): I’m in your hands. Would you like me to respond with that now?

104. THE CHAIR: I think do it now. Sorry, I was unsure what you were suggesting. I think it should be clarified now. Thank you.

**Response by Mr Mould**
105. MR MOULD QC (DfT): The position is that ordinarily the Secretary of State will not make payments of compensation before he has the compulsory purchase powers to build the railway. That is the same with any infrastructure scheme because obviously taking on the risk of buying land where you may not actually be able to use it is not a terribly sensible one. However, however – and it is a big however, there are always going to be cases where the degree of disturbance that will be caused to the enterprise, it will increase markedly if they are unable to have access to funds in advance of powers being created. The consequence can be that if those funds are not available before the Act has been passed, their loss increases for want of having access to early money.

106. A classic example of this is of the kind we saw on Phase One where there was a special school, which needed to relocate because it provided special schooling for autistic children. It was perfectly clear that they could not remain close to the railway while the works were being undertaken. It was therefore necessary to find an alternative home for them. In order to allow that relocation to take place in a timely way, so that they were in their new home before the work started, it was necessary to make monies available in advance of Royal Assent for that purpose.

107. Now that is not a principle that is confined to any particular type of activity. It is a principle for which there are no closed categories but it does of course depend on very careful assessment of the case in question to see whether it is genuinely one where the absence of monies to spend for, in this case, early reorganisation of the farm holding, is going to prevent that process from being undertaken in a timely way. Thus run the risk of the farm holding having to incur far greater losses than would otherwise be the case. And that is what is meant by the business case, which I think Mr Bedson said he understood.

108. The way forward here is for the petitioner and his representatives and HS2 and the DfT to take forward on a collaborative basis a case for early funding to see whether that case could be made out. You’re not going to be surprised by the next thing I have to say. The people who have to be persuaded by this are not me or HS2 or indeed the Secretary of State. It’s Her Majesty’s Treasury who obviously have to give their approval to this kind of exceptional expenditure in advance of assent. And the way to persuade Her Majesty’s Treasury is to put forward a really solid business case. So that is essentially what this letter is setting out the starting gun for.
109. THE CHAIR: And presumably it would also be helpful if we indicated that in relation to this case that that would be a sensible way forward?

110. MR MOULD QC (DfT): That would be helpful.

111. THE CHAIR: Which would be less reason to disagree, if the Committee is in full agreement.

112. MR MOULD QC (DfT): And within the department and within HS2 there are established procedures to enable these kind of cases to be taken forward in a reasonably timely way.

113. MR BEDSON: Thank you. Two more points on the letter please. One is that it refers to subject to their being no subsisting mortgage on the property. Well there is a mortgage on some of it. But presumably that’s just a loan to value issue.

114. MR MOULD QC (DfT): That is a factor which will need to be taken into account as part of the working up. Because obviously any existing liabilities will need to be allowed for in any commercial arranged settlement that is put forward.

115. MR BEDSON: But it’s not conclusion, if I may, through you, sir?

116. THE CHAIR: I think it’s a consideration. I don’t really want this to be a dialogue. You’ve not got Mr Mould as a witness. Make your points and I’ll let you intervene again if periodically that makes sense because there’s a fundamental lack of joint understanding. But I’ll try to keep to bringing you in at the end. So, please continue, I think you made your point that you want the mortgage issue clarified?

117. MR BEDSON: Yes, please.

118. THE CHAIR: Mr Mould will do that at the end, so move on to your next point.

119. MR BEDSON: The other point that they offered was a steering group matter, which essentially HS2 recognised that progress has been very slow. So they said they’ll set up a steering group and they’ll monitor the progress they’re making going forward prior to anything happening in the House of Lords. We’re very happy to accept that. It’s a good idea because it’s been very frustrating to date that there’s been little engagement. If there is a steering group set up in HS2 on a number of these similar
cases that we’ve got, if we’re meeting them regularly once a month to say, ‘Right, this is what we’ve done, this is the progress we’re making, that would be extremely helpful.’

120. THE CHAIR: That’s good.

121. MR BEDSON: Thank you.

122. THE CHAIR: Over to you, Mr Macer. You’ll get a chance. Don’t feel you’re going to be left out. I’ll come to you before ending. But we’re still in your hands Mr Bedson, unless you want to hand over?

123. MR BEDSON: The letter is dealt with. I think that’s been hugely helpful. Thank you.

124. THE CHAIR: It’s helpful to deal with that at the outset so there’s a shared understanding.

Evidence of Mr Macer

125. MR MACER: Thank you very much. As I said at the start, I will précis what you’ve got in your background notes. I won’t go into huge detail on forage dry matters and requirements, etc. at this stage because with the advent of the steering committee that may well be.

126. THE CHAIR: Yes, please tell us what you want.

127. MR MACER: Right, okay. We’ve got three options for the farm should the borrow pit and everything else go as per the current plans.

128. THE CHAIR: Yes.

129. MR MACER: Option 1 is we stop dairy altogether. If that was the case then clearly the Smiths would be looking for compensation for loss of profit and everything else under the compensation code, some recognition of the depreciation that the sort of, semi redundant infrastructure that’s already been built and the expenditure on genetics to develop the dairy herd. Just to give an indication of the sorts of levels we’d be looking at, our organisation runs a cost of production comparison dataset and to the last full financial year that we’ve got figures, a subset of farms similar to the ones the Smiths
are envisaging, i.e. 350-400 cows, high yielding, high input systems, we were looking at a breakeven price at around about 22 pence a litre. That’s break even milk price, not cost of production I would add. The Defra average milk price for the last 11 years is 26.71 with a range.

130. THE CHAIR: Can you just give us the big number at the end of it? We’re not familiar with milk prices.

131. MR MACER: We’re looking at an average profit per litre of 4.5p, four million litres, £180,000 per annum. Is that the big number you’re after?

132. THE CHAIR: Yes.

133. MR MACER: Yes, okay.

134. MR R SMITH: That’s not the preferred option.

135. MR MACER: Absolutely not.

136. THE CHAIR: Do you want to carry on?

137. MR R SMITH: Yes, we do. Well particularly my son does. He’s 36 and yes, he does. We also employ four full time staff as well.

138. THE CHAIR: Let’s look at the options that we’d want to work in more detail and then we’ll come back to the options if we can’t get them to work.

139. MR MACER: Option 2 would be to run the dairy unit at a reduced capacity, i.e., using the land to the east of the buildings. But based on a pro rata basis we’ve only basically got about 25% of the grazing area that would be accessible to us. So we’re looking at 100 cows on the current system. As Richard’s already outlined, it’s a big, multi sector business, which takes a lot of managing. The scale of 100 cows is not sufficient to justify employing herdsmen. Richard and Colin have got more than enough to do managing the other enterprises as well as the dairy herd and so we wouldn’t have an economical viable business at that reduced rate. So again, shut down would be the option in that particular set of circumstances.

140. So the option 3, which would be the preferred option in terms of carrying on
dairying it would mean quite a fundamental shift in how the herd is managed as Roger’s already outlined. And, as Roger’s already said, the capital cost of that would be quite significant and, also, very, very time sensitive as well given the fact that we need to get foraging store at least 12 to 18 months prior to it being utilised. So you’ve got the numbers on the sheets. We’re perfectly aware that there is more expenditure involved.

141. THE CHAIR: Can I just check which sheets? Can you give us the reference and we’ll get it up in front of us and read it? Yes.

142. MR MACER: So the table at the top there we’ve got estimated costs of the build to allow us to house these cows 365. The extra cost incurred by having to do that, as opposed to having a herd of 400 cows but on the same system as is currently run, i.e. housed in the winter and grazed in the summer, is on the right hand side. So you can see there we’ve got a difference of almost two thirds.

143. THE CHAIR: So that’s your initial stab at the compensation you would need to carry on to build?

144. MR MACER: That’s a very, very sort of starting point in terms of the infrastructure cost based on the amount of silage storage and slurry storage that would be required for that number of cows.

145. MR MARTIN: This is for option 3, which is moving indoors basically?

146. MR MACER: Correct, yes.

147. THE CHAIR: Any questions, Bill?

148. MR MACER: Thank you.

149. MR R SMITH: Could you just elaborate on the acceptability of housing cows all year round and the sort of numbers of cows in the country that might be managed like that?

150. MR MACER: Yes I mean it’s becoming more and more widespread. The sort of zero grazed herds, as they’re termed in this day and age, especially the bigger ones, of which the scale that we’re talking about, the standards of welfare within those herds are equally comparable to anything else that is out there. The levels of management
required to make these things work and make them profitable is much higher. So the guys that are managing these herds have their protocols for various disease levels and the choice of housing, i.e., the sand bedded cubicles are deemed to be the crème de la crème in terms of cow accommodation. So the cows are like lying on the beach.

151. It allows the cows to fulfil their genetic potential much more easily because you’ve taken an awful lot of the variables out of the nutrition and the day to day management of the cows. Cows love routine. If you can give a cow the same thing every day for the whole of her life then she’s a very, very happy cow.

152. MR WIGGIN: And you haven’t added robot milkers in now, because it works best with them. So it looks all right to me.

153. MR MACER: Well there’s already a big swing over the parlour, which we may have got a picture of, have you Richard?

154. MR R SMITH: I haven’t actually, no.

155. MR MACER: But anyway, that’s ready to be commissioned any day now.

156. MR WIGGIN: That’s fine.

157. THE CHAIR: Can I just ask? Unlike Bill I know nothing about cows. But when do they get to walk around? Everyone is saying the welfare is better for them but it just seems a little counter intuitive. Do they literally stay in their confinement?

158. MR MACER: No, within the shed we have alleys where they can walk, where they can go from their beds to the feed. They have what we term ‘loafing’ areas where they can socialise and get up to drink and so on and so forth.

159. MR WIGGIN: They make milk when they’re lying down so it’s important that they lie down.

160. MR MACER: The blood flow to a cow’s udder is 30% higher when she’s lying down and blood flow through the udder makes milk.

161. MR WIGGIN: It’s not ideal but it’s a good solution. It looks right.

162. THE CHAIR: Thank you.
163. MR WHITFIELD: Can I ask Mr Smith with this third option, do you envisage any management risks from a substantial change from the management methodology you have at the moment? Post HS2’s arrival it’s a different set-up. Are you aware and are you able to reflect that in a risk percentage or lump sum?

164. MR R SMITH: I think that the risk from changing to all year round housing, I don’t think that’s particularly a concern. There are obviously quite a lot of costs associated with that in terms of ferrying silage around.

165. MR WHITFIELD: I appreciate that.

166. MR R SMITH: And muck around, I think the thing that’s peculiar to our farm is the way that it’s laid out in these remote blocks and we are going to be doing a lot more road work with tractors. That’s going to be an impact.

167. MR WHITFIELD: So the risk is sort of a strategic risk of actually being able to do it because of the unique nature of your farm as compared to…?

168. MR R SMITH: Yes, I think it would work.

169. MR MACER: It’s a tried and tested system. Obviously, the cows are housed and managed inside for six months of the year already so we aren’t sort of suddenly going into a brave new world of managing cows.

170. MR WHITFIELD: So there’s a wealth of knowledge to draw on.

171. MR MACER: Absolutely. Yes.

172. THE CHAIR: Presumably if there is some risk and extra costs they’re mitigated against by the fact that you have the assets post HS2 construction? So you’ll end up with both systems, able to use both systems in five years’ time.

173. MR R SMITH: Assuming we get the borrow pit back.

174. THE CHAIR: Yes, which I think we’re all working on that assumption.

175. MR R SMITH: Well we don’t know to be honest. We keep being told slightly different things on that but I’m hoping that we will get it back.
176. THE CHAIR: Well I’m sure Mr Mould will give you as much clarity as HS2 can when he summarises. Sandy and then I’m back to Mr Bedson.

177. MR MARTIN: Yes, unlike Mr Wiggin who knows virtually everything there is to know about cows, I’m afraid I know absolutely nothing about cows. I can tell you the front end from the back end but that’s about it. What will happen to the rest of your land if all the cows are indoors?

178. MR MACER: The land would be used to grow forage to feed those cows. So we basically make silage, which is conserved and then fed out.

179. MR MARTIN: Right. And you already use some of the land for that anyway?

180. MR R SMITH: We do, yes. And we also grow; I mean of the 170 acres around the farm we’re potentially losing 110 of that to HS2, leaving us with 60 of which 25 floods. So all that land is going to have to be replaced. We have got land further away but it just wouldn’t be growing wheat. It will be growing grass and maize to feed the dairy herd.

181. THE CHAIR: Right. Mr Bedson?

Submissions by Mr Bedson

182. MR BEDSON: A lot of these problems go away, if we pull up 145(20) please? Yes, a lot of them go away if the borrow pit isn’t there. I understand there is perhaps a review on borrow pits. We do hear that from time to time.

183. THE CHAIR: Okay.

184. MR BEDSON: But that’s a question we’d like to know what the issue is with that or if that’s happening or not. There is a concern over reinstatement of borrow pit land. You know, there’s a triple whammy really because it sterilises it during construction, it reduces the land value. It means that when it’s come back it doesn’t grow what it’s supposed to grow for quite some time. Reinstated land isn’t always great. We’ve literally last year, finished claiming on a gas line that went in in 1998 because the drainage was so messed up by the scheme that it just hasn’t grown anything for years. It’s all had to be re-drained, etc., etc. There was a part of land that UK Coal sold some
years ago.

185. THE CHAIR: I think we take the point. I’m going to ask to move on particularly given Mr Mould said it’s going to be compensated as if purchased. So that’s already a big sum.

186. MR BEDSON: Fine. Okay. There’s a few other issues not necessarily pertaining to that but pertaining to sort of practical issues around the property and around the farm. There’s an irrigation main running from points 12, 13 and 14. We’d like that to stay in please and be protected during the course of the works. There’s also some extensive works planned for Dawson Lane which gives us some cause for concern. I know Richard’s talked to one of the neighbours about this and we’re all on the same hymn sheet. We’re asking for a slight diversion of that so that Dawson Lane doesn’t necessarily go from number 2, to number 8, to number 3, to number 12. At the moment that’s where it is and it’s scheduled as a construction traffic route. Now, Dawson Lane is a bit like driving around the South Hams of Devon, it’s beautiful. It’s hedge backs either side.

187. MR R SMITH: There’s a picture of it.

188. MR BEDSON: We have got some pictures of it. So what we’re suggesting is that instead of that, it runs from 4, 5, 6 and ties into Dawson Lane there. Now HS2 have noted our petitioner’s alternative proposal, if I could bring up 4244 please? Perfect. HS2 seem to suggest that we’re suggesting it runs all the way along here. We’re not actually. All we’re suggesting that it does is swoop around here and connect back in there. So it’s just a little loop there which essentially means that Dawson Lane doesn’t get trashed. It stays as it is. There are some pictures of Dawson Lane, if we could just very quickly bring up 145(21) and sequential numbers? That’s Dawson Lane as it is at the minute, 22 and 23, as you can see, many, many years’ worth of very mature hedges, environmentally rich. We’re suggesting look, it will save taxpayers a lot of money if they put a little loop around the bottom and don’t trash all that please. It then doesn’t encroach onto our remaining land.

189. Moving on, 145(20) again please? Thank you. At point 11 there is

190. THE CHAIR: I’m struggling to find point 11.
191. MRS MURRAY: As on mine, I think there are two 12s. There are three 12s.

192. MR BEDSON: Sorry, yes, it’s 145(24) the numbering system is slightly incorrect there., 145(24) please? Thank you. At point 11 there’s a large bund appeared across here which apparently is a sand bund. Now we’re all for noise mitigation but again, it encroaches quite a lot into the field, taking over five or six acres away. We’re suggesting here that actually, can we not have a soundboard and a mature hedge planted to grow up alongside it, which would save some land and do just as good a job really, rather than having to construct these bunds. There’s also an area further grassland habitat creation at 10. There are little severed pieces of land along the route we would hope that could go elsewhere rather than in this particular field. Perhaps it could drop into another little severed area somewhere along the route.

193. There was also an AP Bill drawn up which seemed to want to acquire more land around the end of the driveway at 11A, which we’d like some justification for that please? It seems that it’s another chunk of land being taken. It’s not shown on this plan but it was in the AP Bill that appeared that it seems to take more land there at the junction with Pipe Lane. If we can turn please to 145(25)? Thank you. At point 9 there, again, a lot of this land is woodland habitat creation again here. Now again, I stand in the middle of this farm and I look either way and it didn’t seem to go through a lot of woodland. We’re very happy to try and accommodate trees in certain places but, you know, we’d much rather be putting areas of land which are cellared and small and not going to be useful afterwards. That’s a really important block of land. It’s some of the nearest land to the farm. It’s just up the lane.

194. THE CHAIR: Where petitioners have been most successful with HS2 on these types of issues is where they suggested somewhere else to put it.

195. MRS MURRAY: Ye.

196. THE CHAIR: Particularly not so much with things that are there for acoustic or visual reasons but the compensatory planting. They seem to have been quite flexible and quite willing to indicate likely acceptance quite quickly if there’s a viable alternative.

197. MR R SMITH: Right, I’ll just come in on that. We’d love to talk to them about
that. And my stance from day one has been that if you look at point 9 and go directly up above that there’s a pond. Then that pond is in a hedge line and the bit above that is a field which we’re hoping if they will avoid disrupting Dawson Lane that field will be untouched. What I’m looking for is for fields to be left untouched. If they’re going to take up a field you might as well take up all of it rather than leave us with a triangle in the corner. That is the case if you look at 9A and 9B. Any planting that they need to find somewhere to plant stuff, put it where 9B is because that triangle is going to be more of a nuisance to us. The point that Roger’s going to come to next, if I may steal his thunder, if we look at point 2A and move north to that next field which is outlined, that’s one of our fields. It stands on its own. It’s a good square, workable field and under the Additional Provision Bill they’ve put a balancing pond. That balancing pond at 2A has now moved in to our field. Now I would hope that in view of the major impact on the rest of the farm, that we could find somewhere else for that. The proposal would be to move it back to point 2A.

198. MR BEDSON: Leave it where it is.

199. MR R SMITH: Leave it where it is. Going back to the new land, the original planting that Roger mentioned, if they want to find somewhere else to put that then put it in 9A and 9B or even number 9.

200. THE CHAIR: That’s very helpful.

201. MR BEDSON: Precisely, yes. We’re also concerned about the level of noise coming from the viaduct. We’ve asked for some noise mitigation measures across there because you know, the farm house isn’t many metres away from it so we’d like some clarity on that please as what is proposed. We’d like an assurance that some good noise mitigation will be provided across there. I know there were cases on Phase One, the Thomas case in particular, where the noise figures showed that apparently the train was just like a lorry going past. But Mr Thomas said it was like an aeroplane taking off. When the Tribunal member went to Mr Thomas’s house, he agreed with Mr Thomas that it wasn’t like a lorry, despite what the noise figures said. It was like an aeroplane taking off. So we do need some assurances there please that proper noise mitigation measures will be given.

202. MR R SMITH: That would be beneficial for the cows as well because they’re
only 100 metres away from the railway. So if we got soundproofing that would help for the welfare of the cows as well.

203. THE CHAIR: Okay.

204. MR BEDSON: Yes, I think we’re pretty well, the only other point we’d like to raise is coming to these petition hearings does cost us quite a bit of money. We have tried to engage with HS2. We would like an assurance, if possible, that they would fund our time for being here because we didn’t want to be here. It’s only really because we haven’t had proper discussion engagement yet that we are here. We would much rather have been able to sort all this out around the kitchen table.

205. THE CHAIR: Thank you. Mr Mould, are you in a position to respond now to quite a few points?

Response by Mr Mould

206. MR MOULD QC (DfT): Yes. Well the one which as I understand it was the most significant related to the impact of the borrow pit. So I’ll deal with that one first. First of all, there is a commitment to undertake a review of borrow pit provision and the exercise of powers to excavate. One of those which is included in the schedule of assurances offered to the National Farmers Union. You’ve had it drawn to your attention on a number of occasions. It’s in the documents that Mr Bedson will have seen. That assurance is given to the NFU but it’s made clear that it’s intended to embrace engagement not only with the NFU but also with affected landowners. That is to say those whose land is affected by the allocation of borrow pits. The review is intended to take place as greater knowledge emerges of the ground conditions and of the quality of the mineral through the ground investigation work, which as you know is in the programme to be carried out during the later part of this year.

207. So this petitioner will be involved in that review in accordance with the NFU assurance. I should say, though, that as things stand, this borrow pit, which is borrow pit 4 in the notation that we have shown you, is a borrow pit that as you know is expected to yield up to a million cubic metres of good quality material. I would not wish to raise expectations about the prospect of this particular source of material being significantly reduced in its scale. Certainly I think there was a recognition on the part of
the NFU when they presented their evidence and called their expert that this was a very significant source of supply.

208. So that is why the assurance, if we put up P433 again, that’s really one of the key factors behind providing this assurance to Mr Bedson and to the petitioner. A recognition that in all likelihood that borrow pit will need to be worked and therefore that land will be taken out of agricultural use for quite a number of years. As I say, given that the principle financial impact of that on the occupier and owner, the petitioner, is going to be the disturbance to their agricultural activities and their agricultural business that flows from being deprived from the use of that land, it is reasonable to expect that whether the land is acquired from them or whether, as I say, seems the more likely scenario given our policies that the title of that land remains with them. The principle source of their financial loss will be the same. That is to say it will be the loss that flows from being deprived of the use of that land for agriculture for the period of its occupation and use for mineral activities.

209. Following restoration the land will be restored. That is HS2’s policy commitment and it will be restored to agriculture. It will be restored so as to, as best as can be achieved, restore it to productive use as close as possible to that which currently exists. I cannot promise you that that will be achieved because that is a matter for the future but what I can do is remind you that there are assurances given to the NFU about monitoring soil quality and so on and so forth.

210. And the process of restoration involves not only the good offices of the local planning authority but also – and crucially – close engagement and agreement with the affected landowner as well. So, when that process begins in earnest – planning the restoration arrangements – this petitioner will be involved in a collaborative way in that arrangement.

211. Now, against that background, what this assurance seeks to do is to set the ball rolling, if you like. What it seeks to say is, ‘Look, you have provided us with information which suggests that if you were simply left to bring your claim for compensation for disturbance through loss of that land to the borrow pit at the time when the notices were served upon you in however many months or years it is, that may be too late to enable you to take appropriate preventative action in order to try and
minimise or’ – to use the language of the compensation code – ‘to mitigate your loss. And the promoter recognises that yours is a case which on the face of it may be one where providing you with the opportunity for an earlier release of funds or of some sort of financial support for underwriting expenditure or something of that kind may enable you to make arrangements to re-organise your farming activities so as to ride out’ – if you’ll forgive that expression – ‘the impact that loss of that substantial area of land has upon your business.’ And if the overall result may be of benefit not only to you, the farmer – who is able to survive and to continue hopefully to thrive as best you can – but also beneficial to the public purse because it may well help to limit the overall compensation.

212. THE CHAIR: Yes – we’re happy with all of that so let’s move on to the points made since the intervention.

213. MR MOULD QC (DfT): So, that is it. And if it can be fine-tuned in the way that I’ve said, but that is all I want to say about that. Right.

214. THE CHAIR: Thank you.

215. MR MOULD QC (DfT): Can I come then to the next point, which was regarding A143(20), the road realignment? This lane, Dawson Lane, is undoubtedly a narrow country lane but at present, as I understand it, it does provide a route on a one way system for commercial traffic that serves the business that is carried on at Woodhouse Farm, which is located on the lane. I don’t think it’s shown on this particular sheet –

216. MR SMITH: No. Can I just comment? That’s not the case. They wouldn’t use that lane. There’s another lane called Pipe Lane to the south.

217. MR MOULD QC (DfT): They use Pipe Lane?

218. MR SMITH: Yes.

219. MR MOULD QC (DfT): Right. Well, let me come to the next point then. That’s at P424(3). In anticipation of this, the amount of traffic that HS2 currently predicts that it will need to run down Dawson Lane is in the bullet point at the bottom of this page. It’s traffic accessing a satellite compound – up to 10 HGVs per day for a three month period. Again, this is the site set up situation. And our position in response to the
suggestion that was made by Mr Bedson of effectively creating a new road, that is disproportionate to the duration and the level of activity that HS2 will need to run down this road. It’s far better to manage that traffic sensibly rather than to undertake the additional capital expenditure involved in their proposition. That’s my response to that. If I turn to –

220. MR WHITFIELD: Sorry, can I ask where on this slide the satellite compound is? Oh, there. Right. I’ve got it.

221. MR MOULD QC (DfT): Yes, it’s just here.

222. MR WHITFIELD: Thank you.

223. MR MOULD QC (DfT): Can I then ask to put up A145(24)? The suggestion was made that it might be possible to replace this bunding with sound barriers. It’s right that is an important part of the sound mitigation and it helps to provide sound mitigation to these facilities here. And you’ll see also Rugeley School, further to the east there. The height of this bund is between six and seven metres high. If we were to provide sound fencing, which had the same performance of that, those fences would need to be five metres high. And a five metre high fence along that route would be both extremely expensive but also more particularly would be a very difficult feature to absorb acceptably into the countryside. It would be a very urbanising feature there and it is not something that –

224. THE CHAIR: Very clear. Sheryl?

225. MRS MURRAY: The bund, does that have the same effect as a train going through a cutting?

226. MR MOULD QC (DfT): That is what we call a false cutting, effectively. It’s not completely a false cutting because as you can see, it’s a bund on one side of the railway. But it’s one side of what would otherwise be the bund.

227. MRS MURRAY: So, it would screen the noise quite considerably?

228. MR MOULD QC (DfT): Yes, indeed. And it’s one of those essential design elements that I mentioned to you earlier, rather than something which is a matter for
more liberal discussion.

229. MRS MURRAY: And if a property felt that they were being impacted by unnecessary sound or unacceptable sound, they could always make an application for their own property for double glazing or that sort of thing?

230. MR MOULD QC (DfT): Well, they could. But it’s certainly not a desirable substitute for effective sound insulation –

231. MRS MURRAY: No.

232. MR MOULD QC (DfT): – to force people to accept double glazing in their homes.

233. MRS MURRAY: Okay. But that would be open to the individual property owner?

234. MR MOULD QC (DfT): It would be. With this bund in place, it’s unlikely that anybody will need to resort to that. And that’s clearly a desirable outcome.

235. MRS MURRAY: Yes. Thank you.

236. MR MOULD QC (DfT): There was a reference I think to 145(25). And there was a suggestion that there might be opportunities to relocate some of the mitigation in this location. And you asked Mr Smith if he would give you a little more detail on what he would like. That is exactly the kind of discussion that is encompassed within that detailed design assurance that I mentioned to you earlier. But having heard what he says about that today, I will ask that we look at that and see whether we can move that forward in further discussions. In terms of the sound insulation for the farmhouse –

237. MR SMITH: Sorry, do you mean – on the last comment about the trees –

238. MR MOULD QC (DfT): The trees – I’m also happy to take away the question of the balancing pond and see whether there is any refinement we could do there. As you say, that’s an additional provision that has been proposed under the recent AP. But I’m not going to shut off further discussion of that now. I’m going to say that –

239. THE CHAIR: That’s AP1?
240. MR MOULD QC (DfT): AP1, yes. The final point I think related to sound insulation for the farmhouse. There is, as I recall, provision for a two metre barrier on that part of the viaduct, which is intended to provide sound attenuation to that side of the line, including the farmhouse. I’ll have that checked.

241. THE CHAIR: Have we got a sound map?

242. MR WHITFIELD: We didn’t get a sound map for this, but presumably it’s south of the purple line, across from there –

243. MR MOULD QC (DfT): Yes, it’s two metres I think.

244. THE CHAIR: Why have we not got a sound map? We seem to have a sound map for everything else. Is there a good reason?

245. MR MOULD QC (DfT): It was that I don’t think a noise effect didn’t seem to be a principal feature of the issues raised. But I was going to try and find it on the standard maps.

246. MR WHITFIELD: It must have triggered something about the sound barrier. I mean it must be a significant problem on this part of the track.

247. MR MOULD QC (DfT): Yes, that’s right. I did make a note to myself yesterday when I was looking at this that that was what was provided. But I’ll just check that for you and if I’ve got that wrong I’ll let you know. But that’s my understanding of the position.

248. MR SMITH: That’s going as far as the purple line we think?

249. MR MOULD QC (DfT): Well, let me get the map rather than me –

250. THE CHAIR: Yes, let’s park it and come back to that issue when we’ve got the map in front of us.

251. MR SMITH: Okay.

252. MR WHITFIELD: – says the mitigation – well, is it 990 metre by 490 metre noise barrier? It seems to be number eight on that.
253. MR MOULD QC (DfT): Yes, it is up to a two metre barrier.

254. MR SMITH: Does it say how far it goes?

255. MR WHITFIELD: Sorry, Mr Mould, can I say this? In the environmental it said up to three metres. So, has that now been reduced to two metres?

256. MR MOULD QC (DfT): No, no. I don’t think that’s the same one. Can we put up SV105(103) from the environmental statement? Sorry, Mr Whitfield, I think I –

257. MR WHITFIELD: No, no.

258. MR MOULD QC (DfT): I’m sorry, this won’t take –

259. THE CHAIR: No, I think it’s well worth pausing and getting the right map or moving on to another issue and then coming back to it.

260. MR MOULD QC (DfT): If there is a discrepancy, I will have to clear that up and let you know. But I have in front of me now the published environmental statement plan and that is showing up to two metres. If that needs revision, if there’s been some change, I will have to let you know.

261. THE CHAIR: Well, that would be good. And can we see the sound map?

262. MR MOULD QC (DfT): Yes.

263. THE CHAIR: The subsequent point is – if it’s not whilst you’re here, so we can satisfy ourselves that –

264. MR SMITH: Do we know how far it’s going along the railway, along the viaduct?

265. MR MOULD QC (DfT): I will be able to show you that when the sound map comes up.

266. THE CHAIR: Yes, the answer is we can’t do that until we get the map, sorry.

267. MR SMITH: Okay.

268. THE CHAIR: Let’s move on to other issues, if there are any?
269. MR MOULD QC (DfT): I believe I’ve covered them all. As soon as I’ve got this –

270. MR SMITH: Going back to the soundproofing on the embankment in the field near the Rugeley School, is it possible to reduce the size of that at all? Could that be looked at?

271. MR MOULD QC (DfT): Well, these things can be reviewed obviously. As I’ve said, the scope for significant change where one’s dealing with something that is as important as a sound bund is much less.

272. THE CHAIR: I think we’ve been through this on a number of issues. We’ve been through it quite a number of times.

273. MR MOULD QC (DfT): Yes.

274. THE CHAIR: HS2 will be as flexible as they can but there is less flexibility where there are acoustics and visual issues.

275. THE CHAIR: However, they try to bring back as much land to farmable use as possible. I think what Mr Mould is saying, ‘Well, yes, we’ll look at but it’s less likely we can make progress on that issue than some of the others’. It will be looked at.

276. MR SMITH: Can I? I think there’s a bit of a misunderstanding on Dawson Lane as well, whether you could get the map back up which shows that? Where you’re talking about the vehicle movements – because as I understand it, the vehicles movements you’re referring to that go to the satellite compound, only go about 50 metres up the lane. But there is a proposal to redirect a lot of site traffic and redevelop it all the way around, around the Brick Hill. As far as I understand it, the whole road is going to be made a haul road around there.

277. MR MOULD QC (DfT): Well, I’ve told you what I’m told is the position of the project.

278. THE CHAIR: HS2’s position is only 10 vehicles over a three month period will use that road.

279. MR MOULD QC (DfT): That’s right. Yes.
280. MR SMITH: How far are they going?

281. MR MOULD QC (DfT): I’m in your hands, but I cannot –

282. THE CHAIR: Can you say how far they’re going?

283. MR MOULD QC (DfT): Well, I told you. They’re going to that satellite compound you saw earlier. Yes. There is –

284. MR SMITH: Have we got the AP map because this is way out of date.

285. THE CHAIR: Sorry. Mr Mould, I’m a bit confused as to whether there’s confusion or – I’m going to go to Mr Mould and then I’m going to take Sheryll and then I’ll come back to you.

286. MR MOULD QC (DfT): I’m not used to a situation in which I essentially provide a running information board to the witness. Usually I ask questions of witnesses. They don’t ask questions of me.

287. THE CHAIR: Yes.


289. THE CHAIR: No, if I’d wanted to call it out of order I would have done. We’re finding our way and actually it’s been quite useful I think the informality today. I think you have, Mr Mould, made yourself clear.

290. MR MOULD QC (DfT): I hope so.

291. THE CHAIR: And you’ve not wanted to take the opportunity to say anything else. I’m going to come to Sheryll and then I’m going to come to Sandy.

292. MR MARTIN: Well, I was just going to clarify –

293. THE CHAIR: Did I not say Sheryll? Sheryll, then Sandy. She was on the list very, very early. She’s been waiting a while. Sheryll, then Sandy. Sorry Sandy.

294. MRS MURRAY: I’d just like Mr Mould to clarify where from the vehicles using Dawson Lane were travelling to the satellite compound? So, are they going the full
length of Dawson Lane up to the satellite compound and then turn around and come back or will they be doing a circular route?

295. MR MOULD QC (DfT): I think the working assumption is that they will travel the length of Dawson Lane and come back.

296. MRS MURRAY: Thank you. And that’s the limited number of vehicles that you have confirmed? Yes?

297. MR MOULD QC (DfT): Yes. That is the position. If Mr Smith is still unhappy about the explanation that he’s had here, then I will ask that someone has a word with him outside –

298. MRS MURRAY: And explains.

299. THE CHAIR: I think that’s very helpful. Sandy?

300. MR MARTIN: I was just going to say, Chair, if there’s any doubt, P421 shows the haul route. And presumably the vast majority of the vehicles that will be going to the compound will be the haul route, along the haul route, rather than along Dawson Lane?

301. MR MOULD QC (DfT): That’s very helpful, if I may say so, and absolutely correct and consistent with, yes.

302. MR MARTIN: It’s a bit small in this scale. But if you home in on the Dawson Lane area, a bit further to the right. Yes. No, to the right, further, a bit down, a bit more, a bit more. There we are. You see where the orange blob is. The haul route goes straight to the compound. So, it will only be in set up mode.

303. MR MOULD QC (DfT): It is set up, yes.

304. THE CHAIR: I think we’ve come to the end. Mr Bedson, if there’s any – Sheryll’s got a question, I think, but then I’m going to assume Mr Bedson’s just got one minute if there’s any petition issues. And then, it will be convenient to take a short break before the next petitioner.

305. MRS MURRAY: Did we not see the sound map pop up?
306. THE CHAIR: Right, brilliant, here we go.

307. MR MOULD QC (DfT): Here is the barrier. You can see it with this blue notation. And you can see it’s noted as, ‘Up to two metres’. And you can see the extent of the barrier marked with the blue line. And if we can come in, you can see that the farm is within the lowest observed adverse effect level contour? So, this is an area where we are predicting the possibility of some adverse effects being observed. And we can see that a number of these properties are predicted to experience a degree of noise change. I think that this particular property here may well be the farmhouse. And that is predicted to experience a moderate adverse noise change. In other words, when this railway starts to run, that’s expected to be received as a change for the worse from 2027 to 2028, as it were. And it brings me back to the point that you’re very familiar with now, which is that there is a design commitment in cases of this kind to seek to take reasonably practicable measures to reduce the noise from the railway through further measures.

308. THE CHAIR: And this copy of this map can go to the petitioner? That’s not for –

309. MR MOULD QC (DfT): This is within the published environmental statement.

310. MR WHITFIELD: Can I just ask you, is that actually the farmhouse or is that the shed? And is the farmhouse not the bit that’s red?

311. MR MOULD QC (DfT): I was told the farmhouse is the – but now –

312. MR SMITH: We have two houses on the site. Can you blow it up a bit more? Yes, that is – the brown one is the main farmhouse and then there’s another one just to the right of it.

313. MR WHITFIELD: Right. So, the properties that are marked red are not yours?

314. MR SMITH: No, they’re not. They’re barn conversions.

315. MR WHITFIELD: Thank you.

316. THE CHAIR: Right, Mr Bedson, you’ve got a final minute, if there’s anything?

317. MR BEDSON: There’s two points. One is following that useful discussion,
we’re rather assuming that Dawson Lane isn’t going to be widened? That was the whole point of what we were saying. If it was going to be widened and they were going to trash it and take out all those hedge banks, then please put a temporary haul route in down the bottom, as we’d suggested. And the other point is, on noise figures, is how they’ve calculated those, this is on the standard noise insulation range because they tend to work on average noise figures –

318. THE CHAIR: Sorry. This is a point to summarise any issues. And I’m not sure you’re right anyway.

319. MR BEDSON: Okay. It was a question on noise insulation.

320. THE CHAIR: It’s going to be convenient to take a six minute break. We’ll be back at 25 past and hear the next petitioner. Thank you.

Sitting suspended

On resuming –

321. THE CHAIR: Apologies for being a bit late back. But Mr Bedson, round three, I think?

Robert, Helen and Richard Parkinson

Submissions by Mr Bedson

322. MR BEDSON: We’ve swapped the order around a little bit. Mr Parkinson is –

323. THE CHAIR: Perfectly acceptable.


325. MR MARTIN: So which number are we on then?

326. MR BEDSON: 018.

327. THE CHAIR: Are you happy, Sandy?

328. MR MARTIN: Yes.
329. MR BEDSON: If we could pull up 147(5) please? Family farm again, at the moment arable and beef production. The grassland is predominantly running from here. The beef cattle run down through these fields here and down to further grassland in this area here. The remainder – these fields here – are arable, as is all of the land running up the side of the road here, is arable land too. There’s some grass here, coming down through these fields here and into there.

330. Now, again, it’s one of fairly extreme severance here. There’s about 45 acres taken from the farm during the construction process.

331. There’s fairly substantial areas of earthworks required here. If we could go to the following plan, 147(6) please? This starts to highlight the impact on the farm in a little more detail. A substantial area is landscaped earthworks, at point 1. Now, we’re told that this will come back at a gradient of about one in eight, which isn’t really any good for arable land. Now, if that’s one in eight, it will only ever be grassland. That won’t be any use to the farm at all because the cattle can’t get to it because they’ve got to cross all the arable fields to get there. That side of the farm is all arable. So, we’re a little concerned about that bund there. And would like that please reduced in size or altered in some way so that we don’t have that great area of made up ground. If we do, it’s not really going to be of any use to the farm.

332. MR WIGGIN: Whereabouts is that? Sorry, I missed that. The cursor is one. Thank you.

333. MR BEDSON: I’m sorry, yes, number one.

334. MR WIGGIN: That’s okay. I just missed the cursor.

335. MR BEDSON: Yes. We assume it’s there to provide some protection to the cottages and properties on Jonghams Lane – running down here – yes, exactly. But that needs to be minimised and mitigated as much as possible because a one in eight gradient is too steep to farm for arable traffic.

336. There’s a balancing pond at point 3. Now, again, what happens in this part of the farm to the south of the railway land, as we’re looking at the plan, is that it’s all to be carved up and chopped up. We think there’s a much better and a much more sensible
design to be made by moving the balancing pond over – as I’ve shown – from point 3 there over to point 3A. And thereby hopefully releasing a lot of this land back to arable use and agricultural use so that we can actually have a block of land that flows around normally, as it currently does. And these are all sensible ways to try and make the farm continue to work going forwards. That area there takes up about 6.75 acres of land. And we’d like an assurance please that HS2 will work with us to move that pond if possible.

337. What it also does is it causes some very awkward field sizes. That becomes a difficult size. This field becomes a difficult size, as do these, as do these here. The farm is normally farmed in a north south direction, as per the arrow at number six there. And it means that that tractors and machinery go up and down the field in a fairly efficient fashion. But with fields like this, it makes it very difficult, particular a small one here, and particularly this there. What we’d like to try and achieve is to have these boundaries removed so that we can farm the land in that direction – so, the side to side, east, west access. Very happy to make some land available for mitigation planting if there’s any hedgerows there that would come out as a result of that. But ultimately, it’s going to make some very small field sizes which aren’t really a lot of use for anything in terms of arable production. In terms of grassland production, again very inefficient, difficult to drive around and very difficult to farm. We’re really trying to re-design that bottom part of the farm, if we can.

338. At point 7 there is some additional landscape earthworks running around the bund there. Again, we’d like this area to be tightened up please as much as possible. I don’t think the landscape earthworks around there are helping any property in particular. So, if we could tighten that up please that would be very, very useful.

339. There’s also an area of wetland habitat creation here which gives us huge cause for concern. This is tied in with the neighbouring farm, that of Mr Bannister. And we’ll come on to Mr Bannister’s as another petition on another day. But Mr Bannister manages his farm hugely for the environment. He’s part of a higher level stewardship scheme. He’s one step short of a site of biological interest. So, he’s quite furious that all this land out here is being turned into wetland because he’s managed it very carefully for environmental reasons for many years.
340. But the point on this farm is that the brook runs down here, Moreton Brook, and the fields flow down to the brook in this sort of direction from the sort of north east down to the south west. Now, creating wetland there is surely going to damage those field drains. The whole way of creating wetlands is to bung up the drains and let the land flood. Well, if that happened it’s going to have a knock on effect on the adjoining fields. We’ve got to maintain field drainage going down to the brook. And it is of huge concern to us that if they start creating wetland there, it’s going to start causing problems for many years to come. We haven’t really had any justification for the environmental benefits of that wetland or where it’s being replaced from or where it’s come from.

341. THE CHAIR: Can I just be clear on that point? Are you just flagging up something and we would deal with it properly and substantively when we hear evidence on the other petitioner?

342. MR BEDSON: It’s an issue here because it affects this land.

343. MRS MURRAY: So, you’re talking about the wetland within this petition?

344. MR BEDSON: I’m talking about the wetland within this petition here but the neighbour has similar comments because it’s wetland that flows over the boundary between the two properties.

345. THE CHAIR: Sandy? And then we might come back –

346. MR MARTIN: I take it, Mr Bedson, the point you’re making is that if the wetland, including the wetland outside of the petitioner’s property, were to go ahead there would be issues for the drainage of 11C, 11B and 11A?

347. MR BEDSON: Yes, I suspect there will be issues with drainage, yes.

348. MR MARTIN: Thank you.

349. MR BEDSON: There’s a trackway at point 10 which runs all the way along Jonghams Lane. It goes around the corner and stops there at point 10. Now, that trackway, we are assuming you will be using it as the track for the farm. But it stops there in the middle of a bit of woodland. And we’ve requested that the track be
extended because this land here is cattle grazing land. It may be that this land here becomes cattle grazing land. At the moment, the cows walk from the farm at the top, down the grass field, through the gates, and off they go around on to their land. We need a track there to facilitate that and that track needs fencing, because these fields are arable fields. So, we need an assurance that there’ll be a track there.

350. I did get a letter in the last day, in fact yesterday. But it had a plan attached to it that was not entirely correct. But the assurance that they offered was that, yes, they might put a track in, as long as we contributed towards it, which I thought was a bit rich, really. We don’t need the track ordinarily. It’s only because of HS2 that we need a track. So, we don’t really see why we should be contributing towards it.

351. At the moment the farm has fields to field access across its axis.

352. MR WIGGIN: Sorry, Mr Bedson, we’ve had terrible trouble communicating with HS2 with your previous clients. But this time they were interested in chatting, provided that they got help with their track?

353. MR BEDSON: Only yesterday, we got a letter from them. And in the last few days we’ve had a couple of letters. And as far as I can make out the letter was saying, ‘Yes, we might put a track in for you but we want you to contribute towards it financially and towards the maintenance and upkeep’.

354. MRS MURRAY: Do we have a copy of that letter?

355. MR MOULD QC (DfT): P475.

356. THE CHAIR: Thank you.

357. MR MOULD QC (DfT): The assurance is at P475(3). It’s item 1 on that page.

358. MR BEDSON: What date is that letter please?

359. MR MOULD QC (DfT): That’s the one you referred to – 1 June.

360. MR BEDSON: 1 June, okay. I received the plan for that letter yesterday. So, until then it didn’t make a lot of sense to me. But even so –

361. MR MOULD QC (DfT): The plan is at 475(5).
362. MR BEDSON: Yes. There’s a purple track there. What it refers to here – and it’s a very complicated way of doing it – all we want them to say is, ‘Yes, we will build a track for you’. But what they’ve said is that they want some financial contributions.

363. MRS MURRAY: Could we go back to the letter where it says that please?

364. MR MOULD QC (DfT): Yes, 475(3).

365. MR BEDSON: So, it’s the rights of access on Jonghams Lane and under Moreton Brook viaduct, which might be down on the next page, I presume? Or not, no, it’s the previous page. I’m sorry, it’s the previous page. There we are. Access rights – ‘Vehicular, livestock and pedestrian rights and granted by the promoter to the petitioner’. Well, we’d like unfettered access there really. It’s Mr Parkinson’s land in the first place. Why shouldn’t he be able to go under the railway as he sees fit rather than restricting it? ‘To pass and re-pass beneath the viaduct owned by the promoter to access the land edged green and/or blue’ etc. ‘subject to vehicular weight, height, width restrictions and other relevant limitations, including financial contributions by the petitioner towards the maintenance of it’. So, we’re assuming then that HS2 will still need to use that track for some purpose. I don’t know. But, ‘Towards the maintenance and use as the promoter considers appropriate to safeguard the economic construction of the railway’ etc. Well, all we want them to do is say, ‘We’ll build you a track. You can use it. You can get from A to B.’ It then goes on to say that we have to give them three months’ notice of wanting the track and various other complications. We just want a track, really. That’s all.

366. THE CHAIR: Sandy?

367. MR MARTIN: Can I ask Mr Mould a specific question on that? Would that phrase be put into prevent the HS2 from being liable for maintenance costs in the future or was that in order to try and obtain monies from the petitioner? Is it to safeguard you against unnecessary or excessive maintenance costs or what?

368. MR MOULD QC (DfT): I’m surprised Mr Bedson is surprised by this because this issue the standard arrangement which you’ll see up and down the country in relation to public works of this kind. Where the promoter, having completed the works, provides access along a track that it constructs to third parties it expects the third party
in question to make appropriate contributions towards the long term maintenance, as anybody who owns a right of way over somebody else’s land would expect to do. If you own a right of way to get from the public highway to your cottage and you have that over a farmer’s land, you expect to pay a contribution to the cost of maintenance. This is land that will be in the ownership of the Secretary of State, because it will form part of the permanent way itself. This is close enough to the railway to mean that it’s expected that it will. Although it’s now owned by the farmer, it will have been bought from the farmer. He will have had his land compensation for the purchase of it. And this is looking forward to a world in which he gets a right to use a track over it, but it’s reasonable to expect him to make a contribution towards the cost of maintaining it.

369. MR MARTIN: The question is though, Mr Mould, is HS2 Ltd going to be maintaining this track and then sending a bill to the farmer or is it a way of saying to the farmer that you maintain it at your own cost?

370. MR MOULD QC (DfT): On this basis, it is assuming the former. That is to say, HS2 will maintain it but will make a demand for appropriate contributions towards the cost of that maintenance, which is an entirely standard arrangement under the common law and it’s reflected in this assurance.

371. THE CHAIR: Are you happy, Sandy?

372. MR MOULD QC (DfT): I’m surprised people are surprised by it, frankly.

373. THE CHAIR: Sheryl?

374. MRS MURRAY: We’re not surprised by it, Mr Mould. But one of the things that I’m a little bit concerned about – and it’s because of a piece of casework that I have in my own patch with Network Rail at the moment – is there a limit to the amount of contribution that HS2 would be able to ask the petitioner to undertake in the future, a percentage of the maintenance costs?

375. MR MOULD QC (DfT): There’s not stated limit but –

376. MRS MURRAY: No, there isn’t. That’s why I’m asking, because actually one of my constituents is actually finding that they are being asked for a totally unacceptable amount of money towards a similar sort of task.
377. MR MOULD QC (DfT): And the way in which anybody who enters into an arrangement with a landowner to gain right of access over that landowner’s land in the form of a private right of way – the way in which they protect themselves against being met with exorbitant demands for the costs of maintenance – is to build in a clause into the agreement that they enter into which provides a mechanism for making sure that the cost contribution is proportionate to the work. And this assurance is a starting point. It’s saying, ‘We’re willing to provide you with these rights of access’. I would expect that, if this were accepted, in due course it would be reduced to some form of agreement which would allow for the kind of protection against excessive demands which you have mentioned. But as a matter of law, if the beneficiary of a right of way faces demands for maintenance costs from the owner of the right of way which are clearly excessive and disproportionate to the actual cost, of course the law will step in and deny that – the person making that demand the right to recover it.

378. MRS MURRAY: In my constituent’s case it’s the MP who stepped in.

379. MR MOULD QC (DfT): Well, perhaps then the MP will step in.

380. THE CHAIR: Martin and then I want to come in.

381. MR ROBERT PARKINSON: Can I just?

382. THE CHAIR: Sorry. No, no, no. Sorry, you can’t. You can stay there for a second.

383. MR ROBERT PARKINSON: Okay.

384. THE CHAIR: The way it operates is – there’s an issue going on at the moment, which I’m going to deal with. I’ll come to Mr Bedson and Mr Bedson can perhaps ask you an open question and you can then say what you want. Is that okay?

385. MR ROBERT PARKINSON: It’s okay.

386. THE CHAIR: It’s a procedural thing. I’m not trying to shut you up.

387. MR ROBERT PARKINSON: Yes.

388. THE CHAIR: Martin?
389. MR WHITFIELD: Sorry. Mr Bedson, on A147(5), I’m trying to outline the actual land here. The red line that’s going around the outside you say is the property?

390. MR BEDSON: Yes.

391. MR WHITFIELD: There. But HS2 seems to be of the view in P439 that the property is far, far more extensive. And that would make a substantial difference to the viability of this, given what HS2 are taking. I’m wondering which is correct.

392. MR BEDSON: Is this map one?

393. MR ROBERT PARKINSON: That’s correct. That’s the one they’ve not got right.

394. MR BEDSON: Yes, that’s slightly incorrect.

395. MR WHITFIELD: So 147(5) is correct?

396. MR BEDSON: Our map is correct.

397. MR WHITFIELD: Your map is correct?

398. MR BEDSON: Yes.

399. MR WHITFIELD: I’m grateful.

400. THE CHAIR: Just before I come back to Mr Bedson, can I go back to this issue of your surprise because I think your surprised we’re surprised but all the Committee seem to be surprised at the way the law operates. I think what you’re saying is there’s no allowance for the fact that the land was the person who’s seeking the right of way and it was compulsorily purchased over and above any other arrangement. It just seems strange, one has land compulsorily purchased to the detriment of the individual, though compensated, that they then have to fund in the same way as any other individual who perhaps was further down the line and wanted to gain access or subsequently negotiated access. Is that just a peculiarity of the law that we’re not aware of as layman?

401. MR MOULD QC (DfT): I would ask you not to consider it a peculiarity for this reason. The assumption is that the landowner whose land is compulsorily purchased will have received compensation which is equivalent to his loss.
402. THE CHAIR: Mm-mmm.

403. MR MOULD QC (DfT): No more and no less than his loss. So, he’s put into the position that he would have been in had he not had his land purchased. Then, moving on to the next stage, he’s had his money, then he says, effectively, ‘I would like please to be able to acquire a right of way over land that is now yours, Secretary of State, and which you’ve paid fair compensation for? Can I please?’ And the Secretary of State says, ‘I’m quite happy for you to do that but in order to enjoy that right you would need to make a reasonable contribution towards the cost of maintaining the right of way in question.’ There’s no peculiarity there.

404. THE CHAIR: Would it be a disaster if the Committee recommended that in this case we thought it was unfair? Does that set some type of great precedent?

405. MR MOULD QC (DfT): Yes. It would set a precedent because it would be quite contrary to the principle I’ve just outlined to.

406. THE CHAIR: Well, I think it’s a relatively simple issue in terms of this petitioner. I am concerned about setting a precedent without fully understanding the issues. Given that certainly there’s a case in my mind for doing as I say, can you write to me explaining in legal terms why it would be a bad idea and why it would set a precedent and how the law works in relation to this? I don’t understand but I don’t want to take time with this petitioner because it’s a broader issue with all due respect than your petition. It’s an issue of principle.

407. MR MOULD QC (DfT): Yes.

408. THE CHAIR: Would you be happy to do that, Mr Mould?

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

410. THE CHAIR: I’ve got two people wanting to come in as well. But you’re happy to help us in that way. Sandy, thank you?

411. MR MARTIN: Very briefly, Chair. If the compensation that is paid to the petitioner is enough to compensate the petitioner for having the whole of the land southwest of the railway line completely severed from the rest of his property, so that it
was completely unusable, then anything that he then came back and got as an addition from the Secretary of State would be obviously a boon which you would expect him to have to pay for. But if you’re going to be saying that he hasn’t got any right to use the land underneath the viaduct, then clearly, the compensation that you pay has to be on the basis that he’s not going to be able to use the lane under the viaduct. If you’re paying compensation on the basis that he can use the lane under the viaduct, then it seems a bit unreasonable to then charge him for use of the lane.

412. MR MOULD QC (DfT): Well, no, because it’s the first scenario. The compensation will assume that the land is acquired for whatever value and the disturbance will reflect that. In fact, his compensation claim is likely to be – in the event that he’s provided with this right of way – his compensation claim for severance is likely to be reduced because of course we will have accommodated the severance. There is a practical way in which we might get around this.

413. THE CHAIR: Thank you.

414. MR MOULD QC (DfT): And that is that we make arrangements to allow him to retain ownership of that land over which the track will be built and he gives rights to the nominated undertaker –

415. THE CHAIR: Yes.

416. MR MOULD QC (DfT): – to use the way. And then, we will be willing to pay him the proportionate cost of maintaining it. And that will overcome the concern. That might be a way forward.

417. THE CHAIR: I think we’ll let that hang rather than ask for an instant yes, no, thank you. But everyone seems to be positive about that as an idea and avoids any other problems. I think I’ve encouraged a wee bit of a tangent. Mr Bedson, we’re in your hands and if you would to call the petitioner to say anything he wants.

418. MR BEDSON: The assumption was – picking up from where I left off – it was never the assumption that HS2 were going to own that track. There wasn’t a track there before we asked for one. Why on earth would they want to own the track? They didn’t need it. They don’t want it. It doesn’t appear on their plans. We need a track. We only
need a track because of the railway. At the moment, we can go up and down the farm wherever we want –

419. THE CHAIR: I think we’ve got a solution. I think Mr Mould has been helpful. Don’t kick a man when he’s offered you a helping hand.

420. MR BEDSON: Okay.

421. THE CHAIR: I’m in Mr Bedson’s hands. If he wants to call Mr Parkinson he can. I’m trying to be as flexible as possible but there is a process.

422. MR ROBERT PARKINSON: All I wanted to say Mr Chairman was that I’ve got to have a track to get to the other side of the railway and also to those three fields. It is my land. If they want to build me another track beside that one, of their own, then they can do that and then I won’t have to pay any money for it, will I?

423. MRS MURRAY: Well, we’ve resolved it.

424. MR ROBERT PARKINSON: Yes, you have resolved it, yes. And also that track has got to be fenced all the way down because I’ve got to be able to move cattle across to the other side of the railway. That’s all. It’s just when he said I’ve got to pay for the track.

425. THE CHAIR: Yes. I think we’ve got you sorted, or as Sheryll said, Mr Mould has sorted a problem. Mr Bedson?

426. MR BEDSON: Yes, I’m trying to pick up my thread now.

427. THE CHAIR: Okay. Feel free to pause for 30 seconds –

428. MR BEDSON: Thank you very much indeed.

429. THE CHAIR: – because it’s all – I would say disorderly but that would make it my fault.

430. MR BEDSON: Yes, I think we were on the other plan, weren’t we, 147(6)? Yes. Here we are. At point 11 there’s a load of trees planted there which will make it difficult to build a track through the land if there are trees there. That there is a bit of existing woodland. If woodland has to go anywhere, and again we iterate the fact that
we would really like a second opinion on the ecology because there aren’t any trees coming off this farm or the ones neighbouring in particular, but if there are any trees to be planted we’d quite like them in this area up here so that they’re not forming a square block. That there, really, as that is designed, it prevents connectivity up and down and back and forth. So, if this is in one neat block there, that makes life a lot easier for us.

431. THE CHAIR: Point very well made.

432. MRS MURRAY: Yes.

433. MR BEDSON: Thank you.

434. THE CHAIR: I imagine they’d be sympathetic.

435. MR BEDSON: Similarly with the whatever this is here – grassland creation – if it needs to go anywhere, it may be better across here or squaring off the boundary across here because again it puts a block in and gives us a very difficult field to get to and work.

436. THE CHAIR: Yes.

437. MR BEDSON: So, please, if we could have assurances in those regards, that would be very useful indeed. Now, we’re going to point 13 here and there’s an access track across there. I did receive something yesterday from HS2. I’ve been trying to work the letter out. And this only came yesterday. And it refers to – I’m a bit concerned about how it starts – it refers to ‘the yellow land’ meaning ‘the land edged green on the attached plan’. Well, there isn’t any land edged green that’s yellow. There’s yellow land and there’s green land. There’s no land that’s edged green. I think this is referring to the points that we’ve just made. And it’s saying that they’re going to try and reduce those, which we’d be happy with. If they’re going to try and reduce those or we can re-design them and they’ll actually come and talk to us about reducing those, that’s fine. But I only got this yesterday and it doesn’t actually make sense, I’m afraid to say.

438. THE CHAIR: I’m sure we’ll get some clarity from Mr Mould later on.

439. MR BEDSON: Yes, please, please. The letter goes on to say that – this is in
relation to woodlands habitat creation – that the Secretary of State won’t exercise powers of compulsory acquisition if they can work around it. But it’s subject to the petitioner entering into an agreement in a form satisfactory to the Secretary of State. Well, we’d quite like it to be satisfactory to the petitioner as well. And it also says, ‘The Secretary of State being satisfied that the petitioner is an appropriate person to be responsible for the maintenance’. I think that’s a little bit offensive to be honest. Mr Parkinson has farmed that land for 50 odd years –

440. THE CHAIR: Can we get this letter up in front of us so we can have a look at the wording?

441. MR BEDSON: Well, I only received it yesterday. I’m afraid I don’t have a –

442. THE CHAIR: Well, HS2 will have it. Could we? It will be on the files. Can we have the letter that the petitioner’s referring to.

443. MR MOULD QC (DfT): P474.

444. THE CHAIR: Thank you very much, Mr Mould, very helpful.

445. MR MOULD QC (DfT): And it was page 2, I think, that needs to be –

446. THE CHAIR: Where’s the bit that you describe as offensive?

447. MR MOULD QC (DfT): There you are. It’s at the very bottom.

448. MR BEDSON: Next page, in fact.

449. MR MOULD QC (DfT): If you turn over the page, it’s a condition on page 3. It’s A.

450. MR BEDSON: Well, it’s B actually. Both.

451. MR MOULD QC (DfT): Right, yes, this is one of the standard NFU assurances.

452. THE CHAIR: Yes. Yes, it’s a standard wording, not in any way in relation to the petitioner. I wouldn’t take any offence, Mr Parkinson.

453. MR WIGGIN: Unless you happen to be criminally convicted for removing
woodland many times, then it’s entirely appropriate.

454. THE CHAIR: Let’s just assume for the Committee’s purpose, you haven’t. We don’t want to have to engage lawyers on your behalf.

455. MR WIGGIN: No, no.

456. THE CHAIR: Mr Bedson?

457. MR BEDSON: Okay. If we could go back to 147(6) please? There’s an access track being put in here. We’re not entirely sure the reason for that, unless it’s to gain access to this land here at 14, which we know is subject to a blight notice and HS2 may well end up owning at some point. There’s some negotiations ongoing there. Presumably that access track is put in then solely for the benefit of HS2 if they end up owning that land. Now, that would be a little bit annoying. If there is an agreement – and there was a letter sent to us again yesterday – which again I only got the plan yesterday – it came separate to the letter – if there is an agreement that if that land is sold to HS2 it goes back to the farm that might be something that we’d be happy to talk about.

458. THE CHAIR: I think that’s pretty standard. But Mr Mould will come on to that later on. Any other points to make?

459. MR BEDSON: Yes, referring to the construction drawings, which is 147(5), again we’re asking for this to be minimised as much as possible. There’s an awful lot of land take here. And we know this isn’t detailed design yet but we can only work on what’s in front of us. We’re rather hoping that this compound here can be moved out of the way. It would be wonderful if the land above the railway line could be largely left alone during the construction works. And if they have to take land, perhaps leave it at the bottom, but again minimise it as much as possible. These are huge soil dumps. And this field is going to be written off as well, you see. If that can be minimised in any way at all, that is going to be very, very helpful indeed. I think that brings the points to an end but I would like some clarification – have you got anything further to add?

460. MR ROBERT PARKINSON: No, I don’t think so.

461. THE CHAIR: I think Sheryll’s got a question.
462. MRS MURRAY: For clarification, Chairman, I do apologise, but Mr Mould may be able to help here. The pink shaded area is land that is potentially required during the construction. It’s not definitively required, is it?

463. MR MOULD QC (DfT): That’s broadly right. Obviously, the pink shaded area on these plans covers all the land that is within the Bill limits, that is to say, all the land that is subject to either compulsory purchase or use. But there’s a much narrower area of land on the Bill plans that is within the limits of deviation. And that means, as I think we’ve explained to you, that is the land that is expected to be required for the permanent way itself. So, yes, there’s a larger area which comes under the rubric of LLAU and that is land that is principally being identified for construct purposes. Yes.

464. THE CHAIR: No more questions? So, Mr Mould?

Response from Mr Mould

465. MR MOULD QC (DfT): While we’re on this one, I made a point earlier about the need to be a bit cautious about shifting construction compounds around because of the need to ensure that we don’t add unnecessarily to the costs of construction through inefficient location of facilities. Just to make the point, this compound here, as you can see, it’s called the Moreton Brook viaduct satellite compound. Here is the Moreton Brook viaduct. And if that compound is moved significantly away from the viaduct that it is actually there to assist the construction of, it’s obviously going to add to the costs and inefficiencies of the construction of it. But I’m not ruling out some discussion under the aegis of the NFU assurances as to these arrangements. And, as I think I’ve mentioned to you, there is a statutory control over construction activities under schedule 17 to the Bill, which embraces the arrangements for working sites and other attendant arrangements. Can we turn back to A147(6)?

466. Forgive me, I’ll try and get through this very quickly, because I know you’ve got one more to hear as well, after this. This bund here at number one, that is, as Mr Bedson rightly said, does have an important function as a noise bund for properties to the west of the railway line. The expectation will be that it will be designed in such a way as to provide a gradient that would be usable for agricultural purposes once it’s restored. But it is always open to the farmer to say, ‘I’d much rather that the bund itself was drawn back as far as possible so that it doesn’t extend any further than it needs to into my
land’. That has to be dealt with of course within the context of the environmental impact of that because we can’t have great big features in the landscape that would appear alien. But there is room for discussion of that under the aegis of the NFU assurance on detailed design. So, that is by no means an immutable feature in terms of its detailed design. It has to perform the acoustic function. Provided it does that, how it is actually designed, folded into the landscape and the impact it has on the agricultural operations is a key part of that detailed design process.

467. This area here, with the balancing pond, there was a suggestion that this area could be more efficiently arranged so as to reduce the impact on the farm holding. That is indeed subject of the letter that was sent on 5 June, yesterday, P474. Mr Bedson rightly says that he hasn’t really had an opportunity to think about that properly. And so, unless you would find it helpful, I won’t go through the detail of that. But essentially what is being said – if we put up plan –

468. THE CHAIR: I don’t think you need to do it at all. Let’s move on.

469. MR MOULD QC (DfT): Yes. And then the wetland habitat creation, there is an explanation for the need for that at P446(2) in another letter that was sent out to Mr and Mrs Parkinson on 30 May. You can see that, under the heading, ‘Wetland habitat creation,’ the reason why that is proposed is, ‘It’s part of wider measures to reinstate and enhance approximately nine hectares of wet grassland habitat adjacent to the Moreton Brook which is lost as a result of the construction of the proposed scheme’. And then it is also said to be, ‘Well located within the existing flood plain. It will have suitable hydrological conditions.’ And there may be opportunities to return it to agricultural use because I understand that wetland habitat can for example be used for grazing. And so, it’s not devoid of agricultural purposes. But again, the details of that are within the scope of the NFU detailed design assurance. But there is, on the page in front of you, a justification for that element. And if we don’t have that mitigation we will have to find somewhere else to provide it because if we don’t provide it we run the risk of being found not to have provided a properly mitigated railway. So, we can’t simply avoid it. It has to be provided somewhere.

470. THE CHAIR: And we’re going to look at this issue again with a future petitioner in more detail.
471. MR MOULD QC (DfT): Yes, exactly.

472. THE CHAIR: So, I’m happy to leave it at that because it will be considered with yourself Mr Bedson with one other –

473. MR WHITFIELD: Sorry, Chair. Can I just address a question to Mr Mould? If the property below the railway line was purchased and appropriately compensated for, much of the problems of moving the cows would be avoided and indeed you would have land in which to do the mitigation by way of not affecting Lea Hall Farm’s –

474. MR MOULD QC (DfT): This area here, you mean?

475. MR WHITFIELD: Below, effectively this triangle.

476. MR MOULD QC (DfT): Yes. That’s why the NFU assurance may well be a useful mechanism for further discussion on this.


478. MR MOULD QC (DfT): That land, as I understand it, falls within the ownership of the petitioner and therefore there may be an opportunity there.

479. MR WHITFIELD: And added a long walk for the cows.

480. MR MOULD QC (DfT): Yes. Can I then put up P475(3)? Oh no, we’ve dealt with that. That’s the trackway. Sorry. It was, yes, 475(6). This is a plan which was sent with the letter. In the event, if this yellow land – which was the land Mr Bedson said may be acquired under a blight notice – there is a possible arrangement for Mr Parkinson to provide access and to acquire that land, as I understand it. And that is also the subject of the letter of 1 June, which he referred to in his last point. It’s at P475(1), under the heading, ‘Access to third party lane’. Again, you have that letter. And if we go to the next page, there’s a rather – again, I’m sorry – it’s because – if you can keep to the top of the page – this – again, I’m not going to read it all out to you. The gist of it is that in the event that that yellow land comes into the ownership of the Secretary of State and there may be an opportunity for the petitioner to acquire it, and if he doesn’t acquire it, then there is an opportunity to provide access alongside the railway line along the point shown on the plan that I’ve just flashed up to you. Again, he’s only had that
relatively recently. And it’s quite a complex assurance that, so obviously I understand he needs time to think about it and we can continue to discuss that with him.

481. THE CHAIR: Have you come to an end?

482. MR MOULD QC (DfT): Yes, thank you.

483. THE CHAIR: Excellent. I would normally come to you, Mr Bedson, but I think Mr Parkinson wants to say something.

484. MR ROBERT PARKINSON: Basically, Mr Chairman. I don’t need that track because if I did acquire that piece of land, I can get to it from our own land, the other way. So, that track is not for me. It’s for HS2 so they might let it to somebody else. That’s all they’re putting the track in for, not for me. I can get to it another way. So, that’s just a red herring, that track is.

485. THE CHAIR: Okay. You’ve made the point. Thanks very much. Let’s move to the next petitioner. Thank you very much, Mr Parkinson.

John Stanley Prince

Submissions by Mr Bedson

486. THE CHAIR: Have we got Mr Price here or are you just representing him?

487. MR BEDSON: Prince. It’s Prince. No, Mr Prince –

488. THE CHAIR: Prince, sorry.

489. MR BEDSON: He was kicked by a horse a while ago and he’s suffering a bit. So, he’s not here, I’m afraid.

490. THE CHAIR: Well, we wish him well on his recovery. Just for our planning, how long do you think this is going to take?

491. MR BEDSON: Well, that rather depends on what Mr Mould’s going to say in a minute.

492. THE CHAIR: That is quite clearly not true because you start by speaking and
then Mr Mould comes in. How long are you going to take?

493. MR BEDSON: Well, in this case it is because –

494. THE CHAIR: Well, I need your plan. If you could answer my question directly?

495. MR BEDSON: Yes. In this case it is because Mr Mould was talking to me in the corridor outside a little while ago and referring to the fact that the entire borrow pit in this area is under review. If we could bring up please 146(9)? And in fact, the previous one there too, I’m sorry, which is 146(8). Thank you very much indeed. This farm was affected hugely by this enormous borrow pit. It’s 60 odd acres of borrow pit. There’s some very insensitive designs here. Mr Prince’s house is shown orange at number four. And surrounding his house are lay down, pre-cast concrete storage and construction areas, and all the rest of it, and a borrow pit. This is right outside his bedroom window where the poor chap lives. They run an equestrian centre from there. They have a very, very busy farm shop from there selling very high quality poultry and bird feed, of some national acclaim actually. There’s an awful lot going on there.

496. And HS2 seem to want to take both of the farm access drives for their use and to have some access around the farmyard itself, which has a very big impact, not only on the equestrian centre, but also this, his shop, which gives him a very good source of livelihood.

497. Now, I gather that HS2 are now contemplating not building the bourn embankment, but instead having a continuous viaduct. And that being the case, then the need for the borrow pit will go away. If that is the case, then I suspect a lot of the problems go away. So, the suggestion from Mr Mould was that we defer this until that decision has been made. I’m happy to do that as long as we can defer it.

498. THE CHAIR: Let’s pause and come to Mr Mould.

499. MR BEDSON: And as long as we don’t lose our opportunity.

500. THE CHAIR: We’ll pause and come to Mr Mould.

501. MR MOULD QC (DfT): What I wanted to do is to ask Mr Smart to speak to you because I think it –

503. MR MOULD QC (DfT): Yes.

504. THE CHAIR: Welcome back.

505. MR MOULD QC (DfT): He’s responsible for the engineering so it seems sensible that he should explain.

506. THE CHAIR: You mean it’s complicated.

507. MR MOULD QC (DfT): Anything complicated is no good with me. Mr Smart, just explain to us, what is it that you would wish to do in relation to this element of the design?

**Evidence of Mr Smart**

508. MR SMART: Yes, okay. Good afternoon, sir. Well, as the Committee is probably aware, when we go through the design for the Hybrid Bill it’s an iterative process. You are doing the design, you are looking at the construction methodology, you’re looking at what that means to construction traffic etc. And on this section we have a very long viaduct, about three and a half kilometres. That creates certain issues for resilience of the railway in terms of the firm interaction and expansion of the concrete structure, which is the viaduct, and the rails itself. Without getting too technical, that introduces things which are known as breeder switches, or adjustment switches, which allow the rails to move separately. And they are a maintenance issue. And they are also potentially – if not properly attended to – a derailment risk.

509. So, having an embankment like this is good in terms of managing that risk. However, it introduces other risks. It introduces risk for transition between earthworks and a structure – I’m going from a hard to soft. So, there’s a balance to be struck here.

510. Now, if one were looking at this in terms of we have an adjacent cutting, it would make quite good sense that we would use the cutting material to create an embankment because you would be minimising the movement of traffic. In this case, because of the dynamics of our overall mass haul strategy – which the Committee I think have heard about on other petitions – as it falls now, the majority of – well, all the material for this
embankment would come out of this borrow pit. It isn’t the only use for this borrow pit. This borrow pit also has an element of about a quarter of it which is needed south to construct earthworks south of us.

511. But I think when you then look at the construction methodology of how a contractor might want to build this – which is set up to produce a long viaduct – hence we do need the lay down areas for the pre-cast beams, which are the potential way this will be constructed – it does bring into question whether you would want to break that manufacturing type construction methodology and then introduce another construction method – building an embankment in the middle of the viaduct.

512. If you take all that in account, I think that what we can do is look at this and say, ‘Actually, we think we would probably continue with the viaduct through here’. And in this particular case it has the real advantage that you can now reduce the construction area taken because it obviates the need for the borrow pit. So, we get – to my mind – bearing in mind we do have some track rail risk to look it – but to my mind it gives us a potentially better construction methodology. It will reduce the impact on the petitioner. And I think it will strike a better balance for the route in this area. So, I would like to go away and have a look at that. I will give that caveat that although we can substantially reduce the effect on the petitioner, we do need the lay down areas, even more so now, because we’re going to have more length of viaduct. But we will look at how we can try and minimise those areas and how they interact with the petitioner.

513. THE CHAIR: So, presumably that will come forward in an additional provision because someone might object to that but would allow this petitioner an opportunity to come back in future?

514. MR SMART: Well, my understanding, sir – subject to checking this with legal advisers – is that moving to a viaduct here – providing we can do it in the land take – might not give rise to an additional provision. But I’d have to take advice on that.

515. MR MOULD QC (DfT): That certainly is the provisional view, that it would essentially fall within the scope of the powers given by schedule 1 to this Bill. But the trigger that I was going to suggest to the Committee to enable Mr Prince to protect his position on this –
516. THE CHAIR: Yes.

517. MR MOULD QC (DfT): – was that – as Mr Smart has explained – if that change to the design were to be firmed up, it would mean that the need to extract from that pit would either go away or be very significantly reduced. And that would then fall within the scope of the review of the need for extraction from the borrow pits that you know we’ve already committed to in the assurance to the National Farmers Union. We’ve said that we will carry out that review through engagement also with affected landowners – here Mr Prince – and that we will publish the findings of that review whilst this Committee is still sitting on other APs that will be coming forward. I think we said at the beginning of next year. On that timescale, that means that there will be an opportunity for Mr Prince to – there will be a trigger, if you like, for him to come back on this. But equally, if – and we’ll confirm this as soon as we can – if that change would fall within the scope of the Bill powers and so be a matter of detailed design rather than requiring the need for an additional provision, then on the face of it, he would be able to raise issues in relation to it in the Second House as well. So, there does seem to be a way forward here.

518. THE CHAIR: It seems a very sensible way forward. Mr Bedson, are you happy with that as a way forward?

519. MR BEDSON: If I’m hearing this correctly then, please, are we suggesting that we can defer this hearing to another day?

520. THE CHAIR: Yes.

521. MR BEDSON: Okay. If I can influence their thinking in any way, the hydrology here is very sensitive. The farm, just very quickly, from points 6D, 6C, 6B, 6A – there’s a big dike running up there that was put in by the Coal Authority in the late 80s, early 90s. And that controls the level of groundwater. And there’s two enormous pumps at 6A and point 6 –

522. THE CHAIR: In relation to the viaduct and the points you’re raising – they’re valid points, but technical points you need to… We’re not adding value as a Committee. I’d quite like to draw things to a close so we can meet in private to consider some of the issues today. I’m conscious – have you got any additional issues that aren’t
resolved by the viaduct?

523. MR BEDSON: Only the Trent Viaduct Satellite Compound there, which is placed in a fairly insensitive location. It wrecks the field. If it’s moved a bit please, we can actually still use some of that field? A lot of the other points relate to the viaduct and whether that happens or not, I suspect.

524. MR WHITFIELD: Very quickly, Mr Smart, if we look at P414, so I’ve got this clear in my own head? In essence your proposal is that the rail track will look like it does on the left, all the way through. We would lose that embankment.

525. MR SMART: Yes.

526. MR WHITFIELD: On the right hand side of the picture, there’s again an embankment, is there any thoughts about that?

527. MR SMART: Is this the one – the cursor’s one now?

528. MR WHITFIELD: Yes.

529. MR SMART: We would still have an embankment there. There is a potential to overcome my problem I’ve illustrated with the thermal movement of the structure and the track way, increasing and coming in from the embankment at either end of that long viaduct. And that would actually be the preferred solution, sir. The problem with that is, as you can see, that both the ends – well, you can’t see the other end – but certainly looking at the end you can see is there is a stream or a brook there. And you’ve then got to come over that. So, the potential for a culvert, but there is a lot of flood plain in this area. So, a potential, but I think it might be difficult, so it would end up with just a – as you’ve alerted – a viaduct that goes from there right the way through to the other end – one viaduct, yes, which would be around about three and a half kilometres.

530. MR WHITFIELD: Excellent, thank you.

Newcastle under Lyme Borough Council

Statement by Mr Mould

531. THE CHAIR: Thanks very much. I think that concludes that part of the session.
I’m going to come to Mr Mould. I believe you’ve got a statement, not related to this petition?

532. MR MOULD QC (DfT): I do. Thank you very much indeed. This relates to the petition of the Newcastle under Lyme Borough Council. And the statement is as follows. ‘Following constructive dialogue between Newcastle under Lyme Borough Council and the promoter, significant steps have been taken to address the concerns raised by the council in its petition. The promoter has offered the council assurances covering three matters: restrictions on construction traffic through the Madeley Conservation area; use of haul roads to access the Netherset Hey borrow pit; and provision of further screen planting in the vicinity of Madeley Cemetery. These assurances are in addition to those already offered to and accepted by Staffordshire County Council in respect of a range of highway and environmental issues. Given the steps taken by the promoter to address the council’s residual concerns and the assurances that have been offered, the borough will be withdrawing its petition and will not be appearing before the Select Committee today.’

533. THE CHAIR: Most satisfactory. And thank you as well, Mr Bedson, it’s good that we’ll see more of you and we’ll have a shared understanding how to move swiftly and effectively for everyone. So, that’s good. Looking forward to seeing more of you.