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

Wednesday 9 May 2018 (Morning)
In Committee Room 5

PRESENT:

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

IN ATTENDANCE:

Timothy Mould QC, Lead Counsel, Department for Transport

IN PUBLIC SESSION

WITNESSES:

Julia Allsopp and Wayne Bull
Tim Smart, Chief Engineer, HS2 Ltd
## INDEX

<table>
<thead>
<tr>
<th>Subject</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Julia Allsopp and Wayne Bull</td>
<td>3</td>
</tr>
<tr>
<td>Submissions by Ms Allsopp</td>
<td>3</td>
</tr>
<tr>
<td>Response by Mr Mould</td>
<td>16</td>
</tr>
<tr>
<td>Evidence of Mr Smart</td>
<td>33</td>
</tr>
</tbody>
</table>
1. THE CHAIR: Thank you very much for coming to petition. I think Bill Wiggin will be with us immediately, and this is the full Committee and we look forward to hearing your petition. Over to you guys.

Julia Allsopp and Wayne Bull

Submissions by Ms Allsopp

2. MS ALLSOPP: Thank you. I’m Julia; this is Wayne – Julia Allsopp and Wayne Bull. If we can have the first map on screen please then I can describe we are – A65(1), thanks. So, we are joint owners and we live in Holly Cottage which is on Common Lane. On there, that’s grid reference G7. Common Lane is clearly obviously noted and you can see how close the compound and the satellite is to our house and cattery and obviously that lane is normally a country lane. You can see the construction route is shown on there.

3. Bull Plant Ltd is Wayne’s construction company and that’s a registered address there and he goes to work elsewhere. That’s Bull Plant Ltd. Bromley Hayes Cattery is mine so we’re both self-employed. Bromley Hayes Cattery is my business which is on those premises, a separate building behind the house. So, you can see it, an E-shape on there. So, it’s in the gardens basically of our house.

4. We’re a select luxury cattery, built by Wayne specifically with everything there. It’s very popular with shy cats because we’re in a very quiet area and it’s a peaceful location. We’ve done it particular. It’s got underfloor heating which is heated from a ground source heat pump, we’ve got air conditioning which is run from solar panels, we’ve got a large number of regular customers with timid cats who continue to return to us because they know we spend time with them. We sit with them and make hiding places because they’re scared. Basically, we care about the cats. It’s not just a business, something I’ve always wanted to do.

5. THE CHAIR: Feel free to take your time and if at any time you want a short five-minute break, we can do that as well.

6. MS ALLSOPP: So –
7. THE CHAIR: That’s okay. Let’s have a five-minute break and we’ll come back at 9.45 a.m.

*Sitting suspended.*

*On resuming—*

8. THE CHAIR: Well, we’ll carry on with the hearing. If you find you’ve missed out anything at the end, feel free to email us at the close of business if there’s any other supporting information that you’ve missed out. I appreciate it’s difficult to come down and give evidence and this building can be quite intimidating and I suspect if you’ve not met us before, Members of Parliament can be quite scary as well. But, the key thing as part of this is giving you as much time and space to get your points across and then we can consider the petition. So, over to you.

9. MS ALLSOPP: Thank you. So, yes. So, basically, it’s the worry of losing the cattery that is the big upset for me. Amongst other points, our main concerns are the siting of the satellite compound and the use of Common Lane as the construction route. Alternative options have been put to HS2 for this, for the relocation of the compound completely so that Common Lane isn’t needed to be used at all for construction, even for just site set-up. Basically, if it isn’t moved, Common Lane and the construction route are not moved, then it will be a massive detrimental impact on our lives, not only from living there but also from a business point of view.

10. Bromley Hayes Cattery is my only income. If the construction remains so close then it will close the cattery down and we’ll be forced to move house and the business. If we are forced to move, financially we’ll be unable to relocate like for like because the mortgage that we’ve got now was granted on my previous income when I was employed. I was a bank manager and a mortgage adviser at the time so obviously my salary was a lot different then. Now we’re both self-employed, the mortgage rules are tighter and consequently we would be forced to downsize which potentially means I can’t have a cattery again.

11. So, looking at HS2’s proposals, I don’t think I need to read all of that out because I’m guessing everybody has seen all that anyway, but basically in the initial ES, it wasn’t detailed how many HGVs would be coming up and down. In the response from
HS2 they’ve now said it’s site set-up and it’s 10 HGV trips per day, so 20 per day, and it will be the first nine months only. To start with, we were under the impression it could be the 111. Even if it is only the 10, and it is only nine months, unfortunately that still isn’t going to help us at all. Site preparation set-up from January 2021 to September initially, the AP states the compound will be operational for an additional three months. So, it’s the compound site being so close to us as well and obviously the workers’ cars.

12. So, currently, Common Lane has a very low number of cars and farm vehicles that pass the cattery on a daily basis. It’s really, really quiet. The cats are quite happy there. If we could have A65(2) please. It’s a photograph which shows you from a cat’s point of view how far it is. That’s inside with the outside room. You can see through the mesh, you can see to the hedge, that’s where the lane is that HS2 want to use as a construction lane, even if it is only for nine months. Just the site preparation construction traffic alone would mean basically the whole year of my business going, that’s through the busiest time of the year, throughout the summer holidays, when we have those doors open, so they can sit outside and look and they love the countryside. The nice weather – obviously cats are more likely then to hear and get stressed by the vehicles. It’s basically 16 metres, that’s all, across our garden and the pond to – a little pond, our garden pond basically, to the road.

13. Even if only 10 HGVs a day went along, they’d be scared. We have a lot of cats that run in when even just a car goes past and the concern I’ve got on that is how would HS2 actually police it to ensure that it was only 10 per day and not more. Once a customer has gone to another cattery, so obviously the scared cats that I’m talking about, if they go somewhere else because of this, they’re not very likely to come back again, especially when they’ve got the knowledge that we’ve got the construction compound north of us, borrow pits to the east and to the west and then once it’s completed the actual high speed train is just down the road within 200 metres of the cattery so, once they start knowing about that, I think they’re going to go, unfortunately.

14. I also help a lot with Cats Protection. I’ve been a volunteer with them since I was 14 years old. When we started the cattery, I’ve started fostering for Cats Protection as well. There is a supporting evidence letter from them. It’s A65(3). It’s very small on there. I’ll just read it through briefly.
15. ‘I’m a branch co-ordinator for Lichfield’ – this isn’t me; this is Nicola – ‘I’m a branch co-ordinator from Lichfield and Tamworth branch of Cats Protection. The branch has limited capacity to foster and re-home cats and is reliant on a small number of unpaid volunteers. The capacity for the branch is supplemented through a formalised contractual agreement with the cattery. This arrangement provides the branch with three permanent pens which house the cats for pending adoption. The cattery increased the number of cats that Cats Protection can provide with shelter and care through bringing them into the branch care and also gives the opportunity to purchase additional space if needed, all at a low cost to the branch. The cattery often provides a tranquil, longer-term space for the more difficult to home cats which frees up fosterers’ pens for emergencies. These longer stay cats are often older and they require a quiet and peaceful environment’.

16. I’ve literally just had a message from Cats Protection as well to say somebody’s having a cat put to sleep, they need to bring that in. I’m there to help them with things like that.

17. ‘The cats coming in to branch have come from a variety of backgrounds and some are traumatised. The cats are often stressed and need to be able to adjust to their new environment. The cattery provides the ideal home for rescue cats because it’s in a peaceful environment, plenty of birds and wildlife to keep them stimulated.’

18. The current HS2 construction plans will have a big impact on the cattery in terms of suitability for a foster environment for their cats. She quotes from the Chartered Institute of Environmental Health model licence conditions and guidance for boarding cats and basically in that quote it’s saying that they need peace and quiet, cats are adversely affected from loud noises, for example, barking dogs. ‘Cat environments should be as calm and quite as possible with noise-producing equipment located as far away from any noise as possible. They shouldn’t be exposed to any excessive noise or continuous noise’. So, therefore the proposed plans for the construction route would create a great deal of noise and dust which would impact on the cats in the cattery, particularly distressing rescue cats which may already be distressed. The plans are likely to create an unsuitable environment for Cats Protection cats, meaning they’ll have to look for alternative options.
19. She goes on to say we’ve been working with them since 2012 when we opened the cattery. That’s fostering since then. We’ve homed, from the cattery, 280 Cats Protection cats and it highlights the success of this. I was also asked to speak at Cats Protection national conference about the cattery and the relationship with the branch because they were so pleased on how it’s going. The branch also uses us for other things so I sell Cats Protection things from there. We have small meetings in the office. Again, if we left, they couldn’t do that.

20. Another picture please, A65(4). So, the picture you saw earlier with the cat in the cattery looking out, this is basically from the other direction, so it shows you standing on the road, that’s our garden picket fence, the reeds you can see in the small garden pond and you can see how close that is to the cattery. So, again, it’s only 16 metres where HS2 are proposing HGVs come up and down. It’s not only the noise from those passing that will be a problem, but the noise and dust from the actual compound itself as well, which is metres away, and from the vehicles to and from the borrow pits, which will also be close. I’ve looked up some supporting evidence.

21. I know what noise does to cats but just for people that don’t know cats, there’s lots of supporting evidence which I think you’ll have in writing in front of you. Basically, being in a cattery in the first place stresses cats out because they’re away from home. Cats are very, very stressful. It’s causes lots of illnesses in cats so you have to be really careful with them and sometimes stress alone can result in a cat dying. I obviously don’t want that.

22. Animal Boarding Establishments Act. I have to have a licence every year from the council, from Lichfield District Council, to allow me to operate. The main thing on that licence, it says about noise. ‘Cats must not be exposed to excessive noise or barking boarded dogs or other excessive continuous noise’. I haven’t asked them. I don’t know whether HS2 went ahead with these plans whether they’d actually give me a licence again or not. I’m not sure. I don’t think it would actually meet what they want in there.

23. Also, on the internet, ‘Pet boarding and day care. Most cats will find the sound of barking dogs stressful. Cat boarding areas should also be kept away from the main traffic flow for the facility’. There’s a link there as well for further information on that.
24. From the PetMD, ‘Eight common cat fears. Basically, the cat’s sense of hearing is so accurate compared to ours, they can hear a mouse in a football field and pinpoint it’. So, to imagine what an HGV sounds like to them is quite scary.

25. And then Cats Protection have got a very big book called *The Behaviour Guide* covering stress and depression in cats. They’ve got a massive section on this and the consequences of it which, as I say, can actually result in death.

26. If we can look at A65(5) please. So, this is a Google map. You can see us. Basically, there’s the A515, we’re down a little country lane and round the corner off that so it’s very quiet where we are. You can also see around there, other catteries and kennels all dotted about, not on main roads. For that reason, they’re located away from busy roads. Notably as well, Pool House Vets have changed from a standard vet practice to a 24-hour animal hospital so they have animals boarding there. To do that, they’ve actually moved from the town centre location that they were in to a countryside purpose built new-build. Again, that shows because of the noise.

27. Can we look at A65(6) now please? So, that’s the side of our cottage, house, whatever you want to call it. Very quiet road, you can see how small the road is. So, basically, it’s only 3.2 metres wide. It’s a country lane. For me to have the cattery, it took 12 months to get agreement for planning permission to have the cattery. One of the main concerns was the number of traffic that I would cause up and down that lane and that was only cars. Highways stated that customers would have to pick up and drop off their cats by prior arrangement. That was one of the only reasons, the condition that I got agreement because they didn’t want lots of traffic up and down that lane. So, their quote was ‘Customers would pick up and drop off their cats by prior arrangement, thus enabling a degree of control over the number of customers visiting the site at any one time’.

28. Planning committee on 23 May 2011 that I attended and put my case forward, only approved the planning permission with various conditions, one of which being a condition should be included to ensure an appointment management system is put in place and that’s how I operate. I basically open morning and evening. Every single customer books an appointment with me. There’s an average of four customers per day who visit the cattery, rising to a maximum of eight a day at very busy times. I know
exactly when they’re coming, there’s not lots of cars at the same time, so I abide by that. Common Lane is 3.2 metres wide and therefore, in our opinion, not suitable for HGVs. You can see that in the photograph.

29. With regard to safeguarding, we did receive a letter from HS2 in September 2017 which showed safeguarding along the boundary of our property. So, where you’re looking at now, you can see the ‘ducks crossing’ sign. We have little ducks crossing into the pond as well. That actually showed on there as safeguarding for us. So, I called to query this with the HS2 helpline. They suggested on the phone call that this would be for widening the road by 1.5 metres which would take away the daffodils, the fence and there is a wall where the lights are and then part of our path, leaving us with half a metre between the cottage and the road. The original part of the cottage, the white part, is over 100 years old and it’s got no footings either.

30. MR WIGGIN: Have you had an offer from HS2 for that?

31. MS ALLSOPP: Sorry?

32. MR WIGGIN: Have you had an offer from them?

33. MS ALLSOPP: No. This is a query still because that was a phone call where the gentleman said that to me. We’ve not been able to get any confirmation in writing from anybody and when we’ve queried it at two different meetings with HS2, they’re telling us it’s subsoil only but when I ask ‘What do you mean by that?’, nobody can give me an answer that I understand. So, I’m still concerned what they actually mean is to widen it as they’ve said because in my head, if HS2 want to use it for HGVs, it’s not wide enough to use HGVs, it’s to be widened somehow. In fact, somebody was reading that off a screen when I phoned the helpline. I’m really worried about that because I can’t get any answer.

34. MR WIGGIN: Okay.

35. MR BULL: We have been promised an answer from HS2 at the meetings we’ve had with them at our house but we haven’t had anything come back yet.

36. MS ALLSOPP: Basically, all they’re saying is subsoil and I don’t understand what they mean by that.
37. MR WIGGIN: Okay.

38. MS ALLSOPP: Going on to another point, Common Lane closure. I believe this has been discussed previously with Kings Bromley Parish Council and possibly others. We don’t want Common Lane closed. So, basically if it is closed at the point where HS2 crosses further down the lane, we believe it would encourage fly tipping at the closed point and effectively we’d be in a cul-de-sac. Again, we’re concerned about that for our home and business. Solutions have been put forward to HS2 to have a bridge there so it isn’t actually closed so the road still stays as it is under the rail. Also, borrow pits, our neighbours, Joy Fielding and Barry Stoney, we know are petitioning regarding the borrow pits. We support that and we understand there’s been a document produced by NFU stating there’s sufficient resources already in existing quarries without the need for creating more. I know that’s being taken up separately as well.

39. Health. As you can see, it’s a constant worry for me. The construction is having a very negative impact on our health and wellbeing. I was diagnosed with depression since 2015. I’m on antidepressants. We’ve waited so many years to find out what the exact proposals are and still not having definitive answers makes things a lot worse. HS2 has become a household name and daily discussion in our house obviously between us, with our friends, with our neighbours, with our family, even up to the point with my customers now and they’re never positive conversations. With the recent AP, the worry has got even worse because obviously there’s just more and more traffic that I hear about.

40. So, basically, we looked at blight, not that we want to move but if these problems aren’t moved, we’ll be forced to go. We’ve had a letter from Bagshaws property specialists which is A65(8). I won’t read it all but basically, at the bottom, they do state that the proposed activities of HS2 may also have an impact on marketing and appeal of our property.

41. MR WIGGIN: Can I just ask you, when you got that letter, it doesn’t fit with what you said about not being able to get another mortgage, does it, because you can’t get another mortgage because your incomes have changed, isn’t that right?

42. MR BULL: Yes, yes.
43. MS ALLSOPP: Yes, we can’t. So basically, if we had to sell, we would have to downsize and obviously we wouldn’t want to sell at a reduced price either because then we’d be struggling even more. The gentleman actually said to us when he visited the house that he didn’t think we would be able to sell, but that was all he was prepared to put in writing at the moment because that was not a full valuation, just a letter.

44. THE CHAIR: So, if you were offered the £550,000 you would need additional money to pay off your mortgage?

45. MS ALLSOPP: We’d have to pay off our mortgage, yes.

46. THE CHAIR: Wouldn’t that be transferable to another property?

47. MS ALLSOPP: The mortgage is usually but you have to apply for a new mortgage. So, the scheme that you’re on is moveable, providing the value of that house is, but you have to reapply for an application to confirm your current income. My income when we originally borrowed was £36,000 a year and Wayne’s income, because I was employed, plus bonuses. My net profit now at the most has been £9,000.

48. THE CHAIR: Is it possible to either ask for the total of your mortgage now or you can perhaps provide it if you don’t want to say that publicly?

49. MS ALLSOPP: Sorry?

50. THE CHAIR: How much your mortgage is now.

51. MS ALLSOPP: Yes, it’s about £180,000/£200,000.

52. THE CHAIR: Okay, thank you.

53. MS ALLSOPP: So, we’d have to pay that off, pay the expenses and then buy a house for probably half.

54. THE CHAIR: And build a cattery?

55. MS ALLSOPP: Yes, we wouldn’t be able to do that with that money really, not the same type of cattery that we’ve got now. We could build a bog-standard cattery but not the type we’ve got now. Obviously though we don’t want to do that because we want to stay where we are.
56. Resolutions then, so in our opinion, relocating the compound and not using Common Lane at all will mean we can stay as we are and the line itself, I think, will affect the cattery but not to that extent. So, basically, there’s plenty of other options in my mind where the compound could go instead of right next to houses. Wayne, you’ve worked in construction.

57. MR BULL: Yes, I’ve been on construction sites for over 30 years and on a lot of the large jobs we’ve done, they wouldn’t be allowed to use – they have to use like a traffic light area from the main road. They wouldn’t be able to be squeezing down little roads from what I’ve witnessed in the past on private jobs. So, I don’t see why it would be such a big problem to have access from the 515 and come straight in.

58. MS ALLSOPP: And not using Common Lane obviously for construction. If (1) and (2) aren’t possible, we will be forced to go and therefore we feel that our application for blight should be accepted with full costs because it’s been rejected at the moment and we also think Common Lane should remain open with a bridge at the point where HS2 crosses, not a diversion.

59. So, in summary, basically just to make it clear, we don’t want to move. That isn’t our main aim. We basically want the compound moved and Common Lane not used. We fully intended to live where we are for the rest of our lives. It’s only because of HS2 that we’re thinking about moving and being forced to. The idea of leaving our home is highly emotional, as you can see, for many reasons: firstly, because Holly Cottage belonged to my great aunty. It was left to three people in the family, we bought them out, borrowed a lot of money, Wayne rebuilt it and extended it and then there was a field next to it, which we bought, and Wayne built the cattery. It’s been my dream since I was a little child to do this and we’ve got it and I don’t want to leave.

60. Financially, remaining at Holly Cottage if the compound and construction did not get moved, it wouldn’t be an option for us. As stated, the cattery would certainly decrease dramatically, even to the point where it would have to close. Already within a two-mile radius of us, HS2 have actually bought up two catteries and closed them. Neither of these were actually on the line of the route or within a safeguarded area as far as I’m aware. We’re not in a financial position to maintain our mortgage and our bills without the joint income at the level that we’ve got currently. We’ve got a mortgage on
our house and all the money to build the cattery was borrowed. Financially, we’re not able to set up the same again elsewhere. We couldn’t do like for like.

61. We’ve found HS2 communications to be few and far between. We’ve actually chased them a lot and when we do receive communication it’s complicated, not easy to understand, either that or it’s just copy and paste from the main books that we’ve already read. We have asked for a direct answer in person or by email and this hasn’t been forthcoming, for example the safeguarding query. We’re continually waiting for answers. Sometimes it takes months or years or sometimes we never get an answer. Some of our questions are still outstanding and this is causing unnecessary worry, stress and anxiety over our future.

62. We can’t lead a normal life because we’re waiting to find out what’s happening. There’s lots of things we want to do at home, as everybody is I’m sure but we’re thinking, is it worth spending that money? Have we got to go? Can we afford to spend the money if we’ve got to move? So, we’re literally putting everything on hold at the minute because of HS2. So, this is resulting in, particularly for me, I’m unable to come off the antidepressants and the longer it’s dragging on, the worse I’m getting and obviously Wayne’s not too impressed either. I don’t think there’s anything more.

63. MR BULL: No.

64. MS ALLSOPP: Thank you.

65. THE CHAIR: Thank you very much. I think there might be a few questions just to clarify and get more detail. Martin?

66. MR WHITFIELD: Thank you. If I just start, am I right to say, Mr Bull, that although you live there and it’s the registered part of the business that there’s no equipment as such there for your building point of view?

67. MR BULL: No, just a couple of diggers and stuff like that, yes.

68. MR WHITFIELD: And then if I just ask, you talked about a licence from Lichfield Council for running the cattery, is that an annual licence?

69. MS ALLSOPP: Yes.
MR WHITFIELD: Right, so every year you have to re-apply for it?

MS ALLSOPP: Yes, they come and inspect the property.

MR WHITFIELD: And they come and inspect. And the noise element about no excessive noise or barking dogs, that’s been a condition of the licence since you first opened the cattery?

MS ALLSOPP: Yes.

MR WHITFIELD: Good.

MS ALLSOPP: Yes, it’s a standard condition.

MR WHITFIELD: It’s a standard thing. And the other thing is, I’m going to go and look at A65(7) which is a photograph, presumably again down the side of your house.

MS ALLSOPP: Yes.

MR WHITFIELD: Is this the wall that you see on the right-hand side that you were talking about with regard to the mitigation? So, for the road to be widened, is your understanding that it would come beyond your picket fence, in essence?

MS ALLSOPP: Yes, half of that path as well basically is what that would mean.

MR WHITFIELD: And half of the path that we see?

MR BULL: We were told, well verbally, 1.5 metres.

MS ALLSOPP: So, that would leave us with half a metre. So, that path’s a metre wide.

MR WHITFIELD: And did they say anything about the road widening being on the other side, where I do see there’s a hedge?

MS ALLSOPP: They didn’t say anything about that.

MR BULL: No.
MR WHITFIELD: They haven’t said, so that’s still just a mystery to you?

MS ALLSOPP: Yes.

MR WHITFIELD: Excellent, thank you.

MR BULL: But the reason we actually phoned to the helpline, we had a letter and we had –

MS ALLSOPP: A red line or band.

MR BULL: Right across that. That’s why we phoned.

MR WHITFIELD: Excellent, thank you.

THE CHAIR: Sandy?

MR MARTIN: Mr Bull, when you are going to your work, would you always go down to the A road or would you sometimes go up Common Lane the other way?

MR BULL: Yes, 90% – well, even more, 99% of the time go down to the A515, yes.

MR MARTIN: Down to the A road, okay.

MS ALLSOPP: That’s in a van, not in a digger or anything.

MR MARTIN: Yes, yes.

THE CHAIR: And on the photo we can see another house and we can see it on the plan, is it just one other dwelling on Common Lane?

MR BULL: Yes.

MS ALLSOPP: Yes. They have had an agreement from HS2 to buy them out apparently, recently, next door, Rose Cottage.

THE CHAIR: Right, well it would be good to confirm that and confirm whether they’ve petitioned us just for clarity’s sake.

MR BULL: No, I don’t think they have petitioned.
104. MS ALLSOPP: No, from what they’ve told us, they haven’t petitioned but they have got an agreement to purchase.

105. THE CHAIR: Okay, thank you for that. Mr Mould, then, to you sir.

**Response by Mr Mould**

106. MR MOULD QC (DfT): Thank you. I’ll put up P103(3). You’ve seen essentially the same plan already but this has one or two other points on it which might be helpful. What I’m going to do is start off by explaining and confirming I think the proposed use of Common Lane and the position with regard to the satellite compound and then I’ll deal with the other matters that have been raised as well. So, what we have as we recall, the petitioners’ property here, Common Lane, which is running presently on a loop up to Kings Bromley and with a junction on to the A515 at this point here and the current line of the A515 is running along this route here. The railway constructed in a northerly direction to the east of the petitioners’ property and in order to service and manage the construction of the railway and its various civil engineering elements through this region, this quite extensive construction area is required.

107. Now, as you can see, it comprises of a series of lay down areas and a transfer node which is essentially a fancy name for a road head where one would transfer excavated materials from large wagons running along the trace to road-going lorries, the construction compound itself and a haul road, which is the yellow notation, which will run down alongside the eastern side of the construction area and continue southwards a little way further at the point where Phase One and Phase 2A meet.

108. Now, the intention is to have that haul road have an access from the existing line of the A515 on to that haul road as early as possible in the main construction programme because the intention is that all HS2 heavy traffic movements that need to come off the road or come on to the road and then serve construction to the south, along this haul road, that they should be able to get straight on to the construction area directly from a dedicated access from the A515. We have to build that access, obviously, before it can be brought into use and, in the meantime, the programme is based upon the setting up of the construction compound, the satellite compound, with which the petitioners are particularly concerned, during that period.
109. So, that’s explained in the two bullets on the left-hand side: Common Lane to be used for the set-up and servicing of the compound. When the haul road access off the A515 Lichfield Road is complete, all construction traffic will use the haul road. Now, the petitioners have been told, and this is correct, that at the moment it’s expected that we may need to use Common Lane for that purpose of set-up for up to nine months. That period may be shorter because it may be possible to get the haul road into operation and use that for a period of that nine months, amongst other things, to set up the construction compound. But the build is founded on the proposition that to ensure there is no unacceptable programme delay, we can use Common Lane for that purpose for that initial period. Sorry.

110. THE CHAIR: Sheryll, do you want to come in now or later?

111. MRS MURRAY: I think Mr Mould’s just answered it but, Mr Mould, it’s nine months maximum, presumably?

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

113. MRS MURRAY: And you expect it to be for a much shorter period?

114. MR MOULD QC (DfT): I can’t say I expect it to be but certainly there’s a reasonable prospect that it could be shorter. The period of the heaviest use of Common Lane, I can show you on the next page actually. You’ve already been told these numbers by the petitioner.

115. MRS MURRAY: Yes.

116. MR MOULD QC (DfT): They got this right but as you can see from the chart, the period of busiest use is a period of about three months when there could be as many as 20 HGV movements on Common Lane. We’re predicting, as you see from the table to the bottom, that without HS2 there could be as many as six HGV movements on Common Lane.

117. THE CHAIR: Can I just check, what’s the brown colour as distinct from the orange?

118. MR WIGGIN: The last slide was better for that.
119. MR MOULD QC (DfT): The brown is areas for – that denotes areas of stockpiling of materials.

120. MR WIGGIN: Sorry, if you could just go back one slide, please? So, it is all around their house?

121. MRS MURRAY: Yes.

122. MR MOULD QC (DfT): Their house is here.

123. MRS MURRAY: So, it’s going to affect their business for almost a year?

124. MR MOULD QC (DfT): Well, up to nine months, yes. So, no more than nine months as I’ve told you and there’s a reasonable prospect that it could be less. What I’m certainly prepared to do in the light of the very clear way in which they presented their case in writing in the presentation they put to you, and having heard what Ms Allsopp has said this morning, I’m prepared to ask HS2 Ltd whether they’re able to give an assurance in these terms, that they will seek to have the dedicated site access on to the A515 in use as soon as reasonably practicable after the start of main construction and that they will give an assurance that, once that dedicated access has been brought into use, they will not use Common Lane thereafter as a main construction route and, thirdly, that they will give Mr Bull and Ms Allsopp prior notice of the dates so that they are able to make whatever plans they need to for whatever period of use of Common Lane falls out of that process.

125. But I do want to make it clear, I hope that’s become clear from what I’ve said, that this is a relatively low period of use of Common Lane for a relatively short period at the start of the construction programme but then all the other activities which are associated with the construction of the railway to the south of the A515, those will be served by a dedicated access at the point on which you see the cursor now, so Common Lane will not be used.

126. Now, the other point that I can tell you is this. There is no reason in principle why the location of the satellite compound should not be moved northwards within the overall construction area here and so I know that is another point that the petitioners are concerned about. It may be possible also to give some sort of assurance to them in
relation to that, though obviously the detailed layout of such an important construction area will need to be left, ultimately, to the contractors to resolve. What it would mean, of course, is that, if we were to move the compound further north, then the area of brown that has got the cursor on it at the moment, which is where the transfer node or the roadhead would be located, that would need to be moved, swapped over. We can’t reduce the overall size of the compound here. So, they would trade, if you like, the relative proximity of the satellite compound itself with the relative proximity of a roadhead where vehicles would be transferring materials, from large excavation materials – and it may be that, actually, that is likely to be more intrusive than the compound but once it’s set up, the compound is likely to be relatively benign because it will provide management facilities for the various heavy construction elements that are going on.

127. Just in case there’s any doubt as to what is being managed from this compound, it consists essentially of four elements: firstly, the construction of the Pyford north embankment, which is this very significant earthwork which you can see running along the screen here; secondly, the movement, as I’ve said of excavated materials from this point on the route and southwards which would need to come for transfer on to the public roads via the roadhead; thirdly, the management of excavated materials and backfilling of the Kings Bromley south borrow pit, the northern extent of which you can just see on either side of the railway here; and, fourthly, the management of construction of the Bourne auto-transformer station, the footprint of which you can see here, which is one of our five kilometre spaced power supply facilities. So, there’s an awful lot of essential work that’s being done here and that as I say, after the establishment of the access on to the A515, that would all be served by a direct access on to the A515 and none of that, once that access is in use, will be served by HS2 vehicles using Common Lane. I hope that gives a clear sense of the relatively limited duration and the relatively limited number of vehicles.

128. Now, as I say, if the Committee would find it helpful, if the petitioners would find it helpful, I’m certainly willing to seek to see whether the project is able to give the assurance that I have outlined to you.

129. THE CHAIR: Sandy then Bill.
130. MR MARTIN: First of all, yes, Mr Mould, it’s correct isn’t it that Common Lane is going to be closed off?

131. MR MOULD QC (DfT): Common Lane will be permanently closed as a public carriageway from this point here where a turning head would be created to this point here and the reason for that is obvious. We have to build an embankment. It will remain open, both as a private route for farm vehicles and also as a public footpath and a public bridleway and the route of all of those, they will follow this route here. We’re going to create a farm access route and a bridleway and footpath around this point here. We can’t turn that into a public carriageway because we cannot get sufficient clearance under the viaduct at this point.

132. MR MARTIN: No, no. But, I mean it’s – yes, okay. I was slightly confused because there were some changes, weren’t there, to some of the closures you were going to be doing as a result of the petition from Staffordshire County Council but that’s not one of them?

133. MR MOULD QC (DfT): There’s no change directly to that point. What you had in mind, I’m sure, is that as a result of the negotiations with Staffordshire we’ve been able to give an assurance to provide a realigned through route for Common Lane, broadly speaking along the eastern side of the constructed railway. So, it will be possible for traffic to turn right into Common Lane at this point, run along the eastern side of the railway on a newly constructed lane and then round into Kings Bromley that way.

134. MR MARTIN: And what about the fears of Mr Bull and Ms Allsopp that Common Lane is going to be widened outside their house?

135. MR MOULD QC (DfT): I can say categorically, the project does not have the power, and therefore does not have the intention of carrying out widening works on that side of Common Lane which forms the frontage to their property. So, if that hasn’t been made clear to them before then I am able to make that clear now.

136. MR MARTIN: Okay.

137. MR MOULD QC (DfT): What may happen is some limiting widening by
removing some of the grass verge that you saw on the other side.

138. MR MARTIN: On the other side, yes.

139. MR MOULD QC (DfT): That’s within highway limits so therefore we would be able to do that but that widening would simply be to enable that limited use of Common Lane that I mentioned and we will, under the arrangements we have with the highway authority, will be required to accede to their requirements in terms of reinstating. So, if they require the verge to be reinstated, we would have to reinstate it.

140. MR MARTIN: And finally, Mr Mould, given that one of the chief concerns of Ms Allsopp is the noise and disturbance from the operations, would it be feasible to build an acoustic fence before the creation of the compound?

141. MR MOULD QC (DfT): Well, so far as construction noise is concerned, there are a couple of points I can make. Firstly, this element of this work site that I’m pointing out to you now, that denotes a substantial area of material stockpile so that will act as a bund. That will need to be subject to appropriate dust suppression measures and that’s dealt with under the code of construction practice.

142. Secondly, the compound itself, ordinarily compounds are fenced for security and for noise attenuation purposes and so you can expect that that compound would be fenced. There may be a need for some form of fencing around the wider construction area and so there are a number of on-site techniques that are required. You’ll remember that when I opened the case I drew attention to the statutory controls that the project is under, under the Control of Pollution Act 1974. We have to obtain a site licence from the local authority for the operation of this construction site and, in order to satisfy them those arrangements are satisfactory under that statute, we will have to show that we’ve used the best practicable means to control construction noise from that compound and so, not only do we have our own self-imposed discipline under the code of construction practice but we’re also subject to the controls of the local authority as well in that respect.

143. We have identified the cattery as a sensitive business in relation to noise and I can just show you the reference at page 301 in the environmental statement. You can see, at paragraph 3, 13.4.33, ‘On a precautionary basis, noise from specific construction
activities has been identified as resulting in’, to use the language of environmental assessment, ‘significant residual temporary effects on non-residential buildings’, and then the cattery is set out.

144. MR BULL: That’s not ours.

145. MS ALLSOPP: Sorry, that isn’t ours. That’s the one you’ve already bought, and it’s empty.

146. MR MOULD QC (DfT): I do apologise. We’ve certainly identified your premises as a sensitive receptor. The point I was going to make in relation to that was this. The project will be engaging with the proprietors of businesses that are regarded as sensitive to construction noise, in order to ensure that appropriate management arrangements are in place, to seek to minimise the noise impact of the construction of the railway, as far as we reasonably can.

147. CHAIR: Can we come to Bill Wiggin?

148. MR WIGGIN: Can we have slide 97, please? P97? Because I think it’s just a bit bigger. Right. If you look, where it says ‘Pyford north embankment transfer node’ –

149. MR MOULD QC (DfT): Yes.

150. MR WIGGIN: – and then you go left –

151. MR MOULD QC (DfT): Yes.

152. MR WIGGIN: – where there the little arrow is, just on the other side of the road – no. You were right where the little arrow was and now you’ve moved it. Back you go. Yes, that’s it. That property there is one you’ve already bought, isn’t it?

153. MR MOULD QC (DfT): No. That is a property that we have agreed to buy – I say the Secretary of State has agreed to buy under the need-to-sell scheme, yes, Rose Cottage.

154. MR WIGGIN: So the Secretary of State bought that one.

155. MR MOULD QC (DfT): Yes.
156. MR WIGGIN: All of this is within the pink zone and you wouldn’t need to do all these other roads if you could use Common Lane. So why haven’t you bought the cattery?

157. MR MOULD QC (DfT): Well, there’s no need – we don’t need –

158. MR WIGGIN: There’s no other house on this road.

159. MR MOULD QC (DfT): Well, first of all, as I understand it, these petitioners don’t want to be bought. Their ambition is to stay –

160. MR WIGGIN: Have you offered?

161. MS ALLSOPP: We have applied for blight.

162. MR WIGGIN: But you haven’t been made an offer, have you?

163. MS ALLSOPP: We – but they rejected it.

164. MR BULL: It got turned down, yes.

165. MR WIGGIN: Oh dear.

166. MR MOULD QC (DfT): The petitioners have made an application – they don’t fall within the blighted area because the only acquisition that is provided for under the Bill is acquisition of that part of the highway subsoil which falls within their ownership. So –

167. MR WIGGIN: Sorry. You pink the whole area around it; it’s definitely within the terms of the Bill.

168. MR MOULD QC (DfT): None of the area of their property is within the pink. You can see it –

169. MR WIGGIN: No, but it is surrounded by it.

170. MR MOULD QC (DfT): Yes.

171. MR WHITFIELD: It’s an island within it.
172. MR MOULD QC (DfT): But I – let me just explain the –

173. MR WIGGIN: No, you keep digging Mr Mould.

174. THE CHAIR: I think we all know where we’re going; it’s just how quickly we get to the conclusion.

175. MR WIGGIN: Yes. Off you go.

176. MR MOULD QC (DfT): Hopefully upwards. Under the statutory regime for blight, in order to be accepted on a blight notice the proprietor has to show that they have a qualifying interest in the property, that their property has significantly diminished in value as a result of the proposed works and that their property is blighted land; that is to say that it’s land which falls within the safeguarding area.

177. MR MARTIN: Mr Mould, can I just…? That doesn’t necessarily apply to business, though, does it?

178. MR MOULD QC (DfT): Yes, it does.

179. MR MARTIN: Does it?

180. MR MOULD QC (DfT): Yes. As a small business, to be able to apply to sell under a blight notice, you have to show that your property falls within the safeguarded area. And these –

181. THE CHAIR: Sheryll Murray. Sorry, I think we’re going to get lots of interventions.

182. MRS MURRAY: Can I just ask Mrs Allsopp and Mr Bull the distance between their property, or the approximate distance between their property and the next-door property that HS2 have purchased?

183. MR BULL: Well, there’s just a hedge between us.

184. MRS MURRAY: Or the Secretary of State.

185. MS ALLSOPP: Just a hedge.
186. MR BULL: Just a hedge between us.

187. MRS MURRAY: Just a hedge?

188. MR BULL: Yes.

189. MRS MURRAY: How wide is that hedge – two foot, three foot?

190. MR BULL: Four foot, yes.

191. MR MOULD QC (DfT): Can I just be clear that the…?

192. THE CHAIR: Sorry. I want Sheryll to finish and then Bill wants to come in because I’d actually interrupted Bill as part of his questioning, bringing in Sheryll. And then I will come back to you, Mr Mould, not before. Sheryll?

193. MRS MURRAY: So, very clearly, you applied for blight in the same way as your neighbours were offered and three feet has made the difference between yours being rejected and the Secretary of State purchasing their property.

194. MS ALLSOPP: That’s how I see it, anyway.

195. MRS MURRAY: It’s how I see it as well. I’m just sort of just seeking your reassurance that I’m actually not looking at this –

196. MR BULL: No, no, it’s just a hedge between us.

197. MRS MURRAY: – in a different way. Thank you very much.

198. THE CHAIR: Bill Wiggin?

199. MR WIGGIN: Thank you for explaining the reason why blight is relevant but it isn’t just blight, is it, because you’re significantly adding to your own costs by having to build roads running in parallel when if you owned that property you’d be able to use Common Lane?

200. MR MOULD QC (DfT): Will you just allow me to – I mean I’ve very happy to answer your questions but you do have to allow me to explain the position. First of all, Rose Cottage has not been bought in response to a blight notice. Rose Cottage itself did
not fall within the safeguarded area. Rose Cottage is to be bought following an application under the need-to-sell scheme. The need-to-sell scheme only applies to properties that fall outside the safeguarded area and, therefore, are ineligible for acquisition under the statutory blight regime. So it is to confuse two quite separate bases for property acquisition to see Rose Cottage as a blight acquisition.

201. THE CHAIR: Why did they need to sell, sorry?

202. MR MOULD QC (DfT): I assume they needed to sell for some compelling reason which was accepted by the Secretary of State. There are five criteria that have to be satisfied in order for someone to successfully apply for acquisition of their property by the Secretary of State under the need-to-sell scheme. The most significant of them is the fifth: that is that the proprietor is able to demonstrate a compelling reason to sell. They must have demonstrated a compelling reason to sell.

203. THE CHAIR: So if the petitioners applied for that and they said, ‘Look, we’re not going to be able to run a cattery business. We’re not going to be able to pay our mortgage if we’re not running a cattery business. Therefore we need to sell’, would that be likely to be a compelling case under the need-to-sell? Is there something in their situation that means that they’re not eligible?

204. MR MOULD QC (DfT): I’m afraid – I’m not trying to be unhelpful –

205. THE CHAIR: No, no, carry on.

206. MR MOULD QC (DfT): I cannot say to you that is likely or unlikely to be a compelling reason to sell. In principle, it sounds like something that would require serious consideration. But, as I understand it, their first ambition is to stay. They told you that. If they are not given the satisfaction that they seek as regards the moving of the – there are two conditions upon which they say they will say. The first is that the compound is moved away from that location. The second is that Common Lane is not used for construction traffic. They said in their presentation to you at A64(9) that if those two conditions are met then they would look to stay.

207. Paragraph 1: resolutions. We locate the compound closer to the A515. I’ve explained there’s no reason in principle why that can’t be done. Secondly, don’t use
Common Lane for any construction. I’ve told you the relatively limited use that we require of that but I’ve also said that I’m willing to seek an assurance in the light of what they’ve said that we reduce the need to use that as far as is reasonably practicable by bringing forward the – by coordinating the opening of the dedicated site access on to the A515 with the setting up of the construction compound. If those two conditions are met, they say, then they would wish to remain. That is the corollary to –

208. THE CHAIR: Wait a minute because we’ll come on –

209. MR WIGGIN: You need to read number four as well.

210. MRS MURRAY: Absolutely.

211. MR WIGGIN: You missed number four.

212. MR MOULD QC (DfT): Well, that is not – on this, what I understood to be a very carefully sequenced set of requests, four is not a precondition for them staying. Four is a separate point that they would like to see Common Lane reinstated by way of a bridge over the railway.

213. MRS MURRAY: Mr Mould, two says, ‘Do not use Common Lane for any construction.’

214. MR MOULD QC (DfT): Yes, exactly. And I’ve said that it’s limited – our proposal is to limit the use of Common Lane to no more than 10 vehicles each way a day and the duration of use will be for up to nine months while we set up that compound. That’s the point I explained to you at the start of my response.

215. MR WHITFIELD: I would say, Mr Mould, though, to be fair, their precondition, you can’t meet. What you’re saying is that your use will be de minimis. But you can’t actually meet their precondition.

216. MR MOULD QC (DfT): I can’t meet their precondition as it’s worded. I’m saying –

217. MR WHITFIELD: As worded.

218. MR MOULD QC (DfT): I’m saying that I’m – well, an issue for you to decide is
whether what I am able to offer is sufficient.


220. MR MOULD QC (DfT): But, as I understand it, you know, the first paragraph of the summary, to make it perfectly clear, ‘We do not want to move from Holly Cottage’. I mean, I’m only responding to what I understand to be their case.

221. THE CHAIR: We’re going to come back to the petitioners at the end to get clarifications to what they want, having heard everything. So let’s set that aside for a second and let the petitioners hear everything. I am going to be more led by questions than your commentary, although I will give you time to make your case. Sandy?

222. MR MARTIN: Yes. Mr Mould, I mean this is a sort of technical construction-type question so I’m not in construction, I don’t really understand exactly how it works. Clearly a compound, an area, access is required to start doing work. What I’m sort of struggling to understand, and I think to a certain extent probably Mr Bull is as well, is why you need to use Common Lane at all. If you’re going to be accessing the compound from the 515 why can’t you start from the 515 and work towards where the compound is going to be rather than use Common Lane at all? I’m not quite clear why there ever needs to be any use of it.

223. MR MOULD QC (DfT): I can ask Mr Smart to come and explain it to you if necessary but my understanding is that it’s essentially a question of timing. It would be preferable from the point of view of the efficient construction of the railway in this location to have the compound being set up whilst the A515 access is being created. But, as I have said to you, given that that seems to be the nub of the issue, because if we could coordinate the timing of construction of the compound so that it is done via that dedicated access once it’s been set up, then, on the face of it, that would remove the principal concern that Ms Allsopp and Mr Bull –

224. MR MARTIN: Yes.

225. THE CHAIR: Sorry to interrupt you. Sherrill’s got a question.

226. MRS MURRAY: Yes. Just if you’re moving the compound further away from Common Lane surely it would make sense to come in off the A515.
227. MR MOULD QC (DfT): Well, I can see that.

228. MRS MURRAY: If you’re moving the orange then you might not need to use Common Lane.

229. MR MOULD QC (DfT): Yes. I see the force of that. I am seeking to – I am offering a way out here, effectively. What I am saying is let me go away and see if we can coordinate the timing of the setting up of that compound with the bringing into use of the access onto the A515.

230. THE CHAIR: I am going to come in. I think that I’m sensing from the Committee that what you’re offering is nowhere near enough. So, just to give you a hint on where we’re going. Martin, question?

231. MR WHITFIELD: While we’re on this page, I understand that the pink to the right is a pond and marshland, which is required for run-off – the sort of the triangle in the darker pink. I’m curious as to the pink rectangle that extends into the field very close to the cattery, which sort of entrapped Rose Cottage, and I’m wondering what the purpose of – whether you’re aware of what the purpose of that is.

232. MR MOULD QC (DfT): My understanding is that that is for some utility works.

233. MR BULL: There is a pylon in that field.

234. MR WHITFIELD: A pylon?

235. MR BULL: It’s a small one, yes, a small one, yes.

236. MR WHITFIELD: So you – yes, so the pylon needs to fall within the Bill.

237. MR MOULD QC (DfT): Yes. I hope the Committee is clear, because if not then we are in difficulty. These limits have been drawn to –

238. THE CHAIR: Don’t confuse disagreement with lack of clarity.

239. MR MOULD QC (DfT): No, no.

240. THE CHAIR: You have been clear. We are clear. I don’t think there’s any misunderstanding. I mean you’ve been very, very clear and I understand what you
said –

241. MR MOULD QC (DfT): It wasn’t so much the particulars but I wanted – I hope the Committee – and I believe it is clear, so I posed that question to a degree rhetorically –

242. THE CHAIR: Oh right, sorry. I thought it was an accusation.

243. MR MOULD QC (DfT): The –

244. THE CHAIR: Then move on. Let’s move on. You’ve made me a little grumpy in your choice of language. Let’s move forward.

245. MR MARTIN: I’d like to hear Mr Mould’s explanation.

246. MR MOULD QC (DfT): I was simply going to make clear that obviously we draw the Bill limits on a conservative basis because it’s necessary to ensure that we don’t find when the contractors go out here to start building this very expensive railway that they lack some relatively minor powers over some relatively small piece of land which then causes problems. So you will find that the Bill limits are drawn in a way that, on the face of it, seems fairly extensive and sometimes it seems like we’re taking a bit of the proverbial sledgehammer to crack a nut but that is the reason. We expect to draw in from this when we come to procure contracts because both we and the contractors have a shared ambition in seeking to make these works as efficient as possible.

247. Can I just be –

248. MR WIGGIN: Go on.

249. MR MOULD QC (DfT): I sense from what you say, you’ve made it clear, that you’re interested in these petitioners simply being able to have the option of selling their property; let me put it that way. Now there are essentially two routes through which they could make an application for that purpose to the Secretary of State. The first is they could make an application under the need-to-sell scheme, which has proved successful in relation to Rose Cottage. The disadvantage to them, which I think they’re aware of, in relation to that, is if that application were to succeed and the Secretary of
State was to make an offer to buy their property, whilst he would do so at his unblighted open market value, he would not pay their moving costs and he would not pay them the statutory home loss payment.

250. If they are determined, as I believe they may be, that if they are in the world where they are looking to sell, if they regard themselves as sufficiently severely impacted that they would wish to be bought as if under compulsory purchase schemes, then their route then is to ask the Secretary of State to consider them as a special case, and there have been instances where the Secretary of State has been willing, notwithstanding that the property does not fall within the safeguarding limits and, therefore, is not ordinarily entitled to receive full compulsory purchase compensation, has been prepared to accept that the impact of the works on that particular proprietor is sufficiently severe that they should be treated as if they were.

251. Now, the petitioners have been told, I am instructed, that that route is open to them. They have said hitherto, again as I understand it, that they would wish to pursue the opportunity of staying rather than going but they are, of course, at any time between now and the commencement of the works, and, indeed, at any time until the completion of the construction of the works and the coming into operation of the railway, at any time they are able either to make an application to the need-to-sell scheme or to make an application to be treated as a special case. And, indeed, if they apply to be treated as a special case the Secretary of State would deal with them as a – he wouldn’t seek to impose bureaucratic constraints on whether the determination of that application should be as a special case or simply as an ordinary need-to-sell application.

252. MRS MURRAY: Can I just ask, Mr Mould, if they were to make an application are they able to change their mind and stay?

253. MR MOULD QC (DfT): If they were to make an application and to receive an offer from the Secretary of State they could say to themselves the very next day, ‘On reflection, we have decided we’re going to put up with it and we’re going to stay’. And they could simply file the offer in the top right-hand drawer of desk and keep it there and that offer, if it were an offer under the need-to-sell scheme, it would remain open to them to accept for up to three years from the date on which it’s made. And if it were an offer made as a special case I’ve no doubt that the Secretary of State would make sure
that it remained open to acceptance for at least as long as three years so that they were not relatively disadvantaged in that way.

254. So yes, the idea of these schemes – the availability of these schemes is, in itself, designed to give people a measure of reassurance that if it all proves too much they can apply to the Secretary of State and, if successful, they can decide then whether or not to accept the offer and they have that assurance, if you like.

255. MRS MURRAY: So can I be clear? You are prepared to look at constructing the access off the main A road and move the compound.

256. MR MOULD QC (DfT): Indeed.

257. MRS MURRAY: And are prepared to look at – so that would – basically, you wouldn’t need to use Common Lane.

258. MR MOULD QC (DfT): Absolutely. In those circumstances we would not need to use Common Lane.

259. MR WIGGIN: But that’s what I want to ask Mr Smart about.

260. MRS MURRAY: There’s also the opportunity for the petitioners to make an application to be a special case.

261. MR MOULD QC (DfT): Exactly.

262. MRS MURRAY: And they don’t have to take that but it’s open to them potentially for up to three years after if they wanted to.

263. MR MOULD QC (DfT): That’s right, yes. Now –

264. MR WIGGIN: Yes, sorry. I wanted to ask Mr Smart the question I asked you originally, which is if you used Common Lane –

265. MR MOULD QC (DfT): Yes.

266. MR WIGGIN: – you wouldn’t have to do an awful lot of other works.

267. THE CHAIR: Does Mr Smart want to come as a witness? Even if it’s not
appropriate, let’s go for it, because it makes sense.

**Evidence of Mr Smart**

268. MR WIGGIN: Because actually you’re doing an awful lot to avoid using Common Lane, which is an extra cost to HS2, which, when you balance that against the value of the petitioners’ property, it might be considerably cheaper to buy that property and use Common Lane properly instead of building all these other little roads.

269. MR SMART: Right, well, Mr Wiggin, we’ve got a lot of activity happening in this area.

270. MR WIGGIN: Yes.

271. MR SMART: So, clearly, we’ve got more design to do. When contractors come on board they would want to – what I call – resource-move what’s going on there, so, in other words, to limit impacts from construction. So we need to provide a sufficient flexibility for us to do that. Now, in these circumstances, we can, as Mr Mould has already said, potentially move the compound but we do need this area, if you can just, to the left of it, there’s our transfer node to take material out. So there would be a trade-off, as Mr Mould said.

272. Now the compound here is primarily going to be worker welfare accommodation and there will be construction plant there, of course, which would be parked up, etc, but it will be mostly working out on the trays. And this compound will be horded, so it’s typically 2.4 metre hording. So that would provide some of the acoustic protection that you were referring to earlier.

273. Now, in order to not use Common Lane we would have to make the connection off the existing main road, which we can do, but there is a timing element to that and so, obviously, by using Common Lane it gives us the flexibility in this area. But, as Mr Mould has already said, if we can time the works with the highway authorities, etc, but we could come off this section, we would not need to use Common Lane with the potential exception of any utilities, which are always problematic in construction but you often find they’re not necessarily where they are supposed to be and you do need to make provision for that. But I think that would significantly reduce the pressure on
Common Lane and it’s difficult to say but might be able to eliminate it.

274. MR WIGGIN: But why don’t you increase the pressure on Common Lane and just buy the only house left on it, because it’s all there for you? You don’t have to build anything then.

275. MR SMART: Well, we have got some works to do on Common Lane and obviously a better route is off the main road for us, straight into the road to come into the transfer point. So that’s the reason. We always want to get our wagons on to the best possible road – is always our modus operandi. That can obviously involve, when we can’t get that road, construction or using slightly less suitable roads but the main aim is to get to the best road and that is what we’ll be doing in this case with the A515.

276. MR WIGGIN: That’s what I wanted to know. Are you sure it won’t be cheaper to use Common Lane?

277. MR SMART: Well, clearly, that’s something we would look at but we have tried to restrict our –

278. MR WIGGIN: Well, you have because, as Mr Mould pointed out, this house wasn’t available.

279. MR SMART: Yes.

280. MR WIGGIN: And, actually, the one above it suddenly became available so when you made your plans those pieces of information weren’t available.

281. MR SMART: If we were to use Common Lane as the main route in and out of that transfer node, we would virtually have to widen it. Well, there’s potential here. I know Mr Mould has alluded to the fact we might have to widen it on the other side. We might even have to do that with the number of lorries we’ve got. Especially if we can reduce the time period, we can maybe just put a parking bay in and, therefore, as I say, we would take the pressure of the wagons on the A515 rather than on what has already been and you’ve seen is a very narrow lane.

282. MR MARTIN: Thank you. I was just going to say I think I could possibly help Mr Wiggin and Mr Smart. We seem to be at cross purposes here. The roads that you
have coming off the A515, the first part of it is actually currently the A515 anyway –

283. MR SMART: Yes.

284. MR MARTIN: So it is a wide road which lorries can pass in opposite directions on, which they wouldn’t be able to do on Common Lane.

285. MR SMART: Correct.

286. MR MARTIN: But, in any case, this is going to remain in place after the railway’s finished in order to give access to the Bourne Brook auto-transformer station –

287. MR SMART: Correct.

288. MR MARTIN: – and to give access to the other side of the embankment. So all of that stuff would have to be built anyway.

289. MR SMART: It would.

290. MR MARTIN: Right.

291. MR WIGGIN: Thank you.


293. THE CHAIR: Sorry, Martin and then I’ll look for other questions and I’ll come to Mr Mould. Sorry, Martin caught my eye a couple of –

294. MR WHITFIELD: This isn’t particularly for Mr Smart. This is possibly just moving forward. Do HS2 accept that the cattery business is going to be affected by both the construction and subsequent, given the nature of the business?

295. MR MOULD QC (DfT): Yes, they do and it was in order to make clear I made a reference to the environmental… I appear to have picked the wrong paragraph.

296. MR WHITFIELD: Well, I was going to say, if we can look at P99, which is the sound survey, this petition is clearly identified on it and reference is made, if my reading is correct, it’s a non-residential quiet area –

297. MR MOULD QC (DfT): Yes.
298. MR WHITFIELD: – but it says, The effect is dependent on the receptor… For further details see volume 5…” That’s the reference that you were hinting at for this cattery having been identified as being particularly sensitive to noise. So that, notwithstanding it rests literally just outside of the blue line, it is a business that will be more affected by noise than the average. That would be right.

299. MR MOULD QC (DfT): Yes. And if the – yes. For the record, the correct reference is 13.4.24 on page 299. I don’t think I need to go through it but that was the reference I was hunting for earlier, forgive me.

300. MR WHITFIELD: Yes.

301. MR MOULD QC (DfT): Yes, indeed, and –

302. MRS MURRAY: Can we just go back there again, because it says it’s located at Rose Cottage?

303. MR BULL: Yes, it’s wrong, isn’t it?

304. MS ALLSOPP: It’s wrong. We pointed that out –

305. MRS MURRAY: ‘Bromley Hayes Cattery is located at Rose Cottage’, which is the one you’re buying. It’s actually located at Holly Cottage.

306. MR WIGGIN: So it’s wrong.

307. MR MOULD QC (DfT): That is an error in – yes, but –

308. MR WIGGIN: It’s quite an important one.

309. MR MOULD QC (DfT): The position – yes, well I apologise for that. I hadn’t spotted that before but –

310. MS ALLSOPP: We have told them a few times.

311. MR MOULD QC (DfT): All right.

312. MRS MURRAY: So can you just be clear? I accept that you might not know yet, Mr Mould, but if you purchased or it’s the Secretary of State’s intention to purchase
Rose Cottage and he’s already agreed, has he done that because he thinks Bromley Hayes Cattery is located at Rose Cottage?

313. MR MOULD QC (DfT): I think that is extremely unlikely. I think he is aware now –

314. MRS MURRAY: But it says that in your document.

315. MR MOULD QC (DfT): There was an error in the environmental statement, I agree, but it doesn’t follow from that that the Secretary of State has agreed to buy Rose Cottage on the basis that it is the Bromley Hayes Cattery?

316. MRS MURRAY: Are you sure?

317. THE CHAIR: Worse things have happened in Government.

318. MR WHITFIELD: Actually, if we pursue the point, notwithstanding the labelling error, interestingly the environment statement there says that the animals – ‘No effect is identified on the animals themselves based upon the assessment approach as defined’. Do HS2 still accept that or do they agree…?

319. MRS MURRAY: It goes on to mention Rose Cottage again. ‘Rose Cottage has also been assessed as a residential dwelling.

320. MR MOULD QC (DfT): Yes.

321. MR WIGGIN: So it has.

322. MR MOULD QC (DfT): In order to ensure that there is no vestige of doubt as to whether the Secretary of State has unintentionally agreed to buy Rose Cottage on the basis of the cattery, I will ask that that point be checked. All right?

323. MRS MURRAY: Yes, please.

324. MR MOULD QC (DfT): But the underlying point, which is that this – let us assume that, although there is a labelling error, as you very kindly put it, the substantive assessment here is of the cattery, because this is a section, if we can just scroll up a bit, keep going, it’s dealing with non-residential receptors; that is to say businesses. As I understand, Rose Cottage is genuinely a dwelling house and, therefore, it would be odd
if it were to be assessed under this box. So assuming that this is dealing with the cattery rather than Rose Cottage –

325. MR WHITFIELD: Yes.

326. MR MOULD QC (DfT): – what it is saying is that the cattery has been identified as a sensitive business activity which is likely to be affected by the construction and, indeed, you’ll find later, by the operation of HS2.

327. MR WHITFIELD: Yes.

328. MR MOULD QC (DfT): And that is demonstrated by the plan which Mr Whitfield put up on the screen, and the position is that where a sensitive business premise is predicted to experience noise and disturbance from the construction and operation of the runway, the project’s position, as set out in the information paper, which I’ve shown you, E9, is that it will continue to look for ways in which to reduce, mitigate, that impact. In the event that there remains a residual impact on these premises and they continue to be in use as not only as the petitioners’ home but also as the cattery business, and they are able to show that, as a result of the noise that their premises experiences from the operation of HS2, their property has been diminished in value, they will have the basis for a claim under Part 1 of the Land Compensation Act 1973 for compensation, which will be measured by reference to the amount by which the property has diminished in value.

329. So there is ultimately a financial remedy for them. But none of that – that is in addition to the need-to-sell and the special case proposal that I put forward to you. It is something that, if they’ve elected not to seek to move, have decided to stay and they are able to show that they have suffered that loss of value as a result of the operation of the railway, they would have a financial remedy at the end of it, which they could pursue with the Secretary of State in 2027 or 2028.

330. MR WHITFIELD: So can I just ask? HS2 are not pursuing the statement, the sentence, ‘No effect is identified on the animals themselves based upon the assessment approach’. HS2 are saying they accept that the cattery is a business sensitive to noise –

331. MR MOULD QC (DfT): That’s right.
332. MR WHITFIELD: – irrespective of that. So what I’m concerned about is that at some point later on someone turns around and says, ‘Actually, the only problem is the animals and it doesn’t affect the animals; here’s our authority’. That doesn’t seem to be what the evidence that we’re hearing today is or, indeed, my understanding as to what HS2’s accepting.

333. MR MOULD QC (DfT): I think there are two different things, if I may say so. Firstly, this is an assessment of environment effects. It follows a particular methodology and this statement remains –

334. MR WHITFIELD: True of the methodology.

335. MR MOULD QC (DfT): Now, the question today is, looking at the matter more broadly and considering not only how the matter is assessed in the environment assessment but also considering the potential impact on the –


337. MR MOULD QC (DfT): – business, which obviously is a broader question, is there a compelling reason, to use the rubric of the need-to-sell scheme, is there a compelling reason to sell, which if they were to apply under that scheme might stand as a justification for the Secretary of State to accept an application from them? The Chairman asked me the question: would I accept that? I said I wasn’t able to say yea or nay –

338. THE CHAIR: You used a form of words that came pretty close. It sounded a little lawyerly yes. So it was eloquently done.

339. MR MOULD QC (DfT): I am grateful.

340. THE CHAIR: I think I understood the message, although you didn’t give me exactly what I wanted.

341. MR MOULD QC (DfT): I’m sorry. As you said earlier, I sometimes appear grumpy, sometimes appear lawyerly. I’m afraid it’s the fruit of 30 years in this business. It’s quite –

342. THE CHAIR: Just for clarity, I was apologising for being grumpy.
343. MR MOULD QC (DfT): Oh I see.

344. THE CHAIR: I wasn’t accusing you of being grumpy. Sheryll wants to come in.

345. MRS MURRAY: Yes. I’m sorry, Mr Mould, to keep labouring this point but right at the bottom of 13.4.24 it says, ‘Volume 5, appendix SV001000. Rose Cottage has also been assessed as a residential dwelling’.

346. MR MOULD QC (DfT): Yes.

347. MRS MURRAY: Are you absolutely sure that you haven’t confused Holly Cottage and Rose Cottage there? Because if Rose Cottage has already been assessed as a residential dwelling as well and you’ve bought that one – the Secretary of State is purchasing that one.

348. MR MOULD QC (DfT): My understanding is that the mistake in this paragraph is that, in those two places where a reference is made to Rose Cottage, what was intended was a reference to Holly Cottage. Yes? There is not a cattery at –

349. MRS MURRAY: Would that mean that Holly Cottage has already been assessed as a residential dwelling as well?

350. MR MOULD QC (DfT): Yes. The point is, you see, that these assessments don’t – we don’t assess every single property separately. What we do is we – well, those who prepare the noise impact assessment, they select a series of representative cottages and where we have one or two properties very close together, as we do here, the approach taken to assessing the noise impact of the railway is not to assess each of those properties separately but to treat one of them as representative of both and then the assessment uses that representative property.

351. Now, in this case, as I understand it, Rose Cottage – right. In this case, Rose Cottage was assessed and we’re checking to see whether Holly Cottage and the cattery was also assessed, but I have said to you I will – because of the unfortunate way in which this, which appears to be a labelling error, has come to light during the course of the debate on this petition, I am going to double check to make sure that the underlying assessment, which is being referred to in paragraph 13.4.24 on this page, the underlying assessment was an assessment in relation to the cattery and Holly Cottage, right? In
other words, an assessment of this petitioner’s residential and business premises.

352. And, having established what is the true position in relation to that, I will ask that a note is provided to the Select Committee via your clerk and copied to the petitioners to confirm what the position is. And I will ask that this paragraph is incorporated into that note but with the properties to which it refers correctly identified. I will also ask that the – I believe there is a reference to Rose Cottage elsewhere in this chapter. I will also ask that the paragraph reference to Rose Cottage – the correct reference to Rose Cottage is also included in the note so that the Committee can satisfy itself and reassure itself and the petitioners can that the assessment here is correct.

353. I think, unless there are any further questions, I’ve essentially concluded what I want to say but I do have –

354. THE CHAIR: So you’ve concluded and then I’ll go round the table with questions starting with Sandy.

355. MR MARTIN: Well, one further question on this issue, Mr Mould. In 13.4.24 it says, third sentence, ‘The cottage may also include an office associated with the cattery which would be sensitive to noise’.

356. MR MOULD QC (DfT): Yes.

357. MR MARTIN: And then right at the bottom it says, ‘No effect is identified on the animals themselves’. With respect, this paragraph has clearly been written by somebody who is an expert in decibels but probably not an expert in animals.

358. MRS MURRAY: Yes.

359. MR MARTIN: Ms Allsopp is an expert in cats. Would you accept that cats are actually far more sensitive to noise than human beings are?

360. MS ALLSOPP: They are, yes. As we said, they can hear a mouse in a football field.

361. MR MOULD QC (DfT): Might I just say? I’m not doubting Ms Allsopp’s expertise. That is manifest from – and also her very keen love of cats is – at the very least, is apparent from the presentation in her petition and the work that she does. But
the reference that Mrs Murray referred to in that paragraph to an annexe in volume 5 of our technical appendix, that is a reference to the established technique for assessing the impact of transport schemes on animals. It’s much less developed than the technique for assessing the impact of transport schemes on humans because it’s much easier to find out what humans think about transport schemes than it is to find out of animals. They tend not to be very good at explaining their responses.

362. But there is some learning on the impact of transport schemes on animals and the assessment here… I hope you will accept that, however assiduous and however industrious those who compile these assessments are, in seeking to ensure that they leave no stone unturned, where the methodology that is available to them is limited they are somewhat constrained by those limits.

363. So this is a document… If it would be helpful to you, I shall also ask that we draw attention to the relevant parts of annexe F in the note that I will commission so that you can see what is the extent of the – that is not a substitute for the experience such as Ms Allsopp who specialise in looking after cats or dogs or a cattery, or whatever it may be, but it does explain the basis because, obviously, these documents, to some degree, have to be based on established methodologies as well as being anecdotal experience of people involved, in effect.

364. THE CHAIR: Thank you. I – sorry, you wanted sum –

365. MR MOULD QC (DfT): I just wanted to sum up and say –

366. THE CHAIR: Okay.

367. MR MOULD QC (DfT): – our position is that in response to the particular questions posed on the slide that you saw I will take from this meeting an action to establish whether it is possible to commit now to construct to setting up that compound via the newly established direct access on to the A515 and, on that basis, to commit now not to using Common Lane as a main construction route with appropriate qualifications for any utility works that need to be done. And I will – that, I think, is the ‘they stay’ scenario. And also moving the compound northwards within the overall site. That’s the ‘they stay’ scenario. I have explained, I hope clearly enough, what are the options open to these petitioners in the ‘they go’ scenario and the ability that they have to make
applications and then to decide whether to act on them in the event of their success.

368. THE CHAIR: I think, with the Committee’s permission, I’m going to come to the petitioners next. I think I’m going to ask you two questions. One is if you’ve got any questions from what you’ve heard and the second is, on reflection, do you want to have the mitigation or is the mitigation so far off that you want to pursue the option of moving? Which is your preferred option? So any questions on what are you preferred options? Just the current thinking.

369. MR BULL: Yes. We really don’t want to go but we just – if that’s moved, you know, it’s going to be a great help. If you’re not using Common Lane that would be a great help. At the end of the day we would just like, you know, the option of a backup if we have to close the cattery –

370. THE CHAIR: Yes.

371. MR BULL: – that we can sell that.

372. THE CHAIR: Two strong options.

373. MS ALLSOPP: But my main – if what Mr Mould says, yes, not using Common Lane at all because, as he was referring originally to our request in point number two, he didn’t read the whole sentence, which said, ‘Not even 10 vehicles a day’. In my evidence, if I can just refer back to A64(2), please, this is the bit that’s really clear on whether we stay or not. The last two paragraphs, so obviously, yes, the moving of the compound plus this and the site operation and construction traffic would mean a year of my business, basically – even if it’s only nine months, that’s a year wiped out for me and, as I said before, once someone has gone to another cattery they’re very, very unlikely to come back, having known all of this is going on around us. So we would accept it on the basis that Common Lane isn’t used at all.

374. THE CHAIR: Sorry, Sheryll and then Bill.

375. MRS MURRAY: Obviously if they had to occasionally use Common Lane for utilities, so electricity, something like that, on a temporary basis I think we’d all accept that they could.
376. MS ALLSOPP: Yes. In reality yes, because HS2’s temporary and might be a different –

377. MRS MURRAY: And did you realise that if you had to close your cattery for a temporary period of time then you are entitled to make an application? Correct me if I’m right, Mr Mould. They can claim for the loss of income for their business on a temporary basis. They can get compensation. Am I right?

378. MR MOULD QC (DfT): No, no. That’s –

379. MRS MURRAY: So when you said – I think you said they could apply.

380. MR MOULD QC (DfT): I said that if, following the completion of construction, the operation of the railway was giving rise to noise impacts that –

381. MRS MURRAY: Right, then they can apply.

382. MR MOULD QC (DfT): Then they can claim –

383. MRS MURRAY: Okay.

384. MR MOULD QC (DfT): But they wouldn’t ordinarily have a claim for loss of profits, for example, during construction.

385. MRS MURRAY: If the traffic was stopped on Common Lane and they moved the compound –

386. MS ALLSOPP: Yes, we’d be happy.

387. MRS MURRAY: And the offer would still be open to them to sell their property and move at a later date if they wanted to.

388. MR MOULD QC (DfT): They are able to make an application either under the need-to-sell scheme or as a special case at any time up until a year after completion of construction of railway.

389. MRS MURRAY: Okay. Thank you.

390. THE CHAIR: Can I ask the Committee just to hold back just a little bit for a
second and see – is there anything else you want to say to us? This is kind of like your last say, as it were, and if there’s anything really, really pressing I’ll allow the Committee to ask a question but I want you to have your last say, as it were.

391. MS ALLSOPP: Yes. No, that was our main aim really is to get those two things so we can stay but to have the fallback of the option of moving with full costs because we don’t want to go so we can’t afford to pay the costs, if things don’t work out correctly and the cattery does end up closing. So thank you.

392. MR WIGGIN: The only thing I wanted to add was that it’s okay to ask for no vehicles, but as long as the vehicle’s paid road tax it’s entitled to drive down that road.

393. MS ALLSOPP: Yes.

394. MR WIGGIN: And, therefore, I’d quite like to have the road next to my house closed but I’m not allowed that either and nor is anybody else.

395. MS ALLSOPP: Yes.

396. MR WIGGIN: So while you’re thinking about it please bear in mind what’s possible and what’s not.

397. MS ALLSOPP: Yes.

398. MR BULL: Yes.

399. MR MARTIN: And also can I just add, I mean I suppose there were possibly reasons why it would occasionally be convenient for you to drive westward – eastward, sorry, on Common Lane but it is actually going to make Common Lane quieter in the future if it’s closed off, isn’t it?

400. MR BULL: To be honest, mostly we’re concerned because of the traffic to the north coming because, obviously, if there’s no alternative route, which there has been instructed there is now, but originally that was just going to be for farm vehicles –

401. MR MARTIN: Right.

402. MR BULL: – and a lot of them were going to use – go past the school through the village if it was a total closure, which it was originally.
403. MS ALLSOPP: But there’s the diversion now of –

404. MR BULL: There is a diversion in now, so yes.

405. MR MARTIN: So that’s dealt with.

406. MR BULL: Yes.

407. MR MARTIN: So, in general terms, if the mitigation is right, you would still rather stay?

408. MR BULL: Oh yes. Yes.

409. MS ALLSOPP: Yes. We never intended to move.

410. THE CHAIR: Okay. I mean what would be delightful, perhaps if I can have the closing word, is if the letter from Mr Mould has the full, which I think I’m just repeating what you’ve already offered, the full two options: option A being mitigation max; option B being what could possibly happen if the Secretary of State saw this as a special situation, an offer being placed through an application or maybe slightly more swiftly than that. And then as petitioners you say, ‘We’ve resolved – we’ve got the two options, it’s very clear’, and then you can make your decision based on the best efforts of the schemes and HS2. That would be brilliant.

411. MR MARTIN: One last tiny thing for Mr Mould. You said, Mr Mould, ‘ordinarily’. You actually used the word ‘ordinarily’ when you were saying that a business would not be entitled to compensation during the construction period. But if we were able to establish that this was a special case, then there is no legal block on us asking for some compensation for loss of business during construction.

412. MR MOULD QC (DfT): Well, you’re legislators. I mean if you feel that this Bill should include a provision for the protection of this business then obviously it’s open to you. If you are contemplating that I’d be grateful for the opportunity just to say a bit more to you about it because it would set a very significant precedent.

413. MR MARTIN: Right.

414. MR MOULD QC (DfT): Ever since the law of compulsory purchase was first
introduced in 1845 in the general sense to aid construction of a permanent way, it has ordinarily never been possible to claim compensation for loss of business profits caused by construction of public works.

415. MR MARTIN: Okay.

416. MR MOULD QC (DfT): So it would be a pretty significant point.

417. MR MARTIN: Fair enough.

418. THE CHAIR: Thank you very much. Thank you for coming here today. Thank you, Mr Mould.

419. MR MOULD QC (DfT): Thank you. Thank you, Mr Smart.

420. THE CHAIR: Mr Smart as well, thank you.